

# Planning Committee

Date: **10 June 2020**

Time: **2.00pm**

Venue **\*Please Note:** In response to current Central Government Guidance it is envisaged that this meeting will be “virtual”, webcast live and accessible via Skype. Public Speaking and engagement opportunities will be available.

Members: **Councillors:**Hill (Chair), Henry (Deputy Chair), Littman (Opposition Spokesperson), Miller (Group Spokesperson), Fishleigh, Janio, Mac Cafferty, Shanks, C Theobald and Yates

Conservation Advisory Group Representative

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# AGENDA

## 1 PROCEDURAL BUSINESS

**(a) Declaration of Substitutes:** Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.

### **(b) Declarations of Interest or Lobbying**

- (a) Disclosable pecuniary interests;
- (b) Any other interests required to be registered under the local code;
- (c) Any other general interest as a result of which a decision on the matter might reasonably be regarded as affecting you or a partner more than a majority of other people or businesses in the ward/s affected by the decision.

In each case, you need to declare

- (i) the item on the agenda the interest relates to;
- (ii) the nature of the interest; and
- (iii) whether it is a disclosable pecuniary interest or some other interest.

If unsure, Members should seek advice from the committee lawyer or administrator preferably before the meeting.

- (d) All Members present to declare any instances of lobbying they have encountered regarding items on the agenda.

**(c) Exclusion of Press and Public:** To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

*NOTE: Any item appearing in Part 2 of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.*

*A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.*

## 2 MINUTES OF PREVIOUS MEETINGS

1 - 14

(a) Minutes of the meeting held on 6 May 2020 (copy attached);

(b) Minutes of the meeting held on 20 May 2020 (copy circulated separately)

### 3 CHAIR'S COMMUNICATIONS

### 4 PUBLIC QUESTIONS

**Written Questions:** to receive any questions submitted by the due date of 12 noon on 4 June 2020.

### 5 ANSTON HOUSE, 137 -147 PRESTON ROAD, BRIGHTON- REQUEST TO VARY HEADS OF TERMS SECTION 106 AGREEMENT 15 - 18

(copy attached)

### 6 TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS

Please note that in recognition of the current Covid 19 pandemic and in response to Central Government Guidance alternative arrangements have been put into place to ensure that Committee Members are able to familiarise themselves with application sites in those instances where a site visit is requested.

### 7 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS - CALLOVER

*The Democratic Services Officer will callover each of the applications appearing on the agenda and those on which there are speakers are automatically reserved for discussion.*

*Please note that the published order of the agenda may be changed; major applications will usually be heard first; however, the order of the minor applications may be amended to allow those applications with registered speakers to be heard first.*

#### MAJOR APPLICATIONS

- A BH2020/00442-Black Rock Site and Surroundings, Madeira Drive, Brighton - Full Planning 19 - 74

**RECOMMENDATION – MINDED TO GRANT**

*Ward Affected: Rottingdean Coastal*

#### MINOR APPLICATIONS

- B BH2020/00325- Avon Court, Dallington Road, Hove -Full Planning 75 - 90

**RECOMMENDATION – GRANT**

*Ward Affected: Wish*

- C BH2020/00947- Varndean College, Surrenden Road, Brighton - Removal or Variation of Condition 91 - 104

**RECOMMENDATION – GRANT**

*Ward Affected: Withdean*

- D BH2020/00699-20-22 Gloucester Place, Brighton -Full Planning 105 - 120

**RECOMMENDATION – GRANT**

*Ward Affected: St Peter's & North Laine*

- E BH2020/00187- 29 Woodbourne Avenue, Brighton-Removal or Variation of Condition **121 - 132**  
**RECOMMENDATION – REFUSE**  
*Ward Affected: Patcham*
- F BH2019/00694- 105 Woodland Drive, Hove -Full Planning **133 - 154**  
**RECOMMENDATION – GRANT**  
*Ward Affected: Hove Park*
- G BH2020/00206, Hove Park, Nevill Campus, 38 Nevill Road , Hove-Full Planning **155 - 170**  
**RECOMMENDATION – GRANT**  
*Ward Affected: Hove Park*
- H BH2020/00724-2 Dyke Close, Hove - Full Planning **171 - 188**  
**RECOMMENDATION – REFUSE**  
*Ward Affected: Hove Park*
- I BH2020/00776 - 6 Princes Crescent, Hove - Full Planning **189 - 210**  
**RECOMMENDATION – GRANT**  
*Ward Affected: Westbourne*
- J BH2020/00235, Flat, 39 Guildford Road, Brighton - Full Planning **211 - 220**  
**RECOMMENDATION – GRANT**  
*Ward Affected: St Peter's & North Laine*
- K BH2020/00791- 47 Eley Drive, Brighton- Householder Planning Consent **221 - 230**  
**RECOMMENDATION – GRANT**  
*Ward Affected: Rottingdean Coastal*

- 8 TO CONSIDER ANY FURTHER APPLICATIONS IT HAS BEEN DECIDED SHOULD BE THE SUBJECT OF SITE VISITS FOLLOWING CONSIDERATION AND DISCUSSION OF PLANNING APPLICATIONS**

#### **INFORMATION ITEMS**

- 9 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE** **231 - 232**  
(copy attached).
- 10 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES**  
Currently no new hearings.
- 11 APPEAL DECISIONS** **233 - 236**  
(copy attached).

Members are asked to note that plans for any planning application listed on the agenda are now available on the website at: <http://www.brighton-hove.gov.uk>

The City Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public. Provision is also made on the agendas for public questions to committees and details of how questions can be raised can be found on the website and/or on agendas for the meetings.

The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fourth working day before the meeting.

Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested. Infra-red hearing aids are available for use during the meeting. If you require any further information or assistance, please contact the receptionist on arrival.

### **FURTHER INFORMATION**

For further details and general enquiries about this meeting contact Penny Jennings, (01273 291065, email [penny.jennings@brighton-hove.gov.uk](mailto:penny.jennings@brighton-hove.gov.uk)) or email [democratic.services@brighton-hove.gov.uk](mailto:democratic.services@brighton-hove.gov.uk)

### **WEBCASTING NOTICE**

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- Once you are outside, please do not wait immediately next to the building, but move some distance away and await further instructions; and
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<b>PLANNING COMMITTEE</b>	<b>Agenda Item 2 (a)</b>  Brighton and Hove City Council
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**BRIGHTON & HOVE CITY COUNCIL**

**VIRTUAL PLANNING COMMITTEE**

**2.00pm 6 MAY 2020**

**MINUTES**

**Present:** Councillors Hill (Chair), Littman (Opposition Spokesperson), C Theobald (Group Spokesperson), Childs, Fishleigh, Janio, Mac Cafferty, Miller, Shanks and Yates

**Co-opted Members:** Mr Roger Amerena (Conservation Advisory Group) - Apologies

**Officers in attendance:** Liz Hobden, Head of Planning; Matthew Gest, Planning Team Leader, Planning Applications; Russell Brown, Senior Planning Officer; Joanne Doyle, Senior Planning Officer; Sven Rufus, Planning Officer; David Farnham, Development and Transport Assessment Manager; Hilary Woodward; Senior Solicitor and Penny Jennings, Democratic Services Officer

**PART ONE**

**124 PROCEDURAL BUSINESS**

**124a Declarations of substitutes**

124.1 There were none.

**124b Declarations of interests**

124.2 The Chair, Councillor Hill, stated that she had been lobbied in respect of Application A, BH2020/00470, Carden Avenue, opposite 3 & 4 Dale Drive, Brighton, confirming that she remained of a neutral mind and would remain present during consideration and determination of the application. Councillors Childs, Fishleigh, MacCafferty, Miller, Shanks, Theobald and Yates confirmed that they had also been lobbied in respect of that application and that they also remained of a neutral mind and would remain present at the meeting during consideration and determination of the application.

**124c Exclusion of the press and public**

124.3 In accordance with Section 100A of the Local Government Act 1972 ("the Act"), the Planning Committee considered whether the public should be excluded from the meeting during consideration of any item of business on the grounds that it is likely in

view of the business to be transacted or the nature of the proceedings, that if members of the public were present during it, there would be disclosure to them of confidential information as defined in Section 100A (3) of the Act.

124.4 **RESOLVED** - That the public are not excluded from any item of business on the agenda.

**124d Use of mobile phones and tablets**

124.5 The Chair requested Members ensure that their mobile phones were switched off, and where Members were using tablets to access agenda papers electronically ensure that these were switched to 'silent'.

**125 MINUTES OF THE PREVIOUS MEETING**

125.1 It was noted that the minutes of the meeting held on 22 April 2020 and of that days meeting would be circulated for approval to the meeting on 20 May 2020.

**126 CHAIR'S COMMUNICATIONS**

126.1 The Chair welcomed all present to this "virtual" meeting which was also being webcast and would be capable of repeated future viewing.

**127 PUBLIC QUESTIONS**

127.1 There were none.

**128 TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS**

128.1 The explained that in line with current Central Government guidance in relation to the Covid 19 pandemic, formal site visits had not been arranged. To reflect that in depth presentation material and visuals had been circulated in advance of the meeting and had also been appended to the agenda papers published on the council website. If, however, Members considered that they required more detailed information in order to determine any application a site visit could be requested either at this point on the agenda or at any point in the proceedings. No site visits were requested at this point in the meeting.

**129 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS**

129.1 The Democratic Services Officer called over those applications which were not automatically called by virtue of the fact that there were speakers in respect of them. This applied in respect of all applications except application C, BH2019/02055, 10 Gladstone Terrace, Brighton which was also called for discussion.

**A BH2020/00470-Carden Avenue, Opposite 3 & 4 Dale Drive, Brighton BN1 8NT - Full Planning**



Replacement of existing 11.7 metre high telecommunications monopole with relocated 20.0 metre high telecommunications monopole supporting 12no antenna apertures, with installation of ground-based equipment cabinets and associated works.

- (1) It was noted that an in-depth presentation had been provided by officers in advance of the meeting and was included on the council website detailing the scheme by reference to site plans, elevational drawings and photographs which also showed the proposed scheme in the context of neighbouring development. The main considerations in determining the application related to the design and appearance of the proposed development, the impact of the proposal on neighbouring amenity and sustainable transport matters.
- (2) The site was an established location for telecommunications apparatus. The proposed mast and cabinets would be considerably taller and bulkier than the existing apparatus and whilst nearby street lamps and trees would to some extent obscure and conceal the proposal there would be an adverse impact on the appearance of the area. However, the applicant had submitted a justification for this location based on technical and operational constraints. Paragraph 112 of the NPPF encouraged the provision of 5G infrastructure in order to support economic growth and social well-being through the increased connectivity 5G would provide. Central Government was also supportive of the provision of 5G network infrastructure.
- (3) Whilst it was considered that the proposal would result in some visual harm, this had been mitigated in accordance with Policy QD23 of the Brighton and Hove Local Plan and would not amount to a serious adverse impact on the character or appearance of the area. On balance, this was considered to be outweighed by the substantial public benefit arising from the provision of 5G services and therefore does not warrant refusal of the application and approval was therefore recommended.

### **Public Speakers**

- (4) Ms Kelly spoke on behalf of neighbouring objectors setting out their objections to the scheme. There had been no consultation with residents and no other locations had been investigated or put forward and the location and siting proposed would have the most detrimental impact possible in view of the topography of the site. Residents had not been asked whether they wanted this pole and the height and dimensions of the proposed equipment (it was significantly higher than anything existing nearby), would be overly dominant in close proximity to a number of dwellings and would be overbearing and would result in loss of aspect and loss of amenity. The area of signal coverage was also less than with the existing equipment and so more masts were needed and additional extensions which it was anticipated would be needed over time would exacerbate this negative impact.
- (5) Councillor Mc Nair spoke in his capacity as a Local Ward Councillor setting his objections and those of his fellow Ward Councillor, Councillor Wares and in support of local objectors. No evidence had been provided that alternative sites had been explored and it did not replace the existing given that it was to be relocated where it would be more intrusive than the existing which had originally received planning permission due to an administrative error. The assertion that the 20m mast would not detract from the existing street scene or character of the area because it would blend

in with existing structures was refused as it would be located on an area of verge where there no other tall structures and it would be very prominent in terms of its height and girth. The multiple cabinets which would sit alongside would cause further harm and would be highly visible to neighbouring homes in nearly all directions. It was considered the proposal would be contrary to policies QD23 and QD24 of the Brighton and Hove Local Plan and CP12 and CP15 of the City Plan Part One and should be refused.

- (6) The Democratic Services Officer read out a statement submitted by Ciara Daly of Blue Clarity Design Services Limited on behalf of the applicants in support of their application. EE were in the process of upgrading the network in the area in accordance with Government guidance. This proposed upgrade had been sited and designed in order to support the existing mobile network and to promote improved 5G technology. The pole had been carefully designed to enable a number of antennas to be accommodated which would enable two operators to share one mast whilst minimising height and bulk as far as possible. To ensure efficient continued operation of the network, alternative sites had to be within a short radius of the existing mast to maintain the existing network coverage. If a mast was located even a short distance from the existing site it could leave a gap in the existing network coverage elsewhere. In order to maintain existing coverage, it necessitated a limited search area of approximately 100m from the existing site, dense residential housing made up the entire search area. The height of the replacement mast had been determined by radio planning in order for the upgraded base station to effectively provide coverage to the target area in line with the established network pattern, specific orientations and heights needed to be achieved. This location would enable the whole of the surrounding area to benefit from the improved 5G network and was designed to be future proof by enabling other technologies to be deployed depending on the demand required.

### **Questions of Officers**

- (7) In answer to questions it was confirmed that whilst it was accepted that some visual harm would arise from the proposal it was considered that this was outweighed by the substantial public benefit arising from the provision on 5G services and did not warrant refusal of the application. A condition had also been added requiring making good of the existing site after the removal of the existing mast and cabinets.
- (8) Councillor Shanks sought clarification of the height and width of the proposed masts compared with those currently in existence nearby, also whether it would be possible to apply a condition requiring landscaping/screening to be provided to reduce the visual impact of the proposal.
- (9) Councillor Yates sought further clarification in respect of potential visual harm which could arise.
- (10) Councillor Theobald stated that although reference had been made to the applicant considering alternative sites this did not appear to have been evidenced, asking whether the applicant could be required to investigate other sites. The Head of Planning, Liz Hobden advised that the applicant had explained the rationale for the

chosen site and that the Committee needed to determine the application which was before them.

- (11) Councillor Littman sought clarification in respect of the previously refused applications on which prior refusal had been required and whether/how the situation differed in respect of this current 5G application

### **Debate and Decision Making Process**

- (12) Councillor Janio stated that he recognised the need for 5G technology to be rolled out and the public benefits which would result from it. There was a need for this mast and ultimately for others to be erected across the city. He considered that the application was acceptable and supported the officer recommendation.
- (13) Councillor Theobald cited the large number of objections stating that residents clearly did not want the development and she was in agreement that its appearance would have a negative impact on a number of them and would be voting against the application. Councillor Yates concurred in that view.
- (14) Councillor Yates was of the view that a sufficiently compelling case had not been made for placing the proposed installation at this location, whilst recognising the need for technology to be rolled out across the city and for changes to be made to the existing network that did not mean that it had to be here. He would be voting against the application.
- (15) Councillor Fishleigh was in agreement that the proposed location appeared to be both harmful and arbitrary, she would not be supporting the application.
- (16) Councillor Shanks stated that on balance she considered the proposal to be acceptable and that she would support an additional condition requiring landscaping measures to improve the appearance of the structure i.e., the cabinets at ground level.
- (17) Councillor Miller noted that there was a lot of existing street furniture in the vicinity. Whilst recognising that this was an addition and would be taller and wider he was in agreement that the proposal did not warrant refusal and was in agreement that appropriate landscaping/screening would improve the structures appearance.
- (18) Councillor Mac Cafferty referred to the concerns expressed by residents and whilst sympathetic to them noted that a number of them related to health and other concerns which were not germane planning considerations. He considered that on balance the application was acceptable on planning grounds and would be voting in support of it. Councillor Littman was in agreement.
- 19) Councillor Hill, the Chair stated that she was minded to support the application. The public benefits accruing could only be realised by providing a network across the city as a whole and the scheme was acceptable.
- (20) A vote was taken and on a vote of 6 to 4 planning permission was granted to include a condition requiring additional landscaping to be provided.

130.1 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives also set out in the report and to add an additional condition that suitable landscaping be provided.

**B BH2020/00325-Avon Court, 12 Dallington Road, Hove BN3 5HS - Full Planning**

Proposed roof alterations incorporating 2no front dormers and 3 rear extensions to form 1no two bedroom flat (C3)

- (1) It was noted that an in- depth presentation had been provided by officers in advance of the meeting and was included on the council website detailing the scheme by reference to site plans, floor plans, elevational drawings and photographs which also showed the scheme in the context of neighbouring development.
- (2) The main considerations in determining the application related to the principle of the development, the design of the extensions, their impact on neighbouring amenity, on highways and the proposed standard of accommodation. It was considered that the proposal would make a minor contribution to the council’s housing targets through the provision of well-considered, subordinated extensions to the host building which offered an acceptable standard of residential accommodation without having a detrimental impact on the building itself, the streetscene or neighbouring amenity; the application was therefore recommended for approval.

**Public Speakers**

- (3) Councillor Nemeth spoke in his capacity as a Local Ward Councillor setting out his objections to the scheme and those of local residents. It was considered that the massing and form of the proposed development would result in un-neighbourly and bulky development which would also increase strain to on-street parking in the area. In addition, the most recent drawings submitted seemed to indicate that it was intended to increase the ridge height of the roof although planning permission for that did not appear to have been sought.
- (4) In answer to questions, the Planning Officer, Russell Brown, stated that if the applicant was seeking to increase the ridge height of the roof planning permission would be required and did not appear to have been requested as part of the current application. The Chair, Councillor Hill, suggested that consideration of the application be deferred pending clarification and the Committee was in agreement.

129.2 **RESOLVED** – That consideration of the above application be deferred pending clarification regarding whether the applicant intended to increase the roof height of the proposed development.

**C BH2019/02055 -10 Gladstone Terrace, Brighton BN2 3LB- Full Planning**

Change of use from existing 3no bedroom residential flat (C3) to 6no bedroom small house in multiple occupation (C4) (retrospective)

- (1) It was noted that an in-depth presentation had been provided by officers in advance of the meeting and was included on the council website detailing the scheme by reference to site plans, floor plans, elevational drawings and photographs which also showed the proposed scheme in the context of neighbouring development.
- (2) The application site related to a first and second floor flat in a three- storey terraced house. The property was not located in a conservation area, but there was an Article Four direction in place restricting the conversion of single dwelling houses to houses in multiple occupation (C4 use class). This application sought consent for change of use from a 3 bedroomed flat to a six bedroomed small house in multiple occupation (C4) (retrospective). The main considerations in determining the application related to the principle of the change of use, impact upon neighbouring amenity, the standard of accommodation which the use would provide and transport issues. Overall, the scheme was considered to be acceptable, although as it was considered that a property housing 6 non-connected adults would be likely to generate more noise disturbance than a typical family using the same space, in consequence a condition had been attached restricting the use of the flat roof as a terrace area to safeguard the amenities of neighbouring properties. Given that the property was a flat it did not benefit from permitted development rights and could not be extended without the need for planning permission. The application was recommended for grant.

#### **Questions for Officers**

- (3) Councillor Theobald sought confirmation regarding whether the property was already operating as an HMO as it appeared that retrospective permission was being sought. It was confirmed that the property had been operating as an HMO since April 2019.
- (4) Councillor Shanks sought clarification regarding the number of HMO's identified by the mapping exercise, she was familiar with the area and was aware that there were a large number of multi- occupied properties. It was confirmed that 8 properties had been identified out of 100, within a 50m radius, which fell below the 10% trigger level.
- (5) Councillor Miller referred to the fact that this unit was located in a terraced property and was sandwiched between other flats in the same building. He asked whether there were policies in the City Plan Part 2 which gave the ability to restrict such use.
- (6) Councillor Yates asked whether the mapping exercise identified all properties within the agreed radius e.g., churches/shops or only those dwellings which were in domestic use. The Head of Planning, Liz Hobden, explained that whilst there was no provision within the City Plan to prevent flatted accommodation from being used as an HMO, under the Use Classes Order only HMO's with between 3 and 6 residents represented a change of use.

#### **Debate and Decision Making Process**

- (7) Councillor Childs stated that he did not support the application, which , had resulted in the loss of a family home, for which there was a need in the City. An adverse impact could also occur in terms on noise, traffic and refuse generated by this intensified use, also on neighbouring amenity.

- (8) A vote was taken and on a vote of 7 to 3 planning permission was granted.
- 129.3 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives also set out in the report.

**D BH2020/00240 -2C Lansdowne Place, Hove BN3 1HG - Full Planning**

Change of use from single dwelling house (C3) to a seven-bedroom house in multiple occupation (Sui Generis) (part retrospective)

- (1) It was noted that an in-depth presentation had been provided by officers in advance of the meeting and was included on the council website detailing the scheme by reference to site plans, floor plans, elevational drawings and photographs which also showed the proposed scheme in the context of neighbouring development.
- (2) The application site was one of a pair of new white rendered town houses built over 4 storeys with a basement level. A small area of open space was located in front of the basement communal space and since its completion the property had been in C3 use as holiday lets. This application sought change of use from C3 to a sui-generis 7 bedroom house in multiple occupation. Much of the construction work to facilitate the change of use had already been undertaken and the application description had been amended to reflect the part-retrospective nature of the application.
- (3) The main considerations in determining this application related to the principle of the change of use, its impacts on neighbouring amenity, the standard of accommodation which the HMO use would provide and the transport impacts. Based on the existing percentage of neighbouring properties in HMO use, which was not greater than 10%, the proposed change would not conflict with policy CP21 and all of bedrooms would be over 7.5msq of floor space although some only just achieved it, they were also of an acceptable layout in terms of room to circulate and all would have natural light from windows. Floorspace calculations did not include the en-suite bathrooms which would provide additional space for occupants. Whilst there were constraints on the communal space it was considered that the openness of the space was sufficient to provide seating for future occupants to dine, relax and prepare meals and was also compensated for by the fact that a number of the rooms in the property were above the 7.5msq set out in the NDSS; approval was therefore recommended.

**Public Speakers**

- (4) Councillor Clare spoke in her capacity as a Local Ward Councillor setting out her objections to the scheme on the grounds of noise and overdevelopment. Residents had raised concerns regarding noise disturbance generated by the current AirBnB, “party house” use and it was considered that doubling the number of bedrooms would increase that. This was the second application for HMO use in quick succession and would result in a greater intensification of use within the existing envelope. Residents had expressed concern regarding the number of HMO’s already in existence in the area. Also, this would not provide a good housing mix.

- (5) Mr Giles spoke on behalf of the applicants in support of their application. The application had been the result of detailed discussions which had taken place with officers and works had been undertaken in order to transform it from its former use, potentially as a party house and to provide a good standard of accommodation for future occupiers.
- (6) In answer to questions by Councillor MacCafferty, who was familiar with the application site and problems which had arisen from the previous use it was explained that it was intended that the target market was towards young single professionals, it was not located in an area or at a price point which would make it suitable for student housing and the property would cease to be used as a holiday letting. The Head of Planning, Liz Hobden, advised that occupancy of the accommodation could not be controlled by condition and the application being considered was for any occupant. Whilst the agent had indicated that young professionals would be the target market for the units, occupancy by students could not be precluded.
- (7) Councillor Fishleigh asked whether/what consultation had taken place with local residents regarding local residents concerns, given that local parents had expressed concern regarding nuisance generated by the previous short let, party house use.

#### **Questions of Officers**

- (8) Councillor Theobald stated that she had visited the site and had noted that major internal alterations had been undertaken, stated that she was concerned that significant noise nuisance could arise to the neighbouring property via the party wall. Councillor Theobald asked whether/what arrangements had been put into place to mitigate against any noise penetration to the neighbouring property.
- (9) Councillor Mac Cafferty noted the points made by Councillor Theobald and asked whether it would be possible to add a condition to any permission granted seeking to ensure that adequate sound proofing works were undertaken. The Legal Adviser to the Committee, Hilary Woodward, explained that any additional condition would need to be considered to be reasonable and could be appealed against, it was noted that Environmental Health had not raised objections to the application. Councillor Mac Cafferty indicated that if the Committee were minded to grant planning permission he wished to propose that a condition be added seeking that suitable soundproofing be provided.
- (10) Councillor Miller asked whether the mapping exercise carried out had taken account of the number of individual HMO units as he was aware that a number of buildings in the area had been converted/subdivided. It was confirmed that all units had been included. Councillor Miller also noted that the units were referred to as double bedroom sized, asking whether it would be possible to prevent visitors from staying overnight in order to limit occupancy and minimise potential noise nuisance. It was confirmed that would not be possible.
- (11) Councillor Hill, the Chair enquired whether the application property mirrored its neighbour in terms of its layout and room sizes and whether that was also intended to be used as an HMO

**Debate and Decision Making Process**

- (12) Councillor Miller stated that he did not support the application which he considered would result in cramped living conditions which would result in overdevelopment and could be occupied by more than 7 individuals on occasion.
- (13) Councillor Fishleigh concurred in that view.
- (14) Councillors Janio, Shanks and Yates stated that they supported the scheme, which they considered would be an improvement on the previous use.
- (15) Councillor Mac Cafferty stated that he supported the scheme but remained of the view that a condition should be added to ensure soundproofing was undertaken in order to protect neighbouring amenity.
- (16) Councillor Hill, the Chair stated that she could not support the scheme and would not be voting in support. She considered that the communal area which was provided at basement level and had limited natural daylight was inadequate, the property was not suitable for HMO accommodation in her view.
- (17) A vote was taken and Members voted by 6 to 4 that planning it would be appropriate for a condition to be added to any permission granted to seek to ensure that soundproofing works were undertaken. Councillor Mac Cafferty proposed that a condition was provided in respect of soundproofing measures, this was seconded by Councillor Yates. A further vote was then taken and on a vote of 6 to 4 that a planning permission was granted. Officers were authorised to agree the wording in consultation with the Chair, the proposer and seconder.

129.4 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives also set out in the report. An additional condition to be added in to seek to ensure appropriate soundproofing measures are put into place as referred to in paragraph 17 above.

**E BH2020/00215 - 23 Trafalgar Street, Brighton BN1 4EQ-Full Planning**

Change of use of basement and ground floors from retail (A1) to mixed use retail and drinking establishment (A1/A4), installation of new shopfront incorporating separate entrance to upper floor maisonette, installation of external stairs and seating to rear, revised fenestration and associated works.

- (1) It was noted that an in-depth presentation had been provided by officers in advance of the meeting and was included on the council website detailing the scheme by reference to site plans, floor plans, elevational drawings and photographs which also showed the proposals in the context of neighbouring development.
- (2) The application related to the basement and ground floor of a three-storey terraced property within a terrace of six properties on the south of Trafalgar Street opposite the junction with Whitecross Street. The ground floor of the site currently comprised a retail unit with-associated storage at basement level and a rear yard with a two-bedroom



maisonette (Use Class C3) on the first and second floors. This parade was comprised of commercial on the basement and ground floors (all Use Class A1) apart from an NHS dental practice (Use Class D1) over the upper floors of no.21 with residential upper levels. The building was located in the North Laine Conservation Area and was subject to an Article 4 direction but was not a listed building.

- (3) This application sought planning permission for change of use of the basement and ground floors from retail (Use Class A1) to a mixed use of retail and drinking establishment (Use Classes A1 and A4). This would involve the installation of a new shopfront incorporating a separate entrance to the existing upper floor maisonette, the installation of external stairs and seating to the rear, revised fenestration to the rear, new ramped access to front and the reinstatement of a front lightwell. The main consideration in the determination of this application related to the principle of development, the design of the alterations, the impact on the conservation area, on neighbouring amenity and on the highways network.
- (4) It was considered that the proposal, by reason of the retention of the A1 element, would continue to contribute to the Regional Centre's viability and attractiveness, whilst also providing a complementary evening/night-time economy use, encouraging combined trips and attracting pedestrian activity through the provision of the A4 component. Subject to conditions, it was not considered that use would not have a significant impact on neighbouring amenity and that the proposed shopfront and other alterations would enhance the appearance of the conservation area; approval was therefore recommended.

### **Public Speakers**

- (5) A statement was read out by the read out by the Democratic Services Officer on behalf of Councillor Lizzie Deane in her capacity as a Local Ward Councillor and on behalf of local residents and the North Laine Community Association setting out their objections to the scheme Local residents did not wish to see this premises become a drinking establishment, there were already many outlets for the sale of alcohol on Trafalgar Street. There was currently a licence for off-sales but if the outside was used it would generate noise and disturbance in close proximity to neighbouring dwellings in a densely populated area. The sale of alcohol without the provision of food would effectively render the new use a dinking establishment/a pub, which was contrary to the council's Statement of Licensing Policy. The pavement adjacent to the premises was narrow and those coming into and leaving the premises in order to smoke could lead to congestion of a narrow thoroughfare which could be a risk to public safety.
- (6) Mr Carter of Lewis and Co spoke on behalf of the applicants in support of their application. He stated that the application was intended to enable the existing off-licence to add a small area for the tasting and drinking of specialist whiskies. The applicant was a long established and well-respected whisky supplier who lived in the area and provided whisky to top restaurants and hotels throughout the UK. He did not intend to provide cheap alcohol and cigarettes and his offer would be solely specialist whisky. The number of units currently selling alcohol was considerably fewer now than during the Victorian era when the street had been built. Use of the small outside area for a couple of tables and chairs was limited by condition to cease at 6pm and it was

not considered it would have a negative impact on the few neighbouring residents. The Police had raised no objections to the application.

- (7) Councillor Shanks asked regarding the rationale for use of the outside area and the need to place tables and chairs there. It was explained that this area would have limited use (not after 6.00pm) and would be used only as a tasting area in conjunction with the whisky tasting.
- (8) Councillor Theobald referred to the proposed condition which would limit use of the outside area to 6pm and asked whether it was proposed to amend the hours during which licensable activity could be carried out in respect of the remainder of the premises and it was confirmed it was not.

### **Questions of Officers**

- (9) In response to the agent's statement to questions, the Head of Planning, Liz Hobden, clarified that the application under consideration was not personal to the applicant and that the use proposed should be considered on the basis of any future applicants.
- (10) Councillor Yates sought further clarification in respect of the proposed use of the premises seeking confirmation regarding the mix of retail which was required to be retained. The number of tables and chairs proposed outside both outside and in the basement indicated to him that business would operate primarily as a bar.
- (11) Councillor Miller also asked regarding the proposed mix of uses within the premises and regarding its internal layout, the number of individuals who would be permitted standing and location of the bar area. Councillor Miller also referred to the width of the footway adjacent to the premises and whether it was intended to provide an outside smoking area.
- (12) Councillor Janio sought confirmation as to whether the proportion of each use was stipulated by legislation and it was confirmed that it was not.
- (13) The Planning Officer, Russell Brown, stated that the proposed use was considered to be acceptable as a reasonable element of the existing retail use would be retained. It was the additional element of A4 use for which planning permission was being sought.

### **Debate and Decision Making Process**

- (14) Councillor Theobald stated that she considered the proposed use to be acceptable, particularly as conditions would be imposed limiting the hours of use of the outside space.
- (15) Councillor Janio concerned in that view.
- (16) Councillor Mac Cafferty stated that he did not consider that the application was acceptable. The mix within the premises and number of tables and chairs to be provided did not suggest to him that a suitable level of mixed use would be retained. The use would not be personal to this applicant and in his view ran totally contrary to policy as it would result in a pub by stealth. Neighbouring amenity would be

significantly detrimentally impacted by the number of individuals who could be present drinking on the premises at any one time. Use of the whole premises, including the basement areas by up to 40 people by his calculation was unacceptable. There would be further detriment to neighbouring amenity as a result of use of the outside area to the rear and by individuals gathering outside the front of the building on the pavement in order to smoke. Neighbouring residences were in close proximity to the premises, there were also dwelling units above. He considered that all would be negatively impacted by the proposed scheme. Councillor Littman was in agreement.

- (17) Councillor Shanks also agreed stating that she was particularly concerned that use of the outside area given the close proximity to neighbouring dwellings would be detrimental.
- (18) A vote was taken and on a vote of 6 to 4 planning permission was refused. A brief adjournment then took place in order to go into closed session to discuss the reasons for refusal. Councillor Mac Cafferty proposed that planning permission be refused on the grounds that the proposed would have a negative impact on neighbouring amenity due to noise and nuisance and was contrary to policy QD27. That a clear division between the A1/A4 uses had not been demonstrated and there was a loss of retail use. Councillor Shanks seconded the proposal that planning permission be refused. The final wording of the reasons for refusal to be agreed by the Planning Manager in consultation with the proposer and seconder. A recorded vote was then taken. Councillors Hill, (the Chair), Fishleigh, Littman, Mac Cafferty, Shanks and Yates voted that the application be refused. Councillors Childs, Janio, Miller and Theobald voted that planning permission be granted. Therefore, on a vote of 6 to 4 planning permission was refused.
- 129.5 **RESOLVED** – That planning permission be refused on the grounds set out above. The final wording of the decision to be agreed by the Planning Manager in consultation with the proposer and the seconder.
- 130 TO CONSIDER ANY FURTHER APPLICATIONS IT HAS BEEN DECIDED SHOULD BE THE SUBJECT OF SITE VISITS FOLLOWING CONSIDERATION AND DISCUSSION OF PLANNING APPLICATIONS**
- 130.1 There were none.
- 131 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES**
- 131.1 The Committee noted the information regarding informal hearings and public inquiries as set out in the planning agenda.
- 132 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE**
- 132.1 The Committee noted the new appeals that had been lodged as set out in the planning agenda.
- 133 APPEAL DECISIONS**

133.1 The Committee noted the content of the letters received from the Planning Inspectorate advising of the results of planning appeals which had been lodged as set out in the agenda.

The meeting concluded at 4.10pm

Signed

Chair

Dated this

day of

<b>Subject:</b>	Anston House, 137 - 147 Preston Road, Brighton Request to vary the Heads of Terms of Section 106 Agreement in connection with planning permission BH2016/02499.		
<b>Date of Meeting:</b>	20 May 2020		
<b>Report of:</b>	Liz Hobden, Head of Planning		
<b>Contact Officer:</b>	<b>Name:</b>	Luke Austin	<b>Tel:</b> 01273 294495
	<b>Email:</b>	luke.austin@brighton-hove.gov.uk	
<b>Ward(s) affected:</b>	Preston Park		

## 1. PURPOSE OF THE REPORT

- 1.1 To consider a request to vary the Heads of Terms of the Section 106 Agreement dated 30<sup>th</sup> October 2017 in connection with planning permission BH2016/02499 to allow conversion of the approved development to a Build to Rent development.

## 2. RECCOMENDATION

- 2.1 That the S106 Head of Terms with regard to Affordable Housing be varied in order to allow for a Build to Rent development, as set out below:

### **Build to Rent Housing:**

- A restriction that all homes are held as 'Build to Rent' under a covenant for at least 15 years
- Inclusion of a 'clawback' arrangement to fund the consequent affordable housing requirement in the event of any private rented housing being sold or taken out of the Build to Rent sector based on values of units at that particular time (as assessed for viability) within the 15 year covenant period.
- All units to be self-contained and let separately under unified ownership and management
- Submission of a Tenancy Agreement, for example of at least 3 years available to all tenants (unless tenants agree a lesser period) with a break clause of 1 month after initial 6m months. No upfront fees of any kind except deposits and rent in advance
- A minimum of 5% of all residential units to be built to wheelchair accessible standard and evidenced before first occupation. Marketing Agreement to include provision that all reasonable endeavours will be used to ensure wheelchair units are matched with disabled tenants.

### **Affordable Housing:**

- Provision of 13 affordable housing units on site based on rent levels 80% of market level (including service charge) [discount market rent]
- Provision of 17 affordable housing units on site based on rent levels capped at Local Housing Allowance rates (including service charge) [discount market rent]

- Provision of 15 x 1-bed and 15 x 2-bed affordable housing mix. The location of these affordable units may vary over time within the scheme however the reduced rent levels and overall mix of sizes shall remain the same.
- At least 10% of the affordable units will be to wheelchair accessible standard (initially - as location may change over time).
- Review mechanism to reassess the viability of the scheme

The remainder of the Heads of Terms will remain unchanged.

### **3. BACKGROUND INFORMATION**

3.1 Members were minded to grant full planning permission at Planning Committee on 14<sup>th</sup> December 2016 for the following application:

**BH2016/02499** (Anston House, 137 - 147 Preston Road, Brighton) - Demolition of existing building and erection of a new building of varying heights up to 13 and 15 storeys to provide 229 residential units (C3), flexible commercial/café space (B1/A3) use at ground level, car parking at ground and basement level, cycle parking, storage lockers, two new vehicular accesses, landscaping and amenity areas, refuse stores and associated plant.

3.2 The granting of permission was subject to the completion of a S106 agreement containing the following Heads of Term (amongst others) as set out in the original committee report:

- Affordable Housing: On site provision of 17no. affordable rent units and 13no. shared ownership units. Of these, 50% will be 1 bed units and 50% will be 2 bed units.
- Review Mechanism to reassess the viability of the scheme close to completion in order to, where possible, secure up to policy compliant level of affordable housing via an off-site financial contribution.

3.3 Planning Permission was granted on 2<sup>nd</sup> November 2017 following completion of the S106 agreement.

3.4 The developer wrote to the Council on 17<sup>th</sup> October 2019 seeking to bring forward the approved market sales residential units as a Build to Rent (BTR) tenure. The developer has indicated that following the granting of planning permission the proposal was reviewed in terms of current and future market conditions which revealed that the construction cost estimate had risen significantly, thereby reducing the profit to a level which is not considered commercially realistic for a development of this type and risk profile.

3.5 The developer has advised that the reduced profitability is unlikely to be fundable and therefore undeliverable in the current economic climate which is compounded by continued uncertainties within the housing market. On this basis, the developer proposes that the scheme be brought forward as a BTR development.

- 3.6 The proposed changes would result in amendments to the affordable housing provision by way of amending the 17 Affordable Rent units to Discount Market Rent with rents capped at Local Housing Allowance rates (including service charges) and the 13 Intermediate Units (shared ownership under the current consent) to Discount Market Rent (DMR) at no more than 80% market rental value (including service charges). The number of affordable units (30) would therefore remain unchanged and all units would be retained at rent levels in perpetuity.
- 3.7 The developer also requested that trigger point for the for the S278 Highways works to be altered from pre-commencement to pre-floor slab level.

#### **4. PROPOSAL**

- 4.1 The developer has written to the Council to request that the proposed development be delivered as Build to Rent and therefore the affordable housing element (30 Units) would therefore be delivered by an alternative means,

#### **5. COMMENT**

- 5.1 Following initial discussions with the developer and the Housing Strategy Team, the Local Planning Authority (LPA) advised conversion to BTR would be acceptable under the current permission on the basis that the number of affordable housing units were to be retained and the 17 Affordable Rent units would become DMR and capped at Local Housing Allowance rates. The remaining 13 units would be converted from Shared Ownership to DMR; no more than 80% of market value (including service charges). The Housing Strategy Team have confirmed that this approach is acceptable and would comply with the Affordable Housing Brief.
- 5.3 The LPA had initial concerns that the proposed scheme had the potential to be more profitable and therefore had the potential to provide more affordable housing which would not be included within the proposal. Furthermore, it is acknowledged that the economics of BTR schemes differ from a market development and therefore the viability assessment requires a different approach. On this basis a Financial Viability Appraisal was submitted by the developer which indicated that the BTR proposal could not viably provide any more affordable housing than proposed.
- 5.4 The LPA commissioned the District Valuer Service (DVS) to review the information provided. The DVS concluded that the scheme cannot viably provide more affordable housing than is being provided by the applicant, however there were several discrepancies within the methodology used including the rental values.
- 5.5 Given the DVS conclusions it is therefore considered that a robust viability case has been made that the scheme cannot provide any additional affordable housing units.

- 5.7 As set out in the revised Heads of Terms wording in section 2, the LPA's standard clauses will be added to the S106 which relate to BTR developments in order to secure that all units are held as BTR under a covenant for 15 years. A 'clawback' arrangement shall also be included to fund the consequent affordable housing requirement should any of the BTR units being sold or privately rented within the 15 year period. The review mechanism shall also be updated in order to reflect the BTR development.
- 5.8 The affordable housing units and their respective rent levels shall be retained in perpetuity.
- 5.9 It is therefore considered that the proposed changes accord with the priorities of policy CP20 of the City Plan Part One and the Affordable Housing Brief.
- 5.10 Background Documents  
Planning Application **BH2016/02499**.



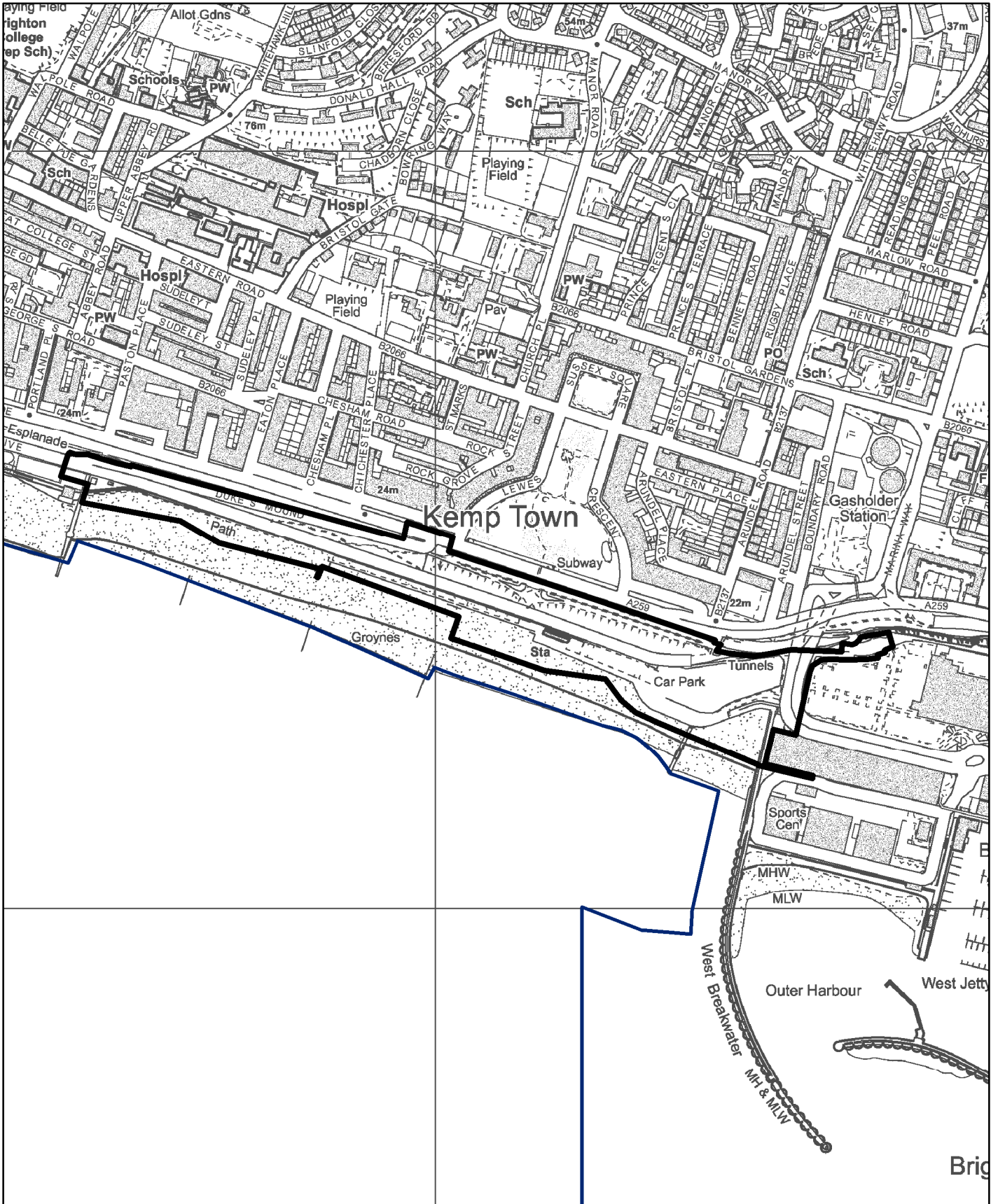
# **ITEM A**

**Black Rock Site and Surroundings,  
Madeira Drive  
BH2020/00442  
Full Planning**

**DATE OF COMMITTEE: 10<sup>th</sup> June 2020**



# BH2020 00442 - Black Rock Site And Surroundings, Madeira Drive



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Scale: 1:7,000

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<b><u>No:</u></b>	<b>BH2020/00442</b>	<b><u>Ward:</u></b>	<b>Rottingdean Coastal Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Black Rock Site And Surroundings Madeira Drive Brighton BN2 1EN</b>		
<b><u>Proposal:</u></b>	<b>Replacement of existing sea wall with a realigned free-standing structure; the formation of an access route from Black Rock extending to Brighton Marina; enhancement of highways infrastructure for Duke's Mound at its junctions with Marine Parade and Madeira Drive; restoration of The Old Reading Room and The Temple and change of use for flexible A1, A3, D1 or D2 Use; widespread enhancement of public realm for pedestrians and cyclists via new amenities, facilities and landscaping, with associated ecological enhancement.</b>		
<b><u>Officer:</u></b>	<b>Wayne Nee, tel: 292132</b>	<b><u>Valid Date:</u></b>	<b>18.02.2020</b>
<b><u>Con Area:</u></b>	<b>Kemp Town/East Cliff</b>	<b><u>Expiry Date:</u></b>	<b>19.05.2020</b>
<b><u>Listed Building Grade:</u></b>	<b>N/A</b>	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	<b>NTR Planning Ltd Clareville House 26-27 Oxendon Street London SW1Y4EL</b>		
<b><u>Applicant:</u></b>	<b>Brighton And Hove City Council - Estate Regeneration Hove Town Hall Norton Road Hove BN3 3BQ</b>		

## 1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to be **MINDED TO GRANT** planning permission subject to a Unilateral Undertaking and the following Conditions and Informatives as set out hereunder, **SAVE THAT** should the Unilateral Undertaking Planning Obligation not be completed on or before 02<sup>nd</sup> September 2020 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in Section 11 of this report:

### **Unilateral Undertaking Heads of Terms**

- Highways Works
- Public Art
- Employment & Training Strategy

### **Conditions:**

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

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan	10856-PLN-001		11 February 2020
Proposed Drawing	46053/5501/SK026		11 February 2020

Proposed Drawing	409765-MMD-SW-ZZ-DR-YC-0003		11 February 2020
Proposed Drawing	409765-MMD-SW-ZZ-DR-YC-0002		11 February 2020
Proposed Drawing	409765-MMD-SW-ZZ-DR-YC-0001		11 February 2020
Proposed Drawing	409765-MMD-SW-XX-DR-YC-0006		11 February 2020
Proposed Drawing	409765-MMD-SW-XX-DR-YC-0005		11 February 2020
Proposed Drawing	409765-MMD-SW-XX-DR-YC-0004		11 February 2020
Proposed Drawing	10856-SEC-603		11 February 2020
Proposed Drawing	10856-SEC-601		11 February 2020
Proposed Drawing	10856-PLN-116		11 February 2020
Proposed Drawing	10856-PLN-115	P3	27 May 2020
Proposed Drawing	10856-PLN-114	P3	27 May 2020
Proposed Drawing	10856-PLN-113	P2	27 May 2020
Proposed Drawing	10856-PLN-112	P2	27 May 2020
Proposed Drawing	10856-PLN-111		11 February 2020
Proposed Drawing	10856-PLN-101	P3	27 May 2020
Block Plan	10856-PLN-013		11 February 2020
Block Plan	10856-PLN-012		11 February 2020
Block Plan	10856-PLN-011		11 February 2020
Proposed Drawing	'THE TEMPLE' DRAWINGS		11 February 2020
Proposed Drawing	'THE OLD READING ROOM' DRAWINGS		11 February 2020
Proposed Drawing	46053_5501_SK039		20 May 2020
Proposed Drawing	46053_5501_SK012	F	20 May 2020
Proposed Drawing	46053_5501_SK013	G	20 May 2020
Proposed Drawing	46053_5501_SK019	J	20 May 2020
Proposed Drawing	46053_5501_SK028	C	20 May 2020
Proposed Drawing	46053_5501_SK034	B	20 May 2020
Proposed Drawing	46053_5501_SK035	B	20 May 2020
Proposed Drawing	46053_5501_SK032	A	27 April 2020
Proposed Drawing	6053_5501_SK036	B	20 May 2020

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission  
**Reason:** To ensure that the Local Planning Authority retains the right to review unimplemented permissions
  
3. No development, including demolition, shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include:

- (i) The phases of the Proposed Development including the forecasted completion date(s)
- (ii) A commitment to apply to the Council for prior consent under the Control of Pollution Act 1974 and not to Commence Development until such consent has been obtained
- (iii) A scheme of how the contractors will liaise with local residents to ensure that residents are kept aware of site progress and how any complaints will be dealt with reviewed and recorded (including details of any considerate constructor or similar scheme)
- (iv) A scheme of how the contractors will minimise disturbance to neighbours regarding issues such as noise and dust management vibration site traffic and deliveries to and from the site
- (v) Details of hours of construction including all associated vehicular movements
- (vi) Details of the construction compound
- (vii) A plan showing construction traffic routes
- (viii) In respect of Biodiversity:
  - a) risk assessment of potentially damaging construction activities;
  - b) identification of “biodiversity protection zones”;
  - c) practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
  - d) the location and timing of sensitive works to avoid harm to biodiversity features;
  - e) the times during construction when specialist ecologists need to be present on site to oversee works;
  - f) responsible persons and lines of communication;
  - g) the role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
  - h) use of protective fences, exclusion barriers and warning signs. The approved CEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details.

The construction shall be carried out in accordance with the approved CEMP.

**Reason:** As this matter is fundamental to the protection of amenity, highway safety and managing waste throughout development works and to comply with policies QD27, SU9, SU10 and TR7 of the Brighton & Hove Local Plan, policy CP8 of the Brighton & Hove City Plan Part One, and WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013 and Supplementary Planning Document 03 Construction and Demolition Waste. To ensure that any adverse environmental impacts of development activities are mitigated and to avoid an offence under relevant wildlife legislation.

4. No development, including demolition and excavation, shall commence until a Site Waste Management Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details approved.

**Reason:** To maximise the sustainable management of waste and to minimise the need for landfill capacity and to comply with policy WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

5. No landscaping works shall take place until full details of the proposed way-finding painted surface crossings and the heritage focused wayfinding element / interpretation panels, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with e approved details and maintained thereafter.

**Reason:** To ensure a satisfactory appearance to the development and to comply with Policy CP15 of the City Plan Part One and HE6 of the Brighton and Hove Local Plan.

6. The development hereby permitted shall not be first occupied until
- i) details of external lighting (including lighting to public realm and listed buildings), which shall include details of; location and design, levels of luminance, hours of use, predictions of both horizontal illuminance across the site and vertical illuminance affecting immediately adjacent receptors, hours of operation and details of maintenance have been submitted to and approved in writing by the Local Planning Authority.
  - ii) the predicted illuminance levels have been tested by a competent person to ensure that the illuminance levels agreed in part1 are achieved. Where these levels have not been met, a report shall demonstrate what measures have been taken to reduce the levels to those agreed in part i).

The external lighting shall be installed, operated and maintained in accordance with the approved details and thereafter retained.

**Reason:** To ensure a satisfactory appearance to the development and to safeguard the amenities of the occupiers of adjoining properties, to comply with policies HE1, HE6, QD25 and QD27 of the Brighton & Hove Local Plan.

7. Prior to installation of lighting, a “lighting design strategy for biodiversity” shall be submitted to and approved in writing by the local planning authority. The strategy shall:
- a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
  - b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the planning authority.

**Reason:** Many species active at night (e.g. bats) are sensitive to light pollution. The introduction of artificial light might mean such species are disturbed and/or discouraged from using their breeding and resting places, established flyways



or foraging areas. Such disturbance can constitute an offence under relevant wildlife legislation

8. No development shall take place until an ecological design strategy (EDS) addressing enhancement of the site for biodiversity, to include the recommendations in the Ecological Impact Assessment (Mott Macdonald, 31/01/2020), has been submitted to and approved in writing by the local planning authority. The EDS shall include the following:
- a) purpose and conservation objectives for the proposed works;
  - b) review of site potential and constraints;
  - c) detailed design(s) and/or working method(s) to achieve stated objectives;
  - d) extent and location /area of proposed works on appropriate scale maps and plans;
  - e) type and source of materials to be used where appropriate, e.g. native species of local provenance;
  - f) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
  - g) persons responsible for implementing the works;
  - h) details of initial aftercare and long-term maintenance;
  - i) details for monitoring and remedial measures;
  - j) details for disposal of any wastes arising from works.

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

**Reason:** To ensure that any adverse environmental impacts of development activities can be mitigated, compensated and restored and that the proposed design, specification and implementation can demonstrate this, and to provide a net gain for biodiversity as required by Section 40 of the Natural Environment and Rural Communities Act 2006, paragraphs 170 and 175 of the National Planning Policy Framework, and Policies CP10 and DA2 of the Brighton & Hove City Council City Plan Part One.

9. A landscape and ecological management plan (LEMP) for the creation and long-term management of at least 1.54 hectares of coastal vegetated shingle habitat and the management of existing vegetated shingle habitat within the Volk's Railway LWS, shall be submitted to, and approved in writing by, the local planning authority prior to the commencement of the development. The content of the LEMP shall include the following:
- a) description and evaluation of features to be managed;
  - b) ecological trends and constraints on site that might influence management;
  - c) aims and objectives of management;
  - d) appropriate management options for achieving aims and objectives;
  - e) prescriptions for management actions, together with a plan of management compartments;
  - f) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
  - g) details of the body or organisation responsible for implementation of the plan;
  - h) ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plans shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

**Reason:** Biological communities are constantly changing and require positive management to maintain their conservation value. The implementation of a LEMP will ensure the long-term management of vegetated shingle habitat required to compensate for the loss of Black Rock Local Wildlife Site and to mitigate impacts on Volk's Railway LWS.

10. No development above ground floor slab level of any part of the development hereby permitted shall take place until a drainage strategy detailing the proposed means of foul water disposal and an implementation timetable, has been submitted to and approved in writing by, the Local Planning Authority in consultation with the sewerage undertaker. The development shall be carried out in accordance with the approved scheme and timetable.

**Reason:** To ensure adequate foul sewage drainage/treatment is available prior to development commencing and to comply with policy SU5 of the Brighton & Hove Local Plan.

11.

- (i). No works pursuant to this permission shall commence 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 BS 10175:2011+A1:2013 - Investigation of Potentially Contaminated Sites - Code of Practice;  
And if notified in writing by the local planning authority that the desk top study identifies potentially contaminant linkages that require further investigation then,
  - (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 BS 10175:2011+A1:2013;  
And if notified in writing by the local planning authority that the results of the site investigation are such that site remediation is required then,
  - (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 a scheme shall include 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, and approved in writing by, the

local planning authority a written verification report by a competent person approved under the provisions of condition (i)c that any remediation scheme required and approved under the provisions of condition (i)c 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 the verification report shall comprise:

- a) built drawings of the implemented scheme;
- b) photographs of the remediation works in progress;
- c) certificates demonstrating that imported and/or material left in situ is free from contamination.

**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.

12. Prior to occupation of the development hereby permitted, a scheme for landscaping shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping shall be implemented in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. The scheme shall include the following:

- a. details of all hard and soft surfacing to include type, position, design, dimensions and materials and any sustainable drainage system used;
- b. a schedule detailing sizes and numbers/densities of all proposed trees/plants including details of tree pit design, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period;
- c. construction within the public footway (including tree pit) must be approved in advance by a relevant Highway Project Engineer, and must comply with current footway material specifications;
- d. details of all boundary treatments to include type, position, design, dimensions and materials;

Any trees or plants which within a period of 10 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

13. No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods as referred to in the submitted Design Access Statement (Jan 2020) has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to any demolition or construction commencing.

**Reason:** To ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with policy SU3 of the Brighton & Hove Local Plan

14. No development to public realm improvement shall take place until full details of the proposed public realm improvement scheme have been submitted to and approved in writing by the Local Planning Authority. The submission shall include details with regards layout, materials, colour palate, signage and lighting strategy (location/types), and street furniture. Details of the appearance of the new retaining wall on the north side of the CTR access road shall also be submitted. The phasing of works, maintenance details and future management plan are also required. The development shall be carried out in accordance with e approved details and maintained thereafter.

**Reason:** In order to ensure a satisfactory appearance and to accord with the requirements of SA1 the Seafront, Policy CP13 and CP15 of the City Plan Part 1.

15. Notwithstanding the plans submitted, no development of the Black Rock site shall commence until a scheme detailing the design of the proposed highway works as illustrated within the planning application has been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The submitted scheme shall include full details of the following:

- Geometry and layout, including dimensions and visibility splays
- Pavement constructions and surfacing, kerbs and edge restraints
- Levels and gradients
- Lighting
- Drainage
- Street furniture
- Trees, other planting, growing media and planting aids
- Traffic signs and road markings;

The scheme shall include a completed a Road Safety Audit up to Stage 2 in accordance with the Highway Authority's standards at that time, with the Highway Authority acting as Overseeing Organisation. The Road Safety Audit Brief and Report, and all other road safety audit documents, shall be submitted with the scheme.

If the scheme proposes that any areas are shared between pedestrians and vehicles or where recommendations in Guidance On the Use of Tactile Paving Surfaces are not met then relevant disabled user groups (and/or national organisations representing them) shall be engaged as part of the design development process and the submitted scheme shall include both of the following.

- A Participative Inclusive Design Statement. This shall: explain the engagement undertaken with disabled user groups during the design development process; record their views and suggestions on the different options; and explain how these have shaped the submitted design proposals and other management plans. Where it has not been considered possible to accommodate views and suggestions in the submitted proposals and plans then the reasons for this shall be detailed.
- An Equality Assessment. As a minimum this shall identify and explain: each adverse impact arising from the proposals for different protected character groups; how these are known (which may be from appropriate

consultation/engagement, research or guidance relevant to the protected character groups impacted); the alternatives considered to avoid or minimise these impacts; and, where some residual adverse impact remain, the objective justifications for why complete avoidance is not considered possible and why the scheme should nonetheless be considered acceptable.

The approved scheme shall be implemented prior to occupation of the Black Rock site and shall include the implementation of the recommendations of the Stage 3 Road Safety Audit, with the Highway Authority acting as Overseeing Organisation. Thereafter the approved scheme shall be retained.

**Reason:** In the interest of highway safety, inclusivity, sustainability, quality design, the historic environment and public amenity and to comply with policies TR7, TR11, TR12, TR14, TR15, TR18, SU3, SU5, QD1, QD2, QD3, QD14, QD20, QD25, QD26, QD27 and HE6 of the Brighton & Hove Local Plan and SA6, CP7, CP9, CP12, CP13 and CP15 of the Brighton & Hove City Plan Part One, and National Planning Policy Framework paragraphs 108-110.

16. No development shall commence until full details of the retaining wall structures, including location (above or below the adopted (public) highway), land drainage from behind the wall, surface water drainage away from the highway, cross sections, depth of footings, retained height, thickness of wall, construction materials, method of construction and design drawings and calculations have been submitted to and agreed in writing by the Local Planning Authority in consultation with the Civil Engineering group within the Council which will require an Approval in Principal process to be completed.

**Reason:** To ensure the stability and safety of the adjacent pavement and to comply with Policy TR7 of the Brighton & Hove Local Plan and SA6, CP7, CP9, CP12, CP13 and CP15 of the City Plan Part One.

17. Prior to first occupation of the development hereby permitted, details of secure cycle parking facilities for the occupants of, and visitors to, the development shall have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.

**Reason:** To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan.

18. The flexible A1/A3/D1/D2 Use hereby approved shall not be occupied until a scheme for the storage of refuse and recycling has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out and provided in full in accordance with the approved details prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.

**Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and to comply with policy QD27 of the Brighton & Hove Local Plan, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.

19. When creating semi-natural habitats, all species using the planting proposals for the recreation of vegetated shingle habitat shall be locally native species of local provenance.  
**Reason:** To conserve and enhance biodiversity by protecting the local floristic gene pool that has evolved within the local landscape, and to prevent the spread of non-native species and those of no local provenance.
20. The flexible A1/A3/D1/D2 Use hereby approved shall not be open to customers except between the hours of 07.00 hours and 23.00 hours daily.  
**Reason:** To safeguard the amenities of nearby residents and occupiers and the amenity of the general locality and in the interests of crime prevention to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan and CP12 of the Brighton and Hove City Plan Part One.
21. No odour control/extraction/ventilation equipment shall be installed in relation to the flexible A1/A3/D1/D2 Use hereby approved until details have first been submitted to and approved in writing by the Local Planning Authority. This shall include details of sound insulation of the equipment. The equipment shall be installed in full accordance with the approved details and shall thereafter be retained as such.  
**Reason:** To safeguard the amenities of the occupiers of nearby properties and the amenity of the general seafront locality and the visual amenity of the area to comply with policies QD27, SU9, SU10 and HE3 and HE6 of the Brighton and Hove Local Plan and CP12 and CP15 of the Brighton and Hove City Plan Part One.
22. No plant and machinery shall first be brought into use until details of their appearance and location and a scheme for the suitable treatment of all plant and machinery against the transmission of sound and/or vibration has been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in strict accordance with the approved details prior to the first occupation of the development and shall thereafter be retained as such.  
**Reason:** To safeguard the amenities of the occupiers of adjoining properties and the visual amenities of the locality to comply with policies HE3, HE6, SU10 and QD27 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton and Hove City Plan Part One.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. Please be aware that any works within the Marine area require a licence from the Marine Management Organisation. It is down to the applicant themselves

to take the necessary steps to ascertain whether their works will fall below the Mean High Water Springs mark.

3. The applicant is advised that the details of external lighting required by the condition above should comply with the recommendations of the Institution of Lighting Engineers (ILE) 'Guidance Notes for the Reduction of Light Pollution (2011)' for Zone E or similar guidance recognised by the council. A certificate of compliance signed by a competent person (such as a member of the Institution of Lighting Engineers) should be submitted with the details. Please contact the council's Pollution Team for further details. Their address is Environmental Health & Licensing, Bartholomew House, Bartholomew Square, Brighton, BN1 1JP (telephone 01273 294490 email: ehlpollution@brighton-hove.gov.uk website: www.brighton-hove.gov.uk).
4. The applicant is reminded by the County Ecologist that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use of being built. Planning consent for a development does not provide a defence against prosecution under this act.
5. Southern water advise that a formal application for connection to the public sewerage system is required in order to service this development. Please read our New Connections Services Charging Arrangements documents which has now been published and is available to read on our website via the following link: [southernwater.co.uk/infrastructure-charges](http://southernwater.co.uk/infrastructure-charges)
6. The applicant is advised that the above condition on land contamination has been imposed because the site is known to be or suspected to be contaminated. Please be aware that the responsibility for the safe development and secure occupancy of the site rests with the developer. To satisfy the condition a desktop study shall be the very minimum standard accepted. Pending the results of the desk top study, the applicant may have to satisfy the requirements of part (b) and part (c) of the land contamination condition above.  
It is strongly recommended that in submitting details in accordance with this condition the applicant has reference to Contaminated Land Report 11, Model Procedures for the Management of Land Contamination. This is available on both the DEFRA website ([www.defra.gov.uk](http://www.defra.gov.uk)) and the Environment Agency website ([www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)).
7. To discharge the surface water drainage condition, the applicant will need to provide:
  - Details of the location of the existing drainage infrastructure.
  - Details and location of the final drainage infrastructure such as soakaways and permeable paving as proposed in the initial design stage.
  - An appropriate soakaway test in accordance with Building Research Establishment Digest 365 (BRE365). Details of the results will need to be provided.

- Appropriate calculations to demonstrate that the final proposed drainage system will be able to cope with both winter and summer storms for a full range of events and storm durations.
  - The applicant should demonstrate the surface water drainage system is designed so that flooding does not occur on any part of the site for a 1 in 30 year rainfall event, and so that flooding does not occur during a 1 in 100 (+40% allowance for climate change) year event in any part of a building or in any utility plant susceptible to water.
  - A management and maintenance plan for the final drainage design for the proposed development.
8. It is anticipated that the proposals submitted for Approval of Details of the Street Design condition will incorporate the following changes/improvements, amongst others:

**CTR Link:**

- Further design is needed on the interim scheme to provide a suitable cycleway footway route. LTN 2/08 confirms the desirable minimum width to allow for passing space for cyclists is 2.5m to allow for dynamic envelopes which are particularly important when cycling at gradients. We would wish to see either a widening of the link to 4.3m to allow for the minimums of 2.5m cycleway and 1.8m footway; or, a footway constructed alongside the future CTR carriageway such that cyclists could use the entire width of the carriageway for the interim scheme and pedestrians were provided with a segregated footway.
- Further design is needed on the operation of the signals and the interconnection with the cycle lane for the long term 'full scheme'. We would wish to see a design which provides either a 4.3m carriageway including an eastbound (downhill) on-carriageway cycle facility together with a 2.0m wide segregated westbound (uphill) cycle lane with 1.8m footway; or, the segregated two way cycleway to be widened to 2.5m separate from a minimum 1.8m footway both separate from the 4.0m carriageway.
- Any RSA Actions following an approved RSA Response or other road safety concern.

**Non-Vehicular Links to the Marina:**

- Alterations to the cycle lanes to provide 2.5m widths with suitable clearance from vertical obstacles
- Pedestrian crossing facilities of cycle lanes
- Cycleway to extend along the Breakwater / Outer Harbour Wall
- Any RSA Actions following an approved RSA Response or other road safety concern.

**Site Access to Black Rock site and new entrance to Black Rock Car Park:**

- Any RSA Actions following an approved RSA Response or other road safety concern.

**Dukes Mound Signals:**

- Any RSA Actions following an approved RSA Response or other road safety concern.
- Confirmation of pedestrian crossing locations and modelling to suit layout and crossing phases.



- Potential for cyclist advanced stop lines.

**Madeira Drive Pedestrian Crossings:**

- Buildouts for pedestrian crossings with suitable visibility to passing traffic and removal of coach parking.
9. The applicant is advised that this planning permission does not override the need to go through the Highway Authority’s Approval in Principle (AIP) process for all necessary works adjacent to and within the highway and gain any appropriate licences, prior to the commencement of any construction works. The applicant is further advised that they must contact the Council’s Civil Engineering team (transport.projects@brighton-hove.gov.uk) for further information at their earliest convenience to avoid delay.
  10. The cycle parking to be provided is specifically to serve for visitors to and users of the proposed pump track and is to be placed in a suitable location for that purpose.

**2. SITE LOCATION & APPLICATION DESCRIPTION**

Site and its Context

- 2.1. The Black Rock site is located at the eastern end of Madeira Drive, adjacent to the Brighton Marina and the seafront. The site was formerly a 1930s open air swimming pool (lido), which was closed in 1978 and has long since been demolished. The site is now unmade land in poor visual condition and largely enclosed by hoarding. It is used for parking and storage, and has been the subject of temporary uses, including the Sand Sculpture Festival in 2005, 2006 and 2014, and a coach park.
- 2.2. Immediately to the south is the Black Rock Beach SNCI, and forms part of the application site. Part of the beach forms the SNCI/Black Rock Local Wildlife Site (LWS) consisting of vegetated shingle and stable grassland at the back of the beach.
- 2.3. Other proposed works related to the application in respect of public realm and infrastructure improvements to improve connectivity makeup a greater site area of 10.24ha.
- 2.4. The site extends eastwards to Brighton Marina, the Asda car park and Marina flyovers, the breakwater and harbour wall. It is bounded to the north by Marine Parade. The site extends to the west by the Volk’s Workshop/entrance to Banjo Groyne.
- 2.5. The eastern half of the Palace Pier to Brighton Marina Seafront, including Madeira Drive, is an urban stretch of seafront that provides opportunity for new uses, as well as public realm and connectivity improvements.
- 2.6. The site is almost entirely within the Kemp Town and East Cliff Conservation Areas, and the Kemp Town Enclosures which are listed as one of the Councils historic parks and gardens. The Grade II Listed Reading Rooms is part of the

Kemp Town Enclosures Historical Garden. The building is set into the cliff face and built in classical style with use of large simple columns. Behind the Reading Rooms is a tunnel which leads under Marine Drive to the main garden area of the Kemp Town Enclosures located in Lewes Crescent and Sussex Square.

2.7.

Within the site are the grade II listed Reading Rooms, Temple, Esplanade Cottages and tunnel entrance, and just beyond to the West is the grade II listed Banjo Groyne, and Madeira Terraces (recently regraded to II\*). Along part of the northern boundary run the grade II Madeira Drive railings and seafront lighting, with the grade I listed Kemp Town Estate beyond.

#### Proposed development

2.8.

Planning permission is sought for a scheme of physical enhancement works to improve general public realm and connectivity, together with the provision of improved infrastructure to facilitate the future development of the Black Rock site.

2.9.

The proposals are summarised as follows:

- Infrastructure works to provide a connected access vehicular route running east from Madeira Drive to connect with the Black Rock site and Brighton Marina.
- Replacement of existing sea wall with realigned free-standing structure at the Black Rock site. This will create a developable area to enable sufficient support to deliver a future site allocation.
- Decontamination of Black Rock site with permeable surface treatment to enable a temporary use of the site, and to be made ready for future development. Below ground obstructions will be removed and statutory services will be diverted.
- Associated highways works on Dukes Mound (junctions with Madeira Drive and Marine Parade) to improve connections to the site.

2.10.

Also part of the scheme are the following proposed enhancement projects:

- Pedestrian and cycle route improvements along the seafront between Duke's Mound and Brighton Marina, with enhanced access to the Marina, beach, Undercliff Walk, Kemp Town Slopes and Madeira Drive, including improved legibility;
- Enhancement and re-use of heritage assets, including restoration of Grade II Listed Old Reading Room and The Temple and change of use for flexible future use (flexible Class Use A1, A3, D1 or D2), new shelter, toilet, and lock up facilities;
- New planting and relocated vegetated shingle within beach boardwalk, ecological enhancement (clearance of scrub, replanting, landscaping) within the Kemp Town Slopes, including historical interpretation boards;
- New activity hub including provision of an informal children's play area

2.11.

The following temporary uses are also proposed within Black Rock:

- Creation of temporary events space;
- Provision of temporary pump track;

- Provision of temporary recreation space with half court and basketball net
- 2.12. During the application process, further information was submitted in relation to transport assessment, including trip generation information, amendments to provide a segregated cycle path, improve visibility at Madeira Drive, access alterations to southern end of Dukes Mound, and alterations to the seafront loading area.
- 2.13. Pre-application advice: The development has been influenced by pre-application feedback from officers in relation to amongst other issues, the impact on highways and ecology.

Applicants' Public Consultation Exercise

- 2.14. Pre-application engagement was carried out with the local community including two drop-in consultation events, an information leaflet circulated to nearby residents and commercial properties, and emails/briefings to local stakeholders.
- 2.15. The Applicants' Statement of Community Involvement indicates that comments included the following:
- Overall support to the project;
  - Request for pump track and new public toilets, which were then included as part of the scheme;

**3. RELEVANT HISTORY**

Black Rock, Madeira Drive

- 3.1. BH2020/00443 Internal and external works to The Temple and The Old Reading Room incorporating: fenestration alterations; repairs and restoration of the structure and flooring; change of use for flexible A1, A3, D1 or D2 Use; and associated works – Under Consideration
- 3.2. (Black Rock Toilets) BH2016/00706 Change of use from public toilet (Sui Generis) to music recording studio (B1). (Part retrospective) – Approved 08/07/2016
- 3.3. BH2013/00774 Temporary consent for the operation of a sand sculpture festival for a period of 7 months (April-October) for three years commencing 2013 and erection of associated temporary structures including a wooden café hut, 2 portacabins and 1 storage container (Part Retrospective) – Approved 30/05/2014
- 3.4. BH2011/00595 Creation of a secure temporary coach park incorporating the erection of a portacabin with toilet and rest room facilities, and the provision of 30 coach and 5 staff car spaces – Approved 27/04/2011
- 3.5. BH2011/00594: Creation of a secure temporary coach park incorporating the erection of a portacabin with toilet and rest room facilities, and the provision of 63 coach and 5 staff car spaces - Approved 27/04/2011

- 3.6. BH2006/00870: Temporary planning consent sought for an international sand sculpture festival for a period of 5 months (01/05/2006 to 30/09/2006) - Approved 10/05/2006
- 3.7. BH2005/05602 Installation of new wastewater flow pipe from Black Rock to eastern boundary, including combined sewer overflow at Black Rock, pumping station in Marine Drive at Roedean and 6 access shafts at Black Rock, Marine Drive east of Marine Gate, Roedean Way adjacent to car park, adjacent to Greenways roundabout, Rottingdean car park adjacent to High Street, and Saltdean Park Road. (Flow pipe continues to a proposed wastewater treatment works at Peacehaven.) – Approved 15/12/2005
- 3.8. BH2005/01677/FP: Temporary planning consent sought for an international sand sculpture festival for a period of 3 months. (Retrospective) - Approved 21/07/2005.
- 3.9. BH2002/00763/FP Cliff Trimming and stabilization – Approved December 2004
- Brighton Marina
- 3.10. BH2019/00964 Hybrid planning application for the phased residential-led mixed-use development of Brighton Marina Outer Harbour. Full Planning Permission for Phase Two of the development comprises: 480no residential units (C3) in 3 buildings ranging from 9-28 storeys plus plant levels, 761 sqm of flexible commercial floor space (A1-A4, B1, C3 Ancillary, D1/D2), works to existing cofferdam, undercroft car and cycle parking, servicing, landscaping, public realm works and infrastructure (harbour wall) works.
- 3.11. Outline Planning Permission (all matters reserved apart from access) for Phase Three of the development comprises: up to 520no residential units (C3) in 6 buildings ranging from 8-19 storeys, up to 800 sqm of flexible commercial floor space (A1-A4, B1, C3 Ancillary, D1/D2), construction of engineered basement structure to create a raised podium deck over Spending Beach, installation of Navigation Piles, undercroft car and cycle parking, servicing, landscaping and public realm works – Under Consideration
- 3.12. BH2006/01124 Construction of engineered basement structure to create platform on Spending Beach and West Quay and associated engineering works, including formation of reinforced wave dissipation chambers. Development of residential accommodation comprising 853 flats in 11 buildings ranging from 6 to 40 storeys above structural deck including associated plant accommodation; high level viewing gallery; Class A, D1, D2 and B1 uses and associated plant; lifeboat station including relocation of floating lifeboat house and installation of communication aerials; three-storey covered car parking providing up to 491 parking spaces, 32 motorcycle spaces and 876 bicycle parking spaces; 5 visitor disabled parking spaces along proposed promenade. Alterations to vehicular, pedestrian and cycle access arrangements and creation of new routes for access and servicing to include pedestrian/cycle/vehicular access along western breakwater with associated engineering works. Alterations to pontoons and creation of replacement

moorings and installation of navigation piles. Construction of openable foot and cycle bridge between West Quay and eastern breakwater and associated works. Construction of foot and cycle bridge between Madeira Drive and western breakwater and associated works. New areas of hard and soft landscaping and public realm, including childrens playground and formal and informal areas of amenity space. Solar panels at roof level and wind and tidal turbines. Engineering and structural works and alterations to Marina and adjoining land associated with above. Revised application to BH2004/03673/FP refused 11/11/05. Main differences: reduction in residential units from 988 to 853; increased car parking from 176 to 496 spaces; three buildings removed and reduced in height in centre section; developed area of site reduced by approx. 33%; additional indoor and outdoor amenity space; new doctors surgery; additional sustainable measures. Revised Environmental Statement – Approved 04 July 2006

- 3.13. 296 - 298, Madeira Drive Arches (Black Rock Reading Rooms) Madeira Drive  
BH2007/03944 Listed building consent for conversion of current building to restaurant with elevational and landscape alterations – Approved 23/12/2008
- 3.14. BH2006/01042 - Change of use of disused building (Sui Generis) to bar and restaurant (Class A4/A3) with elevational alterations – Approved 19/06/2006
- 3.15. BH2006/01010 Internal and external alterations to convert building to bar and restaurant. Display of signage – Approved 19/05/2006
- Volk's Railway Madeira Drive
- 3.16. BH2016/01126 Demolition of existing workshop and storage shed and erection of carriage storage space, shed for mainline and exhibition space – Approved 05/07/2016
- 3.17. BH2015/01649 Demolition of existing Aquarium Station building, including undercroft and adjacent steps. Erection of new Aquarium Station and Visitor's Centre incorporating cafe, ticket sales and exhibition space with new steps and new railings to match existing and alterations to existing railings – Approved 21/09/2015

#### **4. REPRESENTATIONS**

- 4.1. Councillor Clare Rainey has commented on the application - See attached letter.
- 4.2. One (1) letter of representation has been received objecting to the proposed development for the following reasons:
- The plans do not allow sufficient access to the beach for shingle recycling activities and the proposed 'vegetated shingle' will restrict the area of beach that is available for recovery and extraction of shingle.
- 4.3. Three (3) letters of representation have been received in support of the proposed development for the following reasons:

- Good Design
  - The area has long been in decline and decay
  - In keeping with Listed Building
  - restore Listed Buildings
  - Improve greater and wider public accessibility
- 4.4. The Brighton Marina Neighbourhood Forum has commented on the application as follows:
- The forum is still preparing a neighbourhood plan and as such is barred by their constitution from either supporting or objecting;
  - Urge Committee to use the Brighton Marina Neighbourhood Forum Vision Statement as a template against which to judge this application.
- 4.5. The Sussex Wildlife Trust object to the application for the following reasons:
- Disappointed that another Local Wildlife Site (LWS) will be destroyed through development;
  - The destruction of the entire Black Rock LWS does not comply with policies DA2 or CP10;
  - There is no evidence that the vegetated shingle translocation and creation will be successful, or how resilient it will be;
  - The value of the LWS for birds has been underestimated
  - The LWS should not be destroyed in order to make the site ready for an unknown future development.

## 5. CONSULTATIONS

- 5.1. **Planning Policy:** Comment  
 In principle, it is recognised that the core enabling works would help support the successful regeneration of the Black Rock site for leisure/ recreation use as well as support the emerging aspirations for the regeneration of Madeira Drive (Madeira Drive Regeneration Framework) in the emerging City Plan Part 2 (SSA5 Madeira Drive and Terrace).
- 5.2. In principle the proposals to improve the public realm and transport connections in and around the Black Rock Site together with improved coastal defences accords with particular priorities identified in City Plan Part 1 Policy SA1 The Seafront and DA2 Brighton Marina, Black Rock and Gas Work Site. The proposed public realm and landscaping improvements in the wider area accord with general priorities in the SA1 The Seafront and CP13 Public Streets and Spaces.
- 5.3. The proposed temporary/ meanwhile uses would be acceptable in principle and accord with the wider priorities for this section of the seafront as a centre for sports and family-based activities and so would accord with SA1 The Seafront and active use of public spaces would accord with Policy CP13 Public Streets and Spaces and Policy CP17.6 Sports Provision.

- 5.4. In principle, subject to the comments of the Conservation Team, the range of potential uses for the Old Reading Room and Temple would accord with DM15 Commercial and Leisure uses on the Seafront in the draft City Plan Part 2 which seeks to ensure that new uses add to the diversity and vibrancy of the seafront; are of an appropriate scale and design to complement the historic character and setting of the seafront; help extend footfall and reduce seasonality and not have a harmful impact on amenity.
- 5.5. The main policy considerations relate to the proposed replacement of existing sea wall with a realigned free-standing structure and consequent reconfiguration of the Black Rock development site. Black Rock Beach SNCI/LWS will be significantly impacted by the scheme contrary to Policy NC4 of the retained Brighton & Hove Local Plan and CPP1 Policies CP10 Biodiversity and the particular provision at DA2.C.3.d. Retained BHLP Policy NC4 sets out that planning permission will not be granted for a proposal within, or in the setting of, an existing or proposed Site of Nature Conservation Importance (SNCI) or a Regionally Important Geological Site (RIGS) where it is likely to have an adverse impact, on the nature conservation features of the site.
- 5.6. Development on the shingle beach would be contrary to Policy SR18 a) Seafront Recreation of the retained Brighton & Hove Local Plan. Paragraph 3.123 of the supporting text to adopted City Plan Part 1 Policy SA1 the Seafront indicates a presumption against proposals involving an increase in hard surfacing of the seafront at or in the vicinity of the sites of city-wide nature conservation importance. There is also a presumption against development on the beach in the draft City Plan Part 2 (Policy DM39 Development on the Seafront).
- 5.7. The acceptability and suitability of the proposed encroachment on to the shingle beach to accommodate a more uniform and less irregular site area and replaced coastal defences will need to be carefully considered against whether the proposed encroachment would harm the beach in qualitative terms, in terms of impact on open space provision and the natural shingle beach processes and harm ecology in this location with the loss of the Black Rock beach SNCI/Local Wildlife Site. These issues need to be considered against the role of the realignment of the seawall in helping to deliver the successful regeneration of a key seafront site for recreation/ leisure uses as allocated in the strategic allocation at DA2.C.3.
- 5.8. It is considered that in order to facilitate the longer-term plans of the Black Rock site to accommodate a new leisure/recreation facility to meet the needs of the city the applicant has demonstrated that a new self-supporting sea wall and a realignment of the sea wall is required to make the development site more uniform and less irregular in its configuration to accommodate the City Plan DA2 (C.3) allocation for 7000 sq m of leisure/recreation uses. Subject to the comments of the County Ecologist it is considered that an exception to NC4 – part b) has been justified by the applicant.
- 5.9. **Natural England:** Comment

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

5.10. **Historic England: Comment**

The views of the specialist conservation and archaeological advisers should be sought, as relevant.

5.11. **Conservation Advisory Group: Comment**

- The Group recommends approval
- The public realm enhancements and works to the listed structures were welcomed.

5.12. **Environment Agency: Comment**

Further information is required to demonstrate that the proposals are compliant with the Water Framework Directive (WFD). The WFD requires no deterioration of watercourses, and to achieve good ecological status or good ecological potential in WFD water bodies. This includes any of the individual quality elements contributing to the water body status. The proposed development has the potential to impact WFD objectives.

5.13. In relation to water quality the EA note the identification of potential contamination of ground, and would direct the applicant to consider the potential for release of pollutant substances designated under WFD and its daughter directive the Environmental Quality Standards Directive (EQSD), for instance by disturbance of (contaminated) sediment within the waterbody, or by allowing contaminated material to enter the waterbody.

5.14. **Air Quality: No Comment**

5.15. **Sussex Gardens Trust: Comment**

The site lies within the boundary of Kemp Town Enclosures which is included with a Grade II designation on the register of historic parks and gardens maintained by Historic England.

5.16. This site is well known to the Sussex Gardens Trust, who have been saddened by the apparent level of neglect and lack of investment over recent years in the local historic environment. The setting of the Slopes has been seriously harmed by the appearance of the Black Rock Lido site, and its sense of abandonment.

5.17. Representatives of SGT have visited the site and carefully studied the documents submitted with the application, particularly the comprehensive and informative Heritage Statement which deals soundly with the significance of the site and the impact of the proposals on significance.

5.18. Consequently, the SGT very much welcomes the investment now proposed for the area and hopes this will lead to a higher level of day to day management of the spaces and activities. With regard the proposals, these have been described as enabling works and off site works both to provide infrastructure



for future development of the Black Rock site and greater space for improved access to the Marina and improved public realm in the wider area. The Trust gives its support to these proposals, subject to very careful attention to detail with regard the future functions of the historic buildings, and historic building repair. The new landscape works appear sympathetic but special care will be required with regard lighting and signing of the pathways across the slopes.

- 5.19. With regard longer term plans for the Black Rock site, and as was the case with the i360 development, the Trust would urge a revenue stream be agreed from the development of the Black Rock site, sufficient to fund the future maintenance of the Slopes, so as to preserve their character and their seafront setting.
- 5.20. **County Archaeology:** Comment  
The applicant has submitted a heritage statement in support of their application which appears to comprehensively address the significance of and impact upon built heritage assets. The archaeological potential should be assessed with evidence that the East Sussex Historic Environment Record has been consulted.
- 5.21. In the light of the potential archaeological interest of this site, a heritage impact assessment is required to clarify the archaeological significance of the site.
- 5.22. **Marine Management Organisation:** Comment  
Activities taking place below the mean high water mark may require a marine licence in accordance with the Marine and Coastal Access Act (MCAA) 2009. Such activities include the construction, alteration or improvement of any works, dredging, or a deposit or removal of a substance or object below the mean high water springs mark or in any tidal river to the extent of the tidal influence. A wildlife licence is also required for activities that that would affect a UK or European protected marine species.
- 5.23. Before a marine licence can be granted for projects that require EIA, MMO must ensure that applications for a marine licence are compliant with these regulations.
- 5.24. As the marine planning authority for England the MMO is responsible for preparing marine plans for English inshore and offshore waters.
- 5.25. **Heritage:** Comment  
This scheme seeks to provide the physical infrastructure to facilitate future long-term development of the Black Rock site and also proposes a range of works to the public realm to generate more immediate visual, environmental, operational and social improvements, along with alterations to the grade II listed Reading Rooms and Temple buildings to bring them into active use.
- 5.26. The Heritage Team has provided advice at pre-application stage, and subsequently, on the specific proposals for the works to the listed buildings.

#### Works to the public realm

- 5.27. The submitted Heritage statement provides a thorough assessment of the significance of all of the identified heritage assets and the Heritage Team agrees with the various conclusions of the consultant. The statement then goes on to assess the impact of the proposals for the public realm on the evidential, aesthetic, historic, communal and heritage values of each of the assets, overall concluding either a positive or neutral impact for each, and the Heritage Team is in general agreement with these findings. The statement however warns that
- 5.28. 'Care needs to be taken to ensure the siting, design and style of the lighting and signalling both at the top and bottom of Duke's Mound need to ensure they do not detract from the setting of the continuous character of the railings, the green wall, Banjo Groyne and the eastern end of the Madeira Terraces'
- 5.29. Further information is therefore required regarding the specific siting and design proposed for the lighting of the public realm and the listed buildings for further consideration.
- 5.30. The indicative vibrant way-finding painted surface crossings shown in chapter 7 of the Design and Access Statement raise some concerns; there is a need to be consistent with the approach taken previously with seafront schemes further east of this site, where visuals that would have dominated views from Marine Drive have been resisted; further information is therefore required for consideration. In addition more specific proposals for the heritage focussed wayfinding element / interpretation panels are also required.

#### Works to the Reading Rooms and Temple buildings

- 5.31. The current condition of these buildings and their vulnerability to further deterioration or deliberate damage is of concern and these proposals provide a significant opportunity to conserve and secure the future these historic structures.
- 5.32. With regards to repair works to the historic fabric the application provides an outline of the general requirements and intentions; both structures are proposed to undergo the installation of traditional stone paving to floor, removal of impervious modern paint systems, and stucco repairs using like for like lime mortar.
- 5.33. Paint analysis is proposed in order to discover any original paint colour / system, with probable redecoration using microporous paint such as Keim mineral paint to match the colour of the Kemp Town terraces. The need to carry out further research is identified in order to establish the structure of retaining walls and roof (for or the Reading Room) with the likely application of a membrane system to rear walls.
- 5.34. It is therefore considered that the application currently lacks full details in relation to specific proposals for repairs to the fabric of these heritage assets at this stage, and a further application for listed building consent will be necessary in due course, however the Heritage Team can confirm that in broad terms the restoration works are acceptable and can support them in principle.

- 5.35. In respect of the proposals for alterations, approval has previously been granted for conversion of the Reading Rooms to a restaurant (ref. BH2007/03944). This involved the enclosure of the structure with the addition of windows and doors, and indeed historic records show this space being enclosed previously, however regarding the use of the Temple, the heritage consultant warns:
- 5.36. 'the change of use of the structure and its conversion from an open shelter into an enclosed space is a fundamental change to the original use of the Temple. Unlike the Old Reading Room, the Temple has always been open to those walking and visiting, and needing shelter, on the Esplanades. It should be considered as part of this discussion whether this fundamental change detracts from the significance of the structure and the heritage asset.' however goes on to say;
- 5.37. 'Its current use as a rough sleeping area, for Parkour and as a graffiti wall make it vulnerable and in accessible to the general public.'
- 5.38. The tensions between these considerations are acknowledged and this issue will need to be thought through further on submission of detailed proposals, when the extent of the necessary repairs can be properly balanced against the impact of enclosing the space. However, the Heritage Team considers at this stage that the proposed re-use of these buildings, as a means of securing their future maintenance and preventing deliberate or accidental damage to which they are currently vulnerable, is a compelling factor.
- 5.39. Regarding the alterations necessary for the re-use of these buildings, the proposals are in line with the previous heritage advice and discussions, and the level of detail currently available is sufficient to provide provisional support. A further application for listed building consent with more details will however be required in due course.

#### Conclusion

- 5.40. It is considered that there will be an overall benefit from the regeneration of the wider site, including the safeguarding of the Reading Room and Temple buildings and their setting. Additionally the historic association of the site as a place for communal activities and events, from the original development of the Kemp Town Estate to the early 20th century activities of the Lido, provides the scheme with a link to the past. The Heritage Impact Appraisal finds that there would be an overall heritage benefit from this scheme and the Heritage Team is in agreement with this. Additionally, the resulting increased activity levels will encourage flow through the area drawing footfall from the West, which it is hoped will benefit the wider rejuvenation of the Eastern Seafront.
- 5.41. County Ecologist: Comment  
Designated Sites & Notable Habitats  
The proposed development is adjacent to the Brighton to Newhaven Cliffs/Foreshore SSSI and the Beachy Head West Marine Conservation Zone (MCZ). The EclA, PEA and MCZ Screening Assessment conclude that

provided precautionary measures are implemented to ensure no release of sediments or pollutants, there will be no significant effects on these statutory sites. This assessment is agreed with and note that Natural England have raised no objection to the proposed development. Method statements outlining the measures to be taken should be provided in a Construction Environmental Management Plan for biodiversity.

#### Locally designated Sites and Priority Habitats

- 5.42. Black Rock Local Wildlife Site (LWS or Site of Nature Conservation Importance) lies wholly within the footprint of the proposed works and Volk's Railway LWS is partially within and adjacent to the site. Madeira Drive Green Wall LWS lies to the north of the proposed development and Brighton Marina LWS is adjacent to the eastern boundary. Provided best environmental practice is followed with regards to the minimisation of dust, pollution and sediments, there are unlikely to be any impacts on Madeira Drive Green Wall LWS or Brighton Marina LWS. However, the proposed development will lead to the complete destruction of Black Rock LWS and there may be indirect impact on Volk's Railway LWS including increased dust and disturbance, enrichment and increased recreational pressure.
- 5.43. Both Black Rock Beach and Volk's Railway LWS are designated for their coastal vegetated shingle habitats and associated rare flora and faunal communities. Coastal vegetated shingle is an internationally important and globally restricted habitat and is listed as a Habitat of Principal Importance (HPI) under Section 40 of the NERC Act. The PEA states that vegetated shingle is locally common along the south east coast, and therefore assesses it as being of local importance. However, the south east is a national stronghold for the habitat. Across the UK there are approximately 5000ha of vegetated shingle, with a fifth of this resource in East and West Sussex. In Brighton & Hove, there are only three sites which support this habitat; Black Rock Beach, Volk's Railway and Shoreham Harbour, the combined area being c. 0.8ha. This being the case, the habitat is of greater than local importance, and it is noted from the EclA that the habitat (and the LWS) are listed as being of County importance.
- 5.44. Impacts on Volk's Railway are likely to include dust during construction and increased trampling of vegetation during operation of the scheme. Proposed mitigation for the above impacts includes tool box talks for contractors working on the scheme, best environmental practice which should be detailed in a CEMP, and fencing off sections near the crossings to reduce trampling effects. It is also proposed that Volk's Railway LWS will be positively managed, to elevate it from its current "fairly good" condition to "good", through the removal of invasive species such as red valerian and silver ragwort, the removal of tall ruderal species indicative of disturbance and enrichment, and the removal of invasive scrub and bramble. This is acceptable, but care must be taken to ensure that this work is fully coordinated with the Volk's Railway team, as similar management and enhancement measures were agreed as mitigation for earlier permissions to restore and upgrade the railway and associated buildings (planning references BH2016/01126 and BH2015/02321). Any management measures undertaken in relation to the above scheme must be in

addition to works carried out in relation to the aforementioned permissions. Management works should also be carried out/overseen by a suitably qualified and experienced ecologist.

- 5.45. With respect to Black Rock LWS, there are inconsistencies within and between the various ecological reports regarding the area of vegetated shingle to be lost. The largest area listed is 0.19ha and it has been confirmed verbally with ecologists working for the applicants that this is the correct figure and it is the figure that has been used for biodiversity net gain calculations. This figure comprises approximately 25% of the vegetated shingle resource in Brighton & Hove. The loss of the LWS is contrary to the NPPF (paragraphs 170 and 175), and to Policies CP10 and DA2 of the Brighton & Hove City Plan Part 1 and is a significant negative impact. It is proposed that the loss is compensated through the creation of 1.54ha of vegetated shingle, to be managed to reach good condition, on currently bare shingle to the west of the proposed sea wall, south of the Volk's Railway. If successful, this will result in a net increase of 1.35ha, and will increase the overall resource within Brighton & Hove to 2.14ha.
- 5.46. The proposed compensation, the details of which are outlined in the Draft Management Plan and the EclA, is broadly acceptable, although the following should be noted and addressed.
- a. There is relatively little known about the creation of vegetated shingle habitats, and Defra acknowledge that the habitat is extremely difficult to create and may take considerable time to reach its target condition. There is therefore a risk that the compensatory habitat may not be successful. Long term management and monitoring is therefore essential. The current application commits to a 25 year management plan. However, the draft Environment Bill states that net gain outcomes should be maintained for a minimum of 30 years. Given the risks associated with the creation of new vegetated shingle habitat, and the likely increased pressure on the habitat that long-term regeneration of this part of Brighton Seafront is likely to produce, monitoring and management should be for a minimum of 30 years or the lifetime of the project, whichever is longer.
  - b. A plan detailing habitat creation, monitoring and management should be required by condition, and should set out how contingencies and/or remedial action will be identified, agreed and implemented so that the development delivers the fully functioning biodiversity objectives of the originally approved scheme. The plan should also include details of the legal and funding mechanism(s) by which its long-term implementation will be secured with the management body(ies) responsible for its delivery. The primary focus of the plan must be the conservation of vegetated shingle; it should not be public amenity/landscape led.
  - c. Given the likely length of time it will take for compensatory habitat to develop, works to the shingle must be undertaken as early as possible during the development.
  - d. The draft management plan recommends regular surveys to include phase 1 habitat mapping. Phase 1 habitat mapping is not sufficient to assess vegetated shingle; botanical surveys will be required.

- e. Seed collection from the site must be programmed into the work schedule. Plug plants should only be propagated from local seed and should not be sourced from local nurseries. From experience, seeds and plants from nurseries can often be exotic/garden varieties which would be inappropriate to spread onto the beach. Advice on seed collection and propagation should be sought from the Millennium Seed Bank (MSB), based at Wakehurst Place. The MSB may also be able to provide locally sourced seed and plants.
  - f. The draft management plan and the EclA state that the aim for the compensatory habitat is 20-30% vegetation cover within 10 years. The aim should be to create both pioneer communities, which tend to be relatively sparse, and more stable communities at the back of the beach. The aim for vegetation cover should therefore be higher for more stable communities.
  - g. The proposed species list for the compensatory habitat provided in the draft management plan and EclA should also include sea beet *Beta vulgaris*, sea bindweed *Solanum dulcamara*, thrift *Armeria maritima*, sea lavender, e.g. *Limonium vulgare* and *L. binervosum*, and oraches, e.g. *Atriplex hastata*, *A. patula*, *A. glabriscula* and *A. sabulosa*. Sea pea is extinct in West Sussex, and across Sussex is only found at Rye Harbour. Furthermore, everlasting pea is often provided as a substitute by nurseries. It should therefore not be included. Wild marjoram is proposed, however, this is not a species particularly indicative of vegetated shingle and should not be included as a target species. It would be better to include species such as kidney vetch *Anthyllis vulneraria*, rough clover *Trifolium scabrum*, subterranean clover *T. subterraneum* and bird's foot trefoil *Lotus corniculatus*, all of which are found locally on vegetated shingle, are good pollinator plants, and help to bind the substrate together.
  - h. In addition to species lists and photographic records, the proposed annual report should also include an assessment of condition, a summary of management undertaken and any remedial action taken. i. The proposal to share and publish data on vegetated shingle creation and enhancement is supported.
- 5.47. Other HPis that could be impacted by the proposed development are intertidal mudflats, maritime cliff and slope and mussel beds. It is accepted that provided precautionary measures are implemented to avoid dust, sedimentation and pollution, to be detailed in a CEMP, the impacts on these habitats are unlikely to be significant.

#### Protected and Notable Species Bats

- 5.48. All species of bats are fully protected under the Wildlife and Countryside Act 1981, as amended, and the Conservation of Habitats and Species Regulations 2017, as amended, making them European Protected Species. The Bat Potential Assessment report states that of the 12 arches on Madeira Drive, nine offer low bat roost potential and the site overall offers negligible potential for foraging and commuting bats. This assessment is not in line with the EclA which states that although the roost features offer poor habitat, they have the potential to support large numbers of bats, and therefore have high bat roost

potential. The EclA also reports that the tunnel between the esplanade cottages has moderate bat roost potential; this is not covered in the Bat Potential Assessment report.

- 5.49. Despite the above limitations, it is accepted that there are no proposals to remove or otherwise alter the arches or tunnels. As such, no further surveys are required. Potential indirect impacts on bats include increased noise and vibration from construction traffic. The proposal for sensitive lighting outlined in the bat report and the EclA are acceptable; full details of a sensitive lighting scheme should be required by condition.

#### Birds

- 5.50. Under Section 1 of the Wildlife and Countryside Act 1981 (as amended), wild birds are protected from being killed, injured or captured, while their nests and eggs are protected from being damaged, destroyed or taken. Given the current levels of disturbance on the beach, it is unlikely to support any ground nesting birds. Scrub habitat in the wider site have the potential to support nesting birds. To avoid disturbance to nesting birds, any habitat that could provide nesting habitat should be carried out outside the breeding season (generally March to August). If this is not reasonably practicable within the timescales, a nesting bird check should be carried out prior to any demolition/clearance works by an appropriately trained, qualified and experienced ecologist, and if any nesting birds are found, advice should be sought on appropriate mitigation.

- 5.51. The ecological assessments included no surveys for wintering/passage birds, although local records demonstrate that the area is known to support good assemblages. However, it is accepted that given construction impacts will be temporary and the area is already subject to some disturbance, no further surveys or specific mitigation is recommended.

#### Terrestrial Invertebrates

- 5.52. Although no surveys for terrestrial invertebrates have been carried out, vegetated shingle is known to support specialist assemblages of invertebrates, and it should therefore be assumed that such assemblages are present. Loss of Black Rock LWS is therefore likely to have a negative impact on these species. However, it is accepted that suitable habitat will persist at Volk's Railway and that the compensatory habitat should provide additional habitat in the long term.

#### Invasive non-native species

- 5.53. The non-native invasive species Japanese rose is listed on Schedule 9 of the Wildlife and Countryside Act 1981, as amended, and has been recorded at Black Rock LWS. The proposal to remove and control the species is therefore supported. However, given the highly invasive measures required for mechanical control, it is recommended that chemical control is used in this case to avoid disturbance to large areas of vegetated shingle.

#### Other species

- 5.54. The site is unlikely to support any other protected species. If protected species are encountered during development, work should stop and advice should be sought from a suitably qualified and experienced ecologist on how to proceed.

Mitigation Measures and Biodiversity Net Gain

- 5.55. In addition to the compensation and mitigation measures discussed above, the site offers opportunities for enhancement that will help the Council address its duties and responsibilities for biodiversity net gain under the NERC Act, NPPF, local planning policy, and emerging environmental policy and legislation.
- 5.56. The application is accompanied by a Biodiversity Net Gain (BNG) report based on the Defra biodiversity metric, which claims that the scheme as proposed will result in a net gain of more than 15%. Whilst it is accepted that provided the vegetated shingle habitat creation is successful and the recommended enhancement measures in the wider scheme are implemented, the scheme will result in a net gain for biodiversity, the figure of 15% should be treated with caution. The BNG report states that due to the difficulty in creating vegetated shingle habitat and the time it is likely to take for the compensatory habitat to reach its target condition, the temporal risk and difficulty should be high. However, it is not possible to manipulate the metric above moderate for these factors. The report also considers the creation of new vegetated shingle as an enhancement, whereas a large proportion should be considered compensation for the loss of Black Rock LWS. The projected net gain may therefore be over-optimistic.
- 5.57. In addition to measures to enhance Volk's Railway LWS, the current application proposes removal of shrub from the cliffs and over-seeding to regenerate calcareous grassland, the encouragement of neutral species rich grassland through an adapted mowing regime, the introduction of grasses, shrubs and perennials to attract insects and the planting of 36 scattered trees. Tree species should be locally native and/or of known value to wildlife, of local provenance and appropriate to the local conditions. Care must be taken to ensure no enrichment of the vegetated shingle from leaf fall.
- 5.58. The EclA makes additional suggestions for enhancements that could be provided but provides no certainty that they will, e.g. the provision of bug hotels, the over-seeding of amenity grassland to facilitate the creation of neutral species rich grassland, and the application of textures to the sea wall. BS42020 Biodiversity – code of practice for planning and development, section 6.6.2 states that an ecological report should avoid language that suggests that recommended actions “may”, “might” or “could” be carried out by the applicant, e.g. when describing proposed mitigation, compensation or enhancement. Instead, the report should be written such that it is clear and unambiguous as to whether a recommended course of action is necessary and is to be followed or implemented by the applicant. It is therefore recommended that an Ecological Design Strategy should be required by condition, detailing what measures will be implemented to enhance the overall scheme for biodiversity.
- 5.59. **Southern Water:** Comment



The exact position of public sewers must be determined on site by the applicant before the layout of the proposed development is finalised.

- 5.60. No soakaways, swales, ponds, watercourses or any other surface water retaining or conveying features should be located within 5 metres of a public sewer.
- 5.61. All existing infrastructure should be protected during the course of construction works.
- 5.62. In order to protect drainage apparatus, Southern Water requests that if consent is granted, a condition is attached to the planning permission.
- 5.63. Furthermore, it is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site. Southern Water requires a formal application for a connection to the public foul and surface water sewer to be made by the applicant or developer.
- 5.64. The impact of any works within highway/ access road on public apparatus shall be assessed and approved, in consultation with Southern Water.
- 5.65. **Sustainability:** No Comment
- 5.66. **Environmental Health:** Comment  
Historical contaminated land records indicate that there is no issue with regards to potentially contaminated land on the site.
- 5.67. Notwithstanding this, the Geotechnical and Geoenvironmental Desk Study recommends that further ground investigation is necessary. This can be secured by a standard condition.
- 5.68. With regards to lighting, unless the installation is likely to cause obtrusive light for any nearby receptors, no significant issue is envisaged.
- 5.69. With regard to the proposed A1/A3/D1/D2, the planning statement states:  
*“Whilst the enabling works proposed under this application has been designed with suitable tolerance built in to the proposed infrastructure to flexibly accommodate a number of permanent end uses, this particular application does not, in itself, incorporate the detail of the major long-term proposals for the site, which, at the time of writing are yet to be determined.”*
- 5.70. And;  
*“The proposed works to the Grade II Listed Old Reading Room and Temple will include the provision of sensitive fascia glazing and a secure entrance. The proposed works will help to safeguard the built fabric of these listed structures and provide the necessary stimulus for future use of these two premises. In order to provide a flexible platform to generate potential interest for the future re-use of these buildings, this application seeks a flexible permission for these*

*buildings for retail (Class A1), café/restaurant (Class A3), community use (Class D1), or assembly and leisure use (Class D2).*

5.71. **Arboriculture: Comment**

Further comment:

Following clarification from the applicant, there are no objections to the proposal from arboriculture, subject to a landscaping condition.

Initial comment:

5.72. Arboriculture have concerns about the sustainability of tree planting within the proposed development. Historical initiatives have failed to establish in such close proximity to the shoreline for various reasons, salt water damage ( both direct and wind dispersed) , persistent strong winds and poor soil structure that inhibit both root growth and tree stability. This being a public realm scheme, future responsibility would fall to City Parks to maintain, irrespective of failure.

5.73. Having liaised with the landscape architects, many of these concerns may be addressed. The selection of appropriate species capable of surviving such a hostile environment , tiered shelter belt planting (rather than individual street tree spacing), the design and construction of appropriate tree pits containing ground anchoring, structural soil of a minimum of 4 cubic metres per specimen, along with a robust maintenance schedule, may help to increase the survival rate.

5.74. **Sustainable Drainage: Comment**

Design access statement indicates attenuation in the form of permeable surfaces, soft landscape and tree planting. In principle there is no objection to this but require further information in the form of a drainage strategy and maintenance schedule to be submitted prior to any works.

5.75. Applicant has only assessed flood risk from tidal source; applicant will need to assess surface water flood risk within drainage strategy. Assessment has been carried out on the impact on the existing flood zones. Initial location of the realignment should not have a detriment effect on the zones. There is no change in wall crest level proposed but applicant has indicated there will be an increased risk of overtopping. The degree of overtopping however has not been provided within the report. Applicant has proposed detailed design stage will assess limiting overtopping and develop drainage provisions – this is acceptable.

5.76. The Shoreline Management Plan and the Brighton Marina to Shoreham Port Strategy has identified this area as a location to collect shingle for replenishment purposes.

5.77. Realignment of the wall will mean a loss of circa 0.19ha of the existing vegetated shingle, the proposed mitigation of relocating/ replacing is acceptable. The coastal modelling does not appear to include an assessment at the proposed relocation site of the vegetated shingle. At detailed design, the

applicant should demonstrate the location is appropriate and negligible affected by drawdown during the storm scenarios.

- 5.78. Model is conservative by not including obstructions to shingle movements, such as the existing groyne. At the next stage of works these should be taken into account. Satisfied that the applicant has demonstrated the draw-down of the beach profile should replenish relatively quickly following a severe storm and would not increase maintenance or wear on the defenses.
- 5.79. Two Southern Water outfalls on the groynes are in this area, which have had issues with shingle build up in the past.
- 5.80. No drainage strategy or maintenance plan has been submitted within application for sustainable drainage. Applicant has demonstrated the realignment should not have a detrimental effect on the existing flood zones at site. Satisfied that more detail will be undertaken at the next design stage to mitigate the overtopping flood risk and develop drainage provisions accordingly. For the coastal model, at the next design stage it is recommended the applicant includes any existing obstructions to shingle movement and includes beach profiles to include the relocated vegetated shingle in addition to profiles at the realignment.
- 5.81. In principle, the Lead Local Flood Authority (LLFA) has no objections to this application subject to a condition.
- 5.82. **Coastal Protection: Comment**  
**Coast Protection and Infrastructure**
- The shingle beach at Black Rock is the key source of material for the recycling of shingle along the City's frontage, between the Marina and Shoreham Port. The recycling of shingle along the City's frontage is the primary form of coast protection.
  - Typically, a programme of bi-annual shingle recycling is undertaken which moves c.16k tonnes of shingle. This work consists of bulldozers on the beach moving shingle adjacent to the existing seawall, an excavator moving the shingle from the beach into waiting HGV's, who load from the current concrete area located directly behind the seawall. There can be up to 11 or 12 HGV's which transport the shingle and undertake up to 9 movements daily over a 2 week period.
  - The current layout of the site enables the works to be undertaken safely, while maintaining a safe route for pedestrians and cyclists moving past the site.
  - Maintaining the site as the primary source of shingle is critical and forms part of the Coast Protection Strategy for this section of coastline, which was adopted by the council and the Environment Agency in 2014.
  - Any new coast protection asset (the new seawall) must meet the following criteria;
    - Have a greater than 50 year design life
    - Provides protection for a 0.5% Annual Exceedance Probability (AEP) event over the next 100 years.

- The design of any coast protection asset should use the latest climate projection (UKCP18) data
- The arrangement for the adoption and future maintenance liability will need to be proposed.

#### Highway Structures

- The improvement to the area around the site will affect a number of highway structures and create a new structure that it is assumed will be adopted by the council.
- The development of the Black Rock site will result, both during construction and post completion, in an increase in large vehicles using Dukes Mound to access the site. The brick arches and retaining wall on the southern side of Dukes Mound, are the responsibility of the councils Highways Structures team and are monitored and maintained as such.
- As part of the planning of the Black Rock development a structure assessment has been undertaken. This assessment has raised issues with the suitability of the arches and retaining wall to support an increase in large vehicles.
- The Black Rock design team has submitted an Approval In Principle (AIP) document to the Council's Highways Structures team to agree on the results of the assessment and any remedial works going forward. To date this AIP has yet to be finalised.
- It is strongly recommend that an agreed AIP and any proposed remedial works are agreed prior to the start of any construction work associated with the development of the site.
- As part of the development of the site, an improved access point to the Marina from the northern side of the site has been proposed. This previously relied on the construction of a new retaining wall structure to the northern side of the new under pass.
- The team are unaware of the proposals for the adoption of this new structure and indeed any future maintenance liability. Has such an agreement been prepared? If not, it is strongly recommended that it is undertaken prior to commencement of any construction work.

#### 5.83. **Transport:** Comment

The Local Highway Authority (LHA) have consulted with the applicant during the application and provided informal comments, including approving Road Safety Audit Briefs. Several addendum submissions have been provided.

- 5.84. The highway works within the application provide several improvements to the area non-vehicular routes and notably the proposed revised route into the Marina for the Coastal Transit Route [CTR] which are welcomed by the Local Highway Authority. There are details and aspects of the technical design which would ideally be addressed prior to determination but will need to be approved as part of a subsequent Approval of Details application to discharge planning conditions. The LHA are satisfied on the strength of the designs currently produced and the available space within either first party land under the Applicant's control or the adopted public highway that acceptable technical designs are achievable through detailed design and that these can be

achieved through the use of Plans Notwithstanding conditions to allow changes to the proposals at the Approval of Details stage.

- 5.85. The trip generation for the construction phase cannot be substantiated from the information provided but can be provided as part of the Construction Environment Management Plan [CEMP]. Should the trip generation be shown to be robust, the traffic impact modelling shows that during the construction phase (and for network traffic at a time five years from commencement) the proposed traffic signal installation on the A259 Marine Parade operates above practical capacity when pedestrian phases are called every other cycle. This creates some queues and delays on the Strategic Road Network but does not exceed theoretical capacity. The proposed signal installation on Madeira Drive would operate with spare capacity with pedestrian phases, although this would add delay in comparison to the existing priority junction.
- 5.86. Despite the inherent stopping delays created by the proposed signal installations, we consider the benefits justify the provision of this infrastructure in terms of; allowing for increased turning movements by large and heavy goods vehicles, providing signalised pedestrian crossings, and providing an improved road network as part of the enabling works for the allocated future use of the Black Rock site. The proposed MOVA automated control system of the signals will ensure they operate as efficiently as possible.
- 5.87. The LHA have no objection to the continued use of the site for temporary events or similar uses served by the new highway access from Madeira Drive. There is likely to be a significant 'interim' period prior to implementation of the Coastal Transit Route where the link will serve as a non-vehicular route to the Marina as an extension of Madeira Drive, to then be upgraded as part of the CTR to also include the buses or other suitable mass transport mode.
- 5.88. Any future application for the development of the Black Rock site itself will need to assess the travel demands and infrastructure requirements for that purpose although it will benefit greatly from the works currently proposed.
- 5.89. Several improvements are proposed to access the Marina from the west where, although do not meet disabled access standards in terms of gradient, we are satisfied the links are designed to be as accessible as possible within the space available or can be altered to do so through detailed design.
- 5.90. The LHA are therefore able to recommend approval of this application subject to key Conditions and Obligations, most notably highway design on a 'plans notwithstanding' basis to ensure the traffic impacts and designs for highway works are addressed in full prior to commencement of works.
- 5.91. A Unilateral Undertaking will be required to secure adoption of the interim CTR link as highway together with land to be dedicated to provide for a cycleway and footway alongside this once the CTR is implemented.

## **6. MATERIAL CONSIDERATIONS**

- 6.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 6.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016);
  - Brighton & Hove Local Plan 2005 (retained policies March 2016);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
  - Shoreham Harbour Joint Area Action Plan (adopted October 2019).
- 6.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

## 7. **POLICIES**

### The National Planning Policy Framework (NPPF)

#### South Marine Plan 2018

#### Brighton & Hove City Plan Part Two

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications but any greater weight to be given to individual policies will need to await the outcome of the Regulation 19 consultation. The council will consider the best time to carry out the consultation after the coronavirus (Covid-19) restrictions are lifted.

SSA5	Madeira Terrace and Madeira Drive
DM9	Community facilities
DM15	Commercial and Leisure Uses on the Seafront
DM18	High Quality Design and Places
DM20	Protection of Amenity
DM26	Conservation Areas
DM27	Listed Buildings
DM29	The Setting of Heritage Assets
DM33	Safe, Sustainable and Active Transport
DM35	Travel Plans and Transport Assessments
DM38	Nature Conservation and Green Infrastructure
DM39	Development on the Seafront
DM43	Sustainable Drainage

#### Brighton & Hove City Plan Part One

DA2	Brighton Marina, Black Rock and Gas Work Site
SA1	The Seafront
CP4	Retail Provision
CP5	Tourism and Culture
CP7	Developer Contributions
CP8	Sustainable Buildings
CP9	Sustainable Transport
CP10	Biodiversity
CP11	Flood Risk
CP12	Urban Design
CP13	Public Streets and Spaces
CP15	Heritage
CP16	Open Spaces

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

TR4	Travel Plans
TR7	Safe Development
TR14	Cycle Access and Parking
TR15	Cycle Network
QD15	Landscape Design
QD16	Trees and Hedgerows
QD25	External Lighting
QD27	Protection of Amenity
SR18	Seafront Recreation
SU3	Water resources and their quality
SU5	Surface Water and Foul Sewage Disposal Infrastructure
SU9	Pollution and Nuisance Control
SU11	Polluted land and buildings
NC4	Sites of Nature Conservation Importance (SNCIs) and (RIGS)
HE1	Listed Buildings
HE3	Development Affecting the Setting of a Listed Building
HE6	Development within or Affecting the Setting of Conservation Areas
HE10	Buildings of Local Interest
HE11	Historic Parks and Gardens

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD06	Trees & Development Sites
SPD09	Architectural Features
SPD11	Nature Conservation & Development
SPD14	Parking Standards

## **8. CONSIDERATIONS & ASSESSMENT**

- 8.1. The main considerations in the determination of this application relate to the principle of development, and the impact on the visual amenities of the public areas, the listed buildings, the street scene and the wider Conservation Areas, as well as the setting of listed buildings within the locality of the site. Other

main considerations include the impact on highways, changes of use, ecology, trees, neighbouring amenity, and sustainable drainage.

### **Planning Policy/Principle of Development:**

#### Background

- 8.2. The submission outlines that Brighton & Hove City Council has been successful in securing £12 million of funding from the Local Enterprise Partnership (LEP) to provide a scheme of infrastructure works necessary to enable the future development of the Black Rock site and surrounds.
- 8.3. Policy DA2 (Brighton Marina, Gas Works and Black Rock Area) outlines that the Black Rock site has been allocated for the provision of 7,000 sq m of leisure and recreation use, in addition to ancillary retail and café uses associated with the primary leisure use. Proposals will be assessed against the citywide policies and the following specific criteria.
- 8.4. This planning application proposes enabling development and public realm improvements, and does not incorporate the detail of a proposed long-term use of the Black Rock site.

#### Policy Context

- 8.5. A strategic objective (SO17) of the council set out in the adopted City Plan Part 1 is to enhance the seafront as a year round place for sustainable tourism, leisure, recreation and culture whilst protecting and enhancing the quality of the coastal and marine environment.
- 8.6. Policy SA1 (The Seafront) states that the council will work in partnership to ensure the on-going regeneration and maintenance of the seafront in an integrated and co-ordinated manner.
- 8.7. The relevant seafront wide priorities include:
  - to enhance and improve the public realm and create a seafront for all;
  - improve pedestrian and cycle routes and crossing opportunities in order to achieve a modal shift and thereby reduce the impact of traffic;
  - monitor, conserve and expand designated coastal habitats and secure nature conservation enhancements to the marine and coastal environment;
  - work in partnership with Defra, the Environment Agency, Natural England and Southern Water to continue to maintain coastal defences.
- 8.8. Policy SA1 also sets out as specific priorities for the east of Palace Pier to Brighton Marina section of the seafront; the need for an improved public realm and the conservation and enhancement of the historic and nature conservation features present in this location; and the need to improve beach and seafront access for pedestrians and cycle users, linking with access improvements at the Marina/Black Rock.
- 8.9. The Black Rock Site is located within the DA2 Brighton Marina, Gas Works and Black Rock Development Area in the adopted City Plan Part 1. The strategy recognises the need for a holistic approach to the regeneration of the



development of the Development Area including improving connectivity and legibility between the Marina, Black Rock and former Gas Works sites.

- 8.10. Local priority DA2.A.4 seeks to secure improved legibility, permeability and connectivity for pedestrians within and to the Marina and the surrounding areas through high quality building design, townscape and public realm (Policy CP12 and CP13).
- 8.11. Local priority DA2.A.10 seeks conserving and enhancing the biodiversity and geodiversity of the area through the implementation of an ecological master plan which ensures wildlife habitats are integrated throughout and ensures that protected sites (RIGs47, SSSI and SNCI) are protected in accordance with Biosphere principles and having regard to proximity to the National Park Boundary (Policy CP10).
- 8.12. Local priority DA2.A.11 seeks to ensure development proposals accord with the relevant Shoreline Management Plan and incorporate a site specific Flood Risk Assessment in line with the requirements and recommendations for the area set out in the Brighton & Hove Strategic Flood Risk Assessment and guidance contained within the National Planning Policy Framework (Policy CP11), to protect development from all types of flood risk.
- 8.13. DA2.C.3 states that Black Rock Site is a strategic allocation in the adopted City Plan Part 1. The site is allocated for 7,000 sq m of leisure and recreation uses and ancillary retail and café uses. The allocation sets out a number of criteria that proposal to be assessed against. Of particular relevance for the proposed 'core' works are:
  - c) Creation of links between Black Rock and the Marina, including the provision of a pedestrian and cycle link from the west allowing the continuation of the seafront, which is part of the National Cycle Network, to promote stronger linkages through to the Inner Harbour area of the Marina, contributing towards the creation of coherent and safe public access between the seafront, Marina and the Gas Works site and;
  - d) Protect and enhance the vegetated shingle area which is a rare and important habitat for local and migrating species and provide opportunities for appreciating the special quality of the Site of Nature Conservation Importance (SNCI) designated Black Rock beach.
- 8.14. Policy SA1 (The Seafront) also sets out priorities for east of Palace Pier to The Marina. The following priorities are relevant to the proposals for the public realm and transport proposals:
  - Deliver the regeneration of Madeira Drive as a centre for sports and family based activities supported by a landscaping and public art strategy which also provides for an improved public realm and the conservation and enhancement of the historic and nature conservation features present in this location;
  - Safeguard the vibrant and important event space at Madeira Drive as this presents a unique location for a mix of cultural, sport and leisure activity to take place; and

- Improve beach and seafront access for pedestrians and cycle users, linking with access improvements at the Marina/Black Rock.

#### Principle of Development

- 8.15. The existing land uses on the greater site include beach, roads, cycleways, pathways, sea wall, Volks Railway/Station, planted /vegetated area, and Heritage assets, all of which are largely retained in the scheme. The proposed scheme focuses on the requirement to enable the redevelopment of Black Rock with a leisure and recreation use in accordance with Policy DA2. The Black Rock site is allocated for 7,000 sq m of leisure and recreation use, in addition to ancillary retail and café uses associated with the primary leisure use. The wider public realm, restoration of historic buildings, and temporary Black Rock uses are broadly in accordance with encouraging the regeneration of the seafront that is a key objective of Policy SA2.
- 8.16. The planning application proposes enabling development and public realm enhancement works to prepare for a future permanent development on the Black Rock site, which would be in accordance with the site allocation within Policy DA2. The proposed enabling and public realm works have been designed to flexibly accommodate the form of the end use which is currently unconfirmed. A proposal for a future permanent leisure and recreation use would be subject to a separate future planning application.
- 8.17. The submitted Planning Statement indicates that the core enabling works proposed have been designed with suitable tolerance built into the proposed infrastructure to flexibly accommodate a number of permanent end uses, but there are no determined major long-term proposals for the site. The proposed enabling and public realm works would provide site conditions and surrounding infrastructure for a future major development, in accordance with the policy approach within policies DA2 and SA1.

#### Replacement of existing sea wall with a realigned free-standing structure

- 8.18. In principle the proposed replacement of the seawall coastal defences in front of the Black Rock Site would accord with the main identified priorities (Policies SA1 and DA2 Brighton Marina, Gas Works and Black Rock Development Area.
- 8.19. The applicant states that the new freestanding sea wall would improve sea defences and help manage longer-term maintenance liabilities. The applicants asserts that existing sea wall is in a deteriorating state which would be problematic to the future redevelopment of Black Rock. The applicant has also provided evidence that the realignment of the sea wall is necessary to provide a development site area to accord with a future delivery of the leisure and recreation development.
- 8.20. Draft City Plan Part 2 Policy DM39 (Development on the Seafront) seeks to ensure that development which generates a need for enhancements to the defences will not be permitted unless developer funding is secured to cover the full costs of such enhancements and future maintenance directly related to the proposed development. Configuration and design of the coastal defences needs to take into account climate change and sea level rise. The change to

the shingle beach/ natural shingle beach processes in this location should not compromise the effectiveness of the shingle beach in coastal protection.

- 8.21. The shingle beach at Black Rock is the key source of material for the recycling of shingle along the City's seafront, between the Marina and Shoreham Port, and this is a primary form of coastal protection. The council's Coastal Protection Engineer has been consulted and has advised on the scheme throughout the process.
- 8.22. Enlarging the development site with a new seawall in a southerly direction would result in a loss of shingle and habitat from the Black Rock beach area, contrary to Policies DA2 and SR18, as well as Policy SA1. This indicates a presumption against proposals involving an increase in hard surfacing of the seafront at or in the vicinity of the sites of city-wide nature conservation importance. Draft City Plan Part 2 Policy DM39 also sets out a presumption against development on the beach. The proposed sea wall would result in a change of use of this section of the beach to open space. Policy CP16 outlines the importance of protecting the intrinsic geological and aesthetic interest of this expanse of shingle which forms such a major open space between the land and the sea.
- 8.23. Policy NC4 Sites of Nature Conservation Importance (SNCIs) sets out that Planning permission will not be granted for a proposal within, or in the setting of, an existing or proposed Site of Nature Conservation Importance (SNCI) where it is likely to have an adverse impact, on the nature conservation features of the site. The importance of the SNCI/LWS on Black Rock beach is considered further under Ecology considerations below.
- 8.24. Given the presumption against development in this location, set out above, the applicant has provided detailed analysis of the reasons the existing sea wall needs to be replaced (due to its deteriorating condition), and why the Black Rock development area is required to be extended southwards.
- 8.25. In the submission, the applicant outlines evidence that it has been established that the physical realignment of the sea wall is necessary to deliver a meaningful development site area in terms of its overall size and configuration, in order to deliver the DA2 (C.3) policy allocation for 7,000 sq.m of leisure and recreation development as well as ancillary uses, and enabling development including accessway and link serving Black Rock. This would enable the development site to be more uniform and less irregular in its configuration. Physical constraints include the breakwater, flyover and, in particular, the underground structure supporting the sea wall. Operational constraints mean that any new sea wall would result into encroachment into the SNCI/LWS.
- 8.26. Taking into consideration the above, it has been demonstrated that the realignment of the sea wall is required in order to deliver the strategic allocation and the overall aims of Policy DA2, in order to allow the future regeneration of the Black Rock site. Therefore, an exception to the impact on the SNCI, as set out in Policy NC4, can be justified in this instance. The

County Ecologist has commented fully on the proposal, including the mitigation measures, and these are considered further below.

Proposed new access route and other transport infrastructure improvements

- 8.27. In principle, the proposed development would accord with the identified priorities for the Seafront and for this section of the Seafront (SA1 The Seafront) and for the Black Rock strategic site allocation (Policy DA2.C.3). These priorities are to improve accessibility for pedestrians and cyclists and to improve the connections between Madeira Drive, the Black Rock site and Brighton Marina.
- 8.28. The proposed new access link (CTR), through and into the Marina from the north of the Black Rock site, would be used in the short term for enhanced cycle, pedestrian and emergency access, with the potential for busway/pedestrian and cycle use in the longer term. A new retaining wall on the north side and banking on the southern side would facilitate the level differences. Also proposed, is a longer ramped access up to the existing undercliff walk; an improved pedestrian link and public realm from the Undercliff Walk down to Asda car park; and enhancements to the existing subway/central access near the Marina car wash in terms lighting and accessibility. A realigned promenade south on Black Rock would connect to the harbour wall and breakwater. A new advisory cycle lane (the national cycle network runs along Madeira Drive) is proposed.
- 8.29. In principle the proposed new access route and improved pedestrian and cycle lane links are welcomed and would generally accord with the identified priorities for the Seafront and for this section of the Seafront (SA1 The Seafront). It would also meet priorities for the Development Area (DA2) and the Black Rock strategic site allocation DA2.C.3). These priorities are to improve accessibility for pedestrians and cyclists and to improve the connections between Madeira Drive, the Black Rock site and Brighton Marina. Improving the quality, accessibility and legibility of the public urban realm in this location would also meet the aims of CPP1 Policy CP13 Public Streets and Spaces. Draft City Plan Part 2 Policy DM33 Safe, Sustainable and Active Transport is also relevant as the new access route should be designed to provide safe, comfortable and convenient access for pedestrians and contribute towards, the city's network of high quality, convenient and safe cycle routes. The Highway Authority has commented on the application, and their recommendations are summarised below.
- 8.30. Improved highways infrastructure is proposed within the junctions at both ends of Duke's Mound; with traffic management through new intelligent signalised junctions to support current and potentially future needs. Improvements include upgrading of the access and egress arrangements, improved legibility and user safety measures via road markings, signage and new crossing points.
- 8.31. The Design and Access statement indicates the proposed approach to improve access points at the Marina (at Asda) and at Duke's Mound. There is a new gently sloping route proposed – to address steep gradients on the Kemp Town slopes - as well as new informal crossing points over Madeira Drive to align

with crossing points over the Volk's railway. The proposed board walk of 3.5 width on the beach to the south of the railway line, with rest places for pedestrians, would accord in principle with the aim of CPP1 Policy SA1 to improve beach and seafront access for pedestrians and cycle users. This is also encouraged by draft CPP2 Policy DM39 (Development on the Seafront) which allows improvements to access to the beach as an exception to the presumption of no development on the shingle beach. The proposal is also supported by emerging policy DM33 (Safe, Sustainable and Accessible Transport) in the submission draft CPP2

- 8.32. Overall, the highway works provide a number of improvements to pedestrian/cycle routes, as well as the welcomed proposed revised route from the north of Black Rock into the Marina. The recommendations of the Local Highway Authority of the details of the scheme as set out below.

#### Public Realm Improvements

- 8.33. The proposals to the public realm are envisaged to improve connectivity around the Black Rock site, and also to help generate increased activity and footfall to the area, which would in-turn help with the aim to reduce crime and anti-social behaviour.
- 8.34. The proposed works include a greater use of the Black Rock site via a temporary event space, outdoor recreational space and improved public realm. The two temporary community focused uses (consisting of the public pump track and additional recreation space) would be located adjacent to the new sea wall at Black Rock. These proposals have been shaped by the outcome of public consultation and would provide benefit to the wider community.
- 8.35. It is recognised that currently the public realm in the Black Rock area is unattractive and acts as a barrier to the area. The proposed public realm enhancement to the site would provide immediate and long term, visual, environmental and public/community benefit, as well as improving the deliverability of the future development. Improving connectivity has been an important part of the proposals.
- 8.36. This planning application sets out public realm and landscaping proposals for the wider area, which includes new public realm at the bottom of Duke's Mound and a new hub based around the unused Old Reading Room and Temple which involve changes of use. Consideration of these is set out below. The buildings are currently in a poor state of repair and open to the elements and will require a great deal of external and internal alteration to implement any change of use. These issues are considered under Impact on Neighbouring Amenity and Heritage Impact below, and in the accompanying Listed Building application BH2020/00443.
- 8.37. Improvements to the public realm in this section of the seafront are welcomed and would accord with priorities for the seafront in general within policies SA1, DA2 and draft submission City Plan Part 2 Policy SSA5 Madeira Terrace and Drive.

Changes of use and Temporary/meanwhile uses

- 8.38. A new hub is proposed based around the unused Old Reading Room and Temple. The application seeks change of use of these buildings (existing use Sui Generis) to a flexible Class Use A1/ A3/D1 or D2. There would be no objection to the change of use in principle, given the previous approved planning applications for proposed café/restaurant uses. The proposed range of potential uses would accord with draft policy CPP2 DM15 (Commercial and Leisure uses on the Seafront) which seeks to ensure that new uses add to the diversity and vibrancy of the seafront, are of an appropriate scale and design to complement the historic character and setting of the seafront. It will help to extend footfall and reduce seasonality, and will not have a harmful impact on amenity.
- 8.39. Two temporary community focused ‘meanwhile uses’ are proposed consisting of the public pump track and additional (Multi use Games Area) recreation space located adjacent to the new sea wall on the Black Rock Site. Also proposed is a temporary permeable surface of the Black Rock site to enable it to be used as general temporary events space. Any future proposals for longer-term temporary events may require further planning applications.
- 8.40. These proposed temporary/ meanwhile uses would be acceptable in principle and accord with the wider priorities for this section of the seafront as centre for sports and family-based activities and so would accord with Policy SA1 (The Seafront) and active use of public spaces would accord with Policy CP13 (Public Streets and Spaces) and Policy CP17.6 (Sports Provision). Draft CPP2 Policy DM15 (Commercial and Leisure Uses on the Seafront) indicates that the council will encourage temporary uses which help animate and activate vacant buildings or sites before regeneration/ construction commences. Further issues of landscaping and Transport are considered below.

**Visual Impact:**

Heritage Impact

- 8.41. In considering whether to grant planning permission which affects a listed building or its setting the Council has a statutory duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. For proposals in a conservation area, the council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. Case law has held that the desirability of preserving a listed building or its setting or the character or appearance of a conservation area must be given “considerable importance and weight”.
- 8.42. There are heritage assets that fall both within the application site, and its setting. The Black Rock application site and the enabling works affecting a wider surrounding area will impact on the Kemp Town and East Cliff Conservation Areas. The significance of the Kemp Town Conservation Area lies in its architectural and historic interest as a formally planned residential estate of the Regency period arranged around landscaped private gardens which extend down to the sea via a tunnel under the cliff road. The gardens at lower promenade level are now public open space known as the Kemp Town

Slopes. The private and public gardens are a registered park/garden of special historic interest. The Black Rock site currently detracts from the appearance and character of the conservation area and from the setting of the registered park/garden.

- 8.43. The public gardens contain four listed buildings, the Reading Room, the Tunnel Entrance, the Esplanade Cottages and the Temple. The last of these (the Temple) is very close to the Black Rock site but its setting has previously been substantially compromised by the building of the concrete Marina egress road immediately above it. The listed Regency houses of Kemp Town are clearly visible from the site.
- 8.44. The Reading Room is Grade II listed and forms part of the Grade II listed Kempton Enclosures historical garden. The building is important in the context of the Kemp Town estate as it links the seafront with the historically important and Grade I listed Georgian buildings in Chichester and Arundel Terrace, Lewes Crescent and Sussex Square.
- 8.45. The proposal for the Reading Rooms and Temple is to make secure buildings that would facilitate an active frontage, which would need to respect the sensitivities of the buildings and this part of the site. Flexible permission is sought for retail (Class A1), café/restaurant (Class A3), community use (Class D1), or assembly and leisure use (Class D2). The restoration of the Grade II Listed Temple and enclosure through the glazing of existing openings is also proposed.
- 8.46. The poor condition of these buildings has been highlighted, and this could worsen in the future without investment, and so the proposal provides opportunity to conserve and improve on the current situation. The application outlines the repair works required to bring the buildings to use. However, there is currently a lack of detail in relation to specific proposals for repairs, however the Heritage Team supports the broad terms of the restorative works.
- 8.47. As explained above, the Old Reading Room has been subject to previous permissions granting a change of use to a restaurant. However, the applicant has identified that the Temple has always been an open shelter rather than an enclosed space. The current circumstances of its use as a rough sleeping area, parkour, and the presence of graffiti are highlighted as reasons why the space, as existing, is uninviting to the public. These issues, as well as the necessary repairs, are significant factors in support of the scheme that would secure the regeneration of the buildings, future maintenance and provide damage prevention. The proposals follow pre-application advice, and the Heritage Team has no objections subject to the further details required by Listed Building Consent.
- 8.48. In order to create an 'activity hub' based around the Old Reading Room and the Volk's Black Rock station terminus – improvements to pedestrian access and the listed setting are proposed. These include improving access and management of the existing pathways and planting; and introduction of new accessible routes between Marine Parade, the Esplanade and Madeira Drive

that will affect the Kemp Town Enclosures registered park and garden. The proposals outlined in the Design and Access Statement seek “to ‘open up’ views to and from the slopes and return it to a more appropriate and legible form”. The Heritage Team has noted concerns of the potential impact of lighting and way-finding painted surface crossings, details of which are required by condition.

- 8.49. Overall, given the historic presence of the site being used for communal activities and events, the proposals to increase activity levels and footfall are welcomed. Alongside the heritage benefit set out above, the scheme is considered acceptable in terms of Heritage impact to the historic environment including the listed buildings and the identified Conservation Areas, in accordance with policies CP15, HE1, HE3, HE6 and HE11.

#### Landscaping/Public Realm

- 8.50. It has been acknowledged that currently the public realm in the Black Rock Area is poor and in need of improvement. The Planning Policy comments refer to the Madeira Drive Regeneration Framework which highlighted the sense of severance to and along the seafront and the need for high-quality design, better lighting and wayfinding.
- 8.51. There is opportunity to improve on and enhance the present situation in respect of the listed assets and the surrounding public realm, as well as improving on the connectivity around the gardens (including the current physical disconnect to Brighton Marina). In response, further details of landscaping, including locations/type of lighting and street furniture, are required by condition.
- 8.52. The new public realm at the bottom of Duke’s Mound and a new hub based around the Old Reading Room and terminus is intended to reinforce the area as a gateway to the eastern seafront. The proposal here includes a new shelter, toilet and lock up facilities.
- 8.53. The landscaping proposal includes creation and enhancement of a 1km long section of beach promenade. Proposals include a new decked boardwalk on the beach; new areas of planting and vegetated shingle/ calcareous grassland; and neutral grassland habitats; ornamental public realm planting; a 420m<sup>2</sup> area of informal new play space near Black Rock car park; and 36 new street trees.
- 8.54. The applicant has provided an illustrative landscape framework. Draft policy DM22 (Landscape Design and Trees) requires clear, legible landscape plans and material details and seeks to ensure that the overall design of development and is fit for purpose having regard to: suitable microclimates, amenity, sense of place, natural capital and ecosystem services. In principal, the proposal to achieve a net gain in biodiversity across the site through enhancing locally distinctive habitats including new street trees, vegetative shingle and lowland calcareous grassland is welcomed and accords with policies QD16 and draft Policy DM22.



- 8.55. It is considered that the signs and lighting proposed to improve safety and the legibility of the area would help to address community concerns previously raised at pre-application stage. It is noted from the Design and Access statement that the proposed lighting interventions will have careful regard to the setting of the registered landscape and to ecology. This will reduce light spill-over from routes or into the night sky, in accordance with policies CP10, CP162 and draft CPP2 Policy DM40.
- 8.56. Details of proposed public realm layout, materials, colour palate, signage and lighting strategy (as outlined in the detailed design plans and Design and Access Statement), including the phasing of works, maintenance details and management plan, are required by condition. This is in order to ensure a satisfactory appearance and to accord with the requirements of SA1 the Seafront, Policy CP13 and CP15 of the City Plan Part 1.
- 8.57. Public art is proposed in the form of 'Telling the story of Black Rock and the seafront' with a coherent programme of wayfinding, interpretation and public art. This accords with a key priority for SA1 The Seafront, Madeira Drive and Policy CP5 Culture and Tourism. These seek investment in spaces suitable for outdoor events and cultural activities that take place in the public realm and the enhancement and retention of existing public art works. Policy CP13 Public Streets and Spaces recognises the role of public art to create and enhance local distinctiveness in the public realm and help develop a desirable sense of place as well as improving legibility. It is understood from the submitted Design and Access Statement that the wayfinding elements will be developed as part of collaborative co-design process with local communities and this is welcomed.

**Sustainable Transport:**

- 8.58. City Plan Policy CP9 seeks to encourage use of sustainable modes of transport. Local plan policy TR7 seeks to ensure developments do not compromise highway safety.
- 8.59. The highways and transport proposals can be summarised as follows:
- Vehicular link from Madeira Drive into the Marina for future use as the Coastal Transit Route (CTR Link)
  - New / revised highway access to the Black Rock site from Madeira Drive
  - Alterations to the Black Rock car park
  - Non-vehicular links between the Black Rock site / Madeira Drive and the Marina
  - Additional and formalised crossings of the Volks Railway Line and informal crossings of the adjacent Madeira Drive carriageway.
  - To realign and add permanent traffic signal control to the junctions of Madeira Drive with Dukes Mound and Maine Parade with Dukes Mound
  - New amenity use routes adjacent to the beach including walkways, landscaping and a cycling 'pump track'.
  - Landscaping and enhanced pedestrian walkways and routes between Marina Parade and Madeira Drive.

Highway Works

- 8.60. The Black Rock site is currently hoarded, however the main vehicular access to Black Rock is to the north from Madeira Drive. The main cycle and pedestrian access are either from the west via Madeira Drive or the east through an underpass from Brighton Marina Asda car park. There is also an emergency access via the Brighton Marina exit ramp to the east.
- 8.61. The nearest bus stops are located on Marine Parade close by at Marine Gate, which can be accessed by steps or ramps to the north. The main Marina bus stop is also accessible by foot via a subway through the Asda Car Park.
- 8.62. There is on road cycleway on Madeira Drive that ends at the Duke's Mound junction, and so it does not continue to Black Rock. The route carries on for cyclists and pedestrians at the end of the carriageway and under the subway or ramp onto Marine Parade. This also provides access to Brighton Marina Asda car park under the Marine Way access ramp. Cyclists and pedestrians can also access the Marina at the southern end along the promenade at the southern end of Asda car park via a ramp access under Marina Way access ramp. There is also an emergency access to the western breakwater here.
- 8.63. As set out above, the proposed access route from north of Black Rock site into the Marina would be used in the short term for enhanced cycle, pedestrian and emergency access, with the potential for busway/pedestrian and cycle use in the longer term. The timeframe for implementing the CTR in the long term is unknown and therefore the interim scheme is likely to be in operation for a significant period. The Highway Authority request a Unilateral Undertaking to ensure the interim arrangements are secured based on the submitted drawings, and to ensure land is dedicated for highway and allows a cycleway and footway alongside once the CTR is implemented. Details of bus stops and turning space with vehicle swept paths have been submitted. Further details of a cycleway footway route and operation of the signals has been requested by the Local Highway Authority.
- 8.64. Further details are also requested in respect of the other pedestrian and cycle links proposed, including a revision to increase the width of the cycle lanes linking to the outer harbour wall along the new promenade.
- 8.65. The proposed new highway access to the Black Rock site would be from a junction at Madeira Drive at the western end of Black Rock, and to the west of a new extension of Madeira Drive into the Marina. Vehicle swept paths and junction sightlines have been submitted. The access has not been considered in full in respect of its sufficiency to enable future development, as details such as deliveries and services are not available at this time. This would be considered under a future application. Subject to condition to amend sightlines, the Highway Authority does not object to the new access.
- 8.66. The priority junctions at both ends of Dukes Mound are proposed to incorporate traffic signal control and signalised pedestrian crossings to reduce conflict at the junctions, resulting from large vehicle access, which is likely to occur more during construction and to address a future use emerge at Black Rock. A section of street parking (3 bays) would be removed. The Highway

Authority has recommended a condition for further details in order to complete the Road Safety Audit process.

- 8.67. The proposed new beach boardwalk would be pedestrian only and is not proposed as part of the cycle route. Existing Volk's Railway crossings are to be formalised, with two additional crossings proposed. Informal crossings of Madeira Drive are proposed to reach landscape paths on the north side of Madeira Drive. The Highway Authority has raised safety issues and requested further information by condition.

#### Parking

- 8.68. To the west of Black Rock on Madeira Drive is Black Rock car park with daytime charges for the 61 spaces. On-street parking is available on Madeira Drive for disabled (3 spaces) and buses during the day all the way to Duke's Mound junction.
- 8.69. No formal parking is proposed. The Black Rock site would provide opportunity for further informal parking. There would be a net loss of 3 no. pay and display car parking spaces on Marine Parade. The proposals may create more trips to Black Rock and the seafront in general, however the proposal is not deemed to create additional travel or parking demand in its own right.

#### Trip Generation

- 8.70. The derelict Black Rock site does not currently generate trips. As no planning use is currently proposed on Black Rock site, it is considered there is no trip generation that needs to be assessed. The proposed enhancements within the wider site would not generate travel demand beyond that of the seafront and Marina as existing. A CEMP (Construction Environment Management Plan) would be required by condition to manage construction trips and parking.

#### **Ecology:**

- 8.71. The proposed development is adjacent to the Brighton to Newhaven Cliffs/Foreshore SSSI and the Beachy Head West Marine Conservation Zone (MCZ). No significant impact is envisaged, and there is no objection from Natural England and County Ecologist with regards to this.
- 8.72. As explained above, Black Rock Beach SNCI/LWS will be lost as a result of the proposed realignment of the sea wall. Black Rock Beach is designated a SNCI Site (due to be renamed as Local Wildlife Site) in the 2005 Brighton & Local Plan and following the 2018 Local Wildlife Sites Review it has been recommended that it should be renamed Local Wildlife Site BH31 Black Rock Site with no boundary changes. Formal designation of the amended boundary will be taken through the adoption of the City Plan Part 2.
- 8.73. Black Rock beach supports coastal vegetated shingle and is one of only three remaining sites in Brighton & Hove; an internationally rare habitat in Brighton and Hove (the others are at Shoreham Harbour and Volks Railway). The LWS is also important for supporting a diversity of notable coastal species, including specially protected species, sea kale and tree mallow (both nationally scarce plants). It is an important stopping off point for migratory birds and there are

records for breeding ringed plover. The County Ecologist has highlighted that the habitat is of greater than local importance, and it is noted that the submitted Ecological Impact Assessment lists the habitat and LWS as being of County importance.

- 8.74. It is also noted from the submitted Preliminary Ecological Appraisal that there is potential from impacts from construction on the Beachy Head West MCZ and Volks Railway LWS. There is the potential for an indirect impact on Volk's Railway LWS including dust and disturbance, as well as the impact of the area having a potential higher footfall.
- 8.75. It has been set out above that it has been demonstrated within the application that the proposed realignment of the sea wall is required in order to deliver the strategic allocation to allow the future regeneration of the Black Rock site.
- 8.76. In order to mitigate the loss of the SNCI/LWS, it is proposed to relocate the 0.19ha of vegetated shingle from the SNCI/ LWS in addition to further seeding/compensation to create an area of 1.54ha of vegetated shingle which would result in a net gain of 1.35ha. The aim for the compensatory habitat is to reach 'good' condition status (from its current 'fairly good' status). This would be located on currently bare shingle to the west of the proposed sea wall, south of the Volk's Railway. Terrestrial invertebrates are likely to be present within the existing LWS, however a suitable compensatory habitat at Volk's Railway should be provided in the long term.
- 8.77. A draft Management Plan has been submitted for the vegetated shingle habitat that will be created in compensation for the loss of Black Rock Beach LWS and the existing habitat that will be enhanced at the Volks Railway LWS. It sets out what should be undertaken over a 25-year period to manage and monitor the development of the compensatory habitat sites to the south of the Volks Railway LWS.
- 8.78. The County Ecologist has noted the details within the draft Management Plan, and that the habitat is difficult to create and would take considerable time to reach the expected condition. Given the risks creating a shingle habitat, a minimum 30 years monitoring programme is recommended, to be delivered through a monitoring plan required by condition.
- 8.79. The application is supported by a submitted Biodiversity Net gain report, setting out that the proposal would result in a net gain of more than 15%. This is dependent on the success of the the newly created vegetated shingle habitat. Also proposed is the introduction of grasses, shrubs and 36 new trees across the site. A full Ecological Design Strategy is required by condition.
- 8.80. No significant impact on bat roosts or nesting birds is envisaged. The potential indirect impact of light on bats would require full details of sensitive lighting by condition.

**Impact on Neighbouring Amenity:**  
Overlooking/Loss of Privacy/Outlook/Daylight & Sunlight

- 8.81. Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and / or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 8.82. The proposed development is largely situated a sufficient distance away from neighbouring residential properties so as not to cause significant harm to residential amenity.

#### Noise & Disturbance

- 8.83. The nearest residential properties are on the north side of the A259 coast road. The proposed lighting could have the potential to cause light pollution affecting nearby residents. The lighting installation will be required to comply with appropriate lighting guidance levels, and full details of the lighting scheme are required by condition.
- 8.84. There are already several leisure uses along this section of the seafront which generate activity. Therefore, there are no significant issues envisaged with the proposed increase in footfall in respect of neighbouring amenity. Details of odour control, bin storage and opening times of the proposed flexible A1, A3, D1 or D2 Use are required by condition.
- 8.85. A condition for a Construction Environmental management Plan (CEMP) is required to mitigate construction impacts.

#### **Sustainable Urban Drainage/Flood Risk**

- 8.86. The proposed realignment of the sea wall could have associated impacts in relation to flooding at the site and the flood zone further afield. As the shingle beach is important for coastal defence, the effect on the shingle movement along the coastal should be assessed. The Shoreline Management Plan and the Brighton Marina to Shoreham Port Strategy has identified this site as an area to collect shingle for replenishment purposes. It is also in a Marine Conservation Zone.
- 8.87. The submitted Design & Access Statement states 'The project will contribute to sustainable drainage by attenuating storm water via use of permeable surfaces, soft landscape and tree planting'. However limited detail has been provided at this stage.
- 8.88. No drainage strategy or maintenance plan has been submitted for sustainable drainage. However, the Sustainable Drainage Team has stated that the applicant has demonstrated the realignment should not have a detrimental effect on the existing flood zones at site. To address this further detail is required to mitigate the overtopping flood risk and develop drainage provisions.
- 8.89. It is noted from the Planning Statement that as part of the remediation works for the Black Rock site is a permeable surface. This will be applied across much of the site area to accommodate temporary uses. Additionally, the temporary pump track and play area will also be finished with a permeable

surface treatment, where practical to do so. The scheme of public realm enhancements will include improvements to planting areas and soft landscaping both upon the beach and Kemp Town Slopes which can aid drainage. It is unclear whether permeable surfaces will be used for the other proposed new areas of walkway/ public realm and cycle lane. Further details of permeable surfaces and other drainage are required by condition in the form of a drainage strategy and maintenance schedule.

### **Arboriculture**

- 8.90. The Arboriculture Team has raised concerns about the sustainability of tree planting within the proposed development. Black Rock and Madeira Drive is generally a hostile environment to establish standard tree species. The proximity to the shoreline, salt water damage, strong winds and poor soil structure that inhibit both root growth and tree stability all contribute to this.
- 8.91. There are currently limited details within the proposals for landscaping. The applicant has highlighted the importance of trees as part of the Black Rock project both in developing the landscape character of the space and physically providing shelter and shade and increasing biodiversity as part of the ecology scheme considered above.
- 8.92. There is no objection to tree planting in the scheme, as the benefits would be welcomed; however, the future success of the scheme is dependent on specific detailing within the proposal. The Arboriculture Team has stated that the selection of appropriate tree species capable of surviving such a hostile environment, tiered shelter belt planting, the design and construction of appropriate tree pits, and a robust maintenance schedule will help increase the survival rate. Further landscaping details are required by condition.

### **Other Considerations**

#### Land Contamination:

- 8.93. The remediation of contaminated land on the Black Rock Site would accord with Policy SU11 Polluted land and buildings.

#### Sustainability

- 8.94. Due to the nature of the development, there are limited considerations with regard to sustainability, other than relating to landscaping and Ecology considered above. Overall it is considered that by improving the wider environment by making the best use of layout, landscaping and materials it is considered that the proposal is in accordance with Policy CP8.
- 8.95. A future planning application for a leisure/recreation use at Black Rock would require detail on sustainability and energy.

#### Archaeology

- 8.96. The application is principally proposing site preparation and decontamination of Black Rock, and so the level of ground disturbance and truncation of archaeological remains will be lower than for any future application for a permanent scheme of built development. There are, however, nationally significant Pleistocene deposits located at Black Rock.

- 8.97. The applicant will submit a final addendum report in advance of planning committee, and it is anticipated that the outcomes of the final report will require further information through a programme of work, which will be required by condition.

#### Air Quality

- 8.98. No significant air quality issues are envisaged in relation to this application. A future planning application for a leisure/recreation use at Black Rock would require a Detailed Air Quality Assessment.

#### **Conclusion:**

- 8.99. The proposal is welcomed as it will enable future regeneration of the derelict Black Rock site and implementation of a strategic allocation in the adopted plan. It will also provide significant improvements in links to the Marina.
- 8.100. Details of the proposal and supporting evidence has demonstrated that the proposed realignment of the sea wall is required in order to deliver the strategic allocation and allow future regeneration of the Black Rock site. The loss of the existing Black Rock SNCI/LWS is regrettable, however, it is considered to be satisfactorily offset by the proposal to relocate the vegetated shingle and Management Plan.
- 8.101. The County Ecologist has noted the details within the draft Management Plan, and the proposed net gain in Biodiversity within the proposal. A full Ecological Design Strategy is required by condition.
- 8.102. Improvements to the public realm in this section of the seafront are welcomed. The proposal represents an opportunity to enhance the present situation in respect of the designated heritage assets and the surrounding public realm, as well as improving on the connectivity around the site. The Highway Authority has no objection subject to recommended conditions and obligations.
- 8.103. The future maintenance of the proposal is necessary to ensure the acceptability of the scheme., Details of management and future maintenance of the scheme are required by condition.

#### **9. EQUALITIES**

- 9.1. The proposals have given consideration in the design to be compliant with Building Regulation performance indicators, including access solutions to provide safe and enhanced access for the current proposals and for future development of the site. The pedestrian routes do not achieve mobility standards in terms of gradient, but the gradient is reduced as much as reasonably practicable given the land level constraints at the site.

#### **Unilateral Undertaking**

- 9.2. In the event that a signed Unilateral Undertaking has not been submitted by the applicant agreeing to enter into necessary obligations in relation to Employment, Public Art and Sustainable Transport by the date set out above, the application shall be refused for the following reasons:
1. The proposed development fails to provide an Employment and Training Strategy specifying how the developer or their main contractors will provide opportunities for local people to gain employment or training on the construction phase of the proposed development contrary to policy CP7 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.
  2. The proposed development fails to provide a Public Art to comply with policy CP7 and the City Council's Developer Contributions Technical Guidance.
  3. The proposal fails to deliver required highway works contrary to Policy CP9 of the Brighton & Hove City Plan Part One.



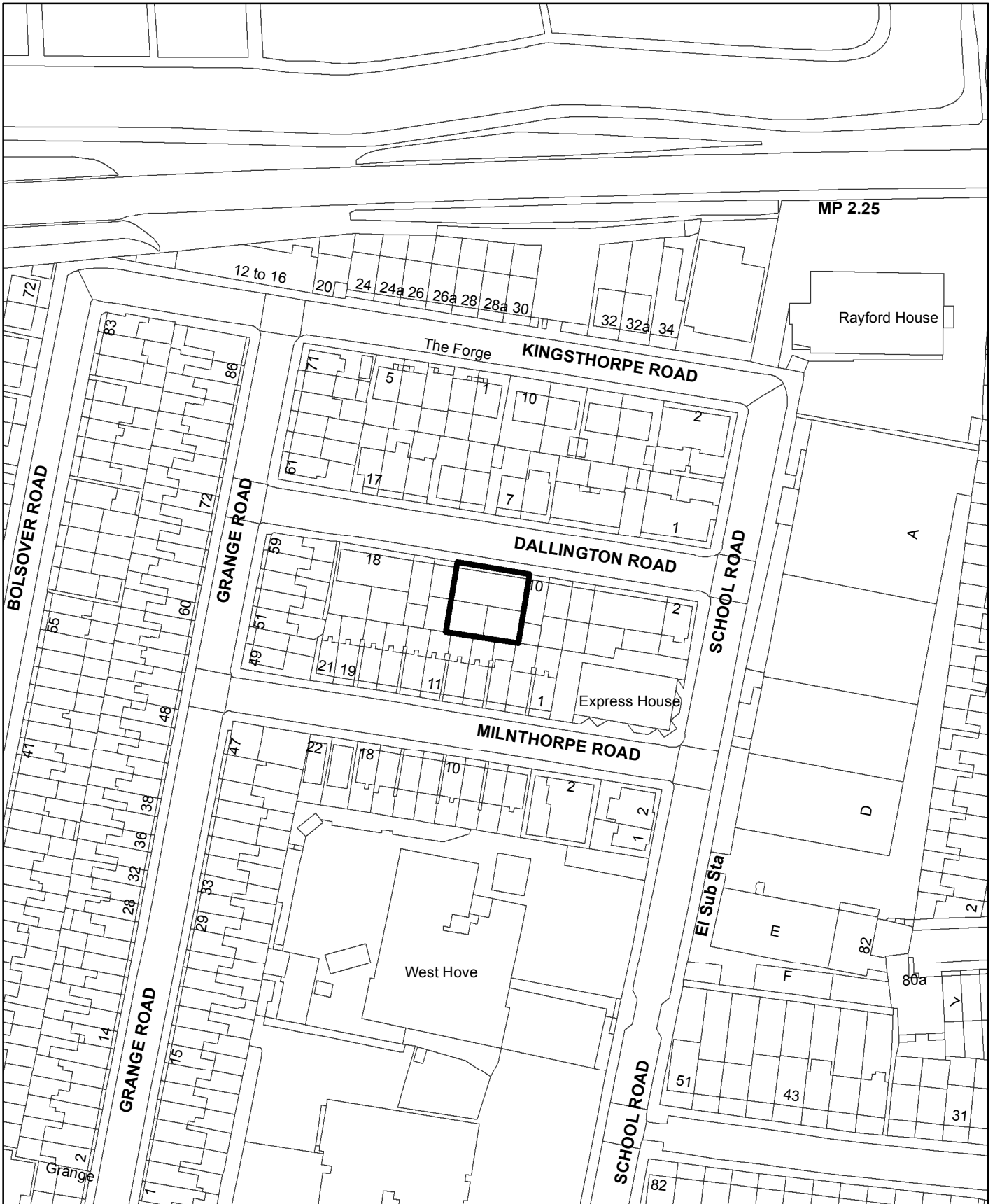
# **ITEM B**

**Avon Court, 12 Dallington Road  
BH2020/00325  
Full Planning**

**DATE OF COMMITTEE: 10<sup>th</sup> June 2020**



# BH2020 00325 - Avon Court, 12 Dallington Road



N



Scale: 1:1,250



<b><u>No:</u></b>	<b>BH2020/00325</b>	<b><u>Ward:</u></b>	<b>Wish Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Avon Court 12 Dallington Road Hove BN3 5HS</b>		
<b><u>Proposal:</u></b>	<b>Proposed raising of ridge height involving new roof construction, together with 2no front dormers and 3no rear extensions to form 1no two bedroom flat (C3). (Revised description)</b>		
<b><u>Officer:</u></b>	<b>Russell Brown, tel: 296520</b>	<b><u>Valid Date:</u></b>	<b>03.02.2020</b>
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	<b>30.03.2020</b>
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	<b>ATP Design Ltd 24 Bridgemaury Grove Gosport PO13 0UG</b>		
<b><u>Applicant:</u></b>	<b>Mr Lekan Saromi C/o ATP Design Ltd 24 Bridgemaury Grove Gosport PO13 0UG</b>		

This application was deferred from Planning Committee on the 6<sup>th</sup> May.

## 1. RECOMMENDATION

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

Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.  
Reason: For the avoidance of doubt and in the interests of proper planning.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location and Block Plan and Proposed Drawings	ATP_07_300120_PP	G	11 May 2020
Proposed Drawing	ATP_07_120520_SS		12 May 2020

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.  
**Reason:** To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
3. Within 6 months of commencement of the development hereby permitted or prior to occupation, whichever is the sooner, a scheme shall be submitted to the Local Planning Authority for approval to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit. The approved scheme shall be implemented before occupation.

**Reason:** This condition is imposed in order to allow the Traffic Regulation Order to be amended in a timely manner prior to first occupation to ensure that the development does not result in overspill parking and to comply with Policies TR7 and QD27 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One and SPD14 Parking Standards.

4. The development hereby permitted shall not be occupied until the cycle parking space shown on the approved plans has been fully made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of the development at all times.

**Reason:** To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with Policy TR14 of the Brighton & Hove Local Plan and SPD14 Parking Standards.

5. The external finishes of the development hereby permitted shall match in material, colour, style and texture those of the existing building.

**Reason:** To ensure a satisfactory appearance to the development in the interests of the visual amenities of the area and to comply with Policies QD14 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The applicant is advised that the scheme required to be submitted by Condition 3 should include the registered address of the completed development; an invitation to the Council as Highway Authority (copied to the Council's Parking Team) to amend the Traffic Regulation Order; and details of arrangements to notify potential purchasers, purchasers and occupiers of the restrictions upon the issuing of resident parking permits.

## **2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1. The application site relates to a two storey building (Avon Court) with a large pitched roof and two flat-roofed canted bays to the front elevation that break the eaves line. It is located within a terrace on the south side of Dallington Road, which runs between School Road to the east and Grange Road to the west. The building features a fire escape staircase to the rear, which is partially visible from School Road. The site is within a largely residential area, but there are industrial buildings on School Road and Kingsthorpe Road to the north where there are some new build dwellinghouses. The site is within Controlled Parking Zone (CPZ) R.

- 2.2. Planning permission is sought for the raising of ridge height involving a new roof construction, together with two front dormers and three rear roof extensions to form an additional two bedroom dwelling (Use Class C3). Changes were made during the course of the application to the size of the front dormers and the addition to the rear roofslope from a single mass to three individuals extensions as well as to increase the ridge height of the roof.

### 3. RELEVANT HISTORY

- 3.1. **BH2019/03201**: Proposed roof alterations incorporating 2no front gable extensions over existing canted bays, 2no front dormers, 2no front rooflights and a full-width rear extension to form 2no additional one bedroom dwellings (C3). Refused on 23 December 2019 for the following reasons:
1. The proposed extensions, by reason of their scale, massing and form, would be out of keeping, over-dominant, unsympathetic and inappropriate resulting in significant harm to this property and the wider surrounds. Accordingly, the proposal is considered contrary to Policies CP12 of the Brighton & Hove City Plan Part One and QD14 of the Brighton & Hove Local Plan.
  2. The proposed flats would by virtue of the accommodation proposed, the layout and insufficient floor to ceiling heights throughout, result cramped and gloomy units that would provide a poor standard of accommodation for future occupiers. Accordingly, the proposal is considered to be contrary to Policy QD27 of the Brighton & Hove Local Plan.

### 4. REPRESENTATIONS

- 4.1. **Five (5) objections** were received raising the following concerns:
- There are currently no properties with front dormers in the road or on neighbouring roads. They are not in keeping with the area. The development would radically and detrimentally change the appearance of the building and the character of the area.
  - The road is about to become busier with the large School Road and Rayford House developments (over 140 new homes) and the traffic and noise will be too much, and the area would be overcrowded. Additional traffic would hinder the access for those with disabilities and it would be harder for existing residents to find a parking space.
  - The description of development is misleading as this is a full-scale building project.
  - This would set a precedent for the same to happen on the other four small blocks on the road.
  - The noise and disturbance from the development would cause anxiety to rise and exacerbate existing health issues.
  - The development of brownfield sites in this tiny area of Hove is completely unsustainable.
  - The pressure put on the infrastructure by already consented development is huge and contributes to a major reduction in residents' standard of living.

- The reference to parking within the Design & Access Statement is incorrect in terms of car ownership levels and the idea of people working and living in the city not owning a car. It does not mention the CPZ and makes incorrect maximum car parking space assumptions. Where exactly would the proposed cycle parking be located?
- There is already significant development of new housing in the immediate area where additional parking will be required. If planning permission is given for these flats it sets a precedent for other blocks within the street / area.
- No-one has been inside to inspect or survey the premises as to its suitability for the outlandish proposal.
- The previous planning application was a very bad idea at the time and is a bad idea two months on, and nothing seems to have changed.
- The front dormers would afford views into the bedrooms of properties on the other side of the narrow street, therefore significantly affecting neighbours' privacy.
- There is no requirement for undersized flats (both in terms of total floor area and bedrooms) within this area.
- No parking assessment or Travel Plan have been submitted that include a cumulative assessment of the existing large scale developments on School Road being granted approval.
- There is no recognition of potential noise transfer through floors or how they intend to achieve Part E building regulations, which may require thicker floors than anticipated and therefore reduce floor to ceiling height.
- Hadley Court was never a 2-story block that had an additional story added at a later date and the rear dormer on a property on Grange Road does not directly overlook Dallington Road, as stated in the Design & Access Statement.

4.2. Following re-consultation to include the increase in the ridge height of the roof, **two (2)** additional objections were received raising the following points:

- All the same objections previously submitted still stand.
- This latest amendment seems to be all smoke and mirrors in order to persist with this hideous proposal to erect a garret above the leaseholders' flats.
- No amount of 'tweaking' to this appalling proposal can disguise that it is ugly, unwarranted and would provide 'rabbit hutches in the sky'.
- The prospect of having a building site above for a long time would be intolerable.
- The proposed design is very much out of keeping with the existing architecture of the street and is a prime example of poor aesthetics.
- The residents on the north side of Dallington Road would be overlooked and deprived of sunlight as a result of raising the roof line.
- There has been a lack of communication to residents regarding this proposal.
- Allowing this proposal would set a precedent as there are two identical blocks to Avon Court on this street.



- 4.3. **Councillor Nemeth** has objected to the application as submitted. A copy of the correspondence is attached to the report.

## 5. CONSULTATIONS

- 5.1. **Private Sector Housing:** No comments

- 5.2. **Sustainable Transport** (verbal):

- Pedestrian access remains as existing, which is deemed acceptable.
- SPD14 outlines that the maximum car parking standard for 1-2 beds in a Key Public Transport Corridor is 0.5 spaces per dwelling plus 1 space per 2 dwellings for visitors. As such, car-free development is deemed acceptable. The car parking permit uptake rate in CPZ R is 87%, which is above the industry standard indication of parking stress at 85%. Therefore, a restriction on future residents of the proposed flat from applying for a parking permit should be controlled by condition.
- SPD14 standards require one cycle parking space to be provided. This would be internally, inside the hallway. Whilst the space is deemed to be secure, and dry, it is unclear whether it is adequately sized or fit for purpose, and the type of stand has not been specified. A condition can be imposed to ensure that these details are provided prior to occupation of the flat.
- Refuse and recycling bins for the flat have been shown to the front close to the street for easy access to the collection point on-street. Bins should not be left out on the public (adopted) highway.
- The proposals may result in a slight uplift in trips; however, it is not considered that this will have an adverse impact upon surrounding highway and transportation networks. The Highway Authority does not wish to request developer contributions in this instance.

## 6. MATERIAL CONSIDERATIONS

- 6.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report.

- 6.2. The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016);
- Brighton & Hove Local Plan 2005 (retained policies March 2016);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
- Shoreham Joint Area Action Plan (October 2019)

- 6.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

## 7. RELEVANT POLICIES

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part Two

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications but any greater weight to be given to individual policies will need to await the outcome of the Regulation 19 consultation. The council will consider the best time to carry out the consultation after the coronavirus (Covid-19) restrictions are lifted.

#### Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP8	Sustainable buildings
CP12	Urban design

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

TR14	Cycle access and parking
SU10	Noise nuisance
QD14	Extensions and alterations
QD27	Protection of amenity
HO13	Accessible housing and lifetime homes

#### Supplementary Planning Documents

SPD12	Design Guide for Extensions and Alterations
SPD14	Parking Standards

## 8. CONSIDERATIONS & ASSESSMENT

- 8.1. The main considerations in the determination of this application relate to the principle of development, the design of the extensions, their impact on neighbouring amenity, on highways and the proposed standard of accommodation.

#### **Principle of development:**

- 8.2. The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually.

8.3. The Council's most recent housing land supply position published in the SHLAA Update 2019 shows a five year housing supply shortfall of 1,200 (equivalent to 4.0 years of housing supply). As the council is currently unable to demonstrate a five year housing land supply, increased weight should be given to housing delivery when considering the planning balance in the determination of planning applications, in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).

8.4. The site counts as a small 'windfall site', bringing the benefit of providing an additional housing unit to the city, and contribute to the City's ongoing five year supply requirements. A net increase of one dwelling (such as that in this proposal) would only be a very minor contribution to meeting the five year supply.

**Design and Appearance:**

8.5. Following the refusal of the previous application (ref. BH2019/03201), both the upwards extension of the two canted bays in the form of gables and the insertion of two rooflights to the front elevation have been removed from the proposal. The submitted scheme under this application has been amended as previously mentioned.

8.6. This application involves the raising of ridge height involving a new roof construction, the construction of two dormers to the front roofslope and three rear extensions comprising two larger dormers with a smaller one for the internal staircase set slightly lower down the roofslope.

8.7. A new roof would replace the existing, but with slightly steeper front and rear roofslopes resulting in a higher ridge height than the existing roof by approximately 26cm. Given that this is a relatively insignificant amount and the existing and proposed situation would not be easily noticeable in the context of the streetscene with Avon Court still sitting below the ridge height of no. 14, the change is considered acceptable. Avon Court would still be higher than no. 10 and the change would not be markedly different. The tiles would match the existing as best practicable, which is possible since they would be capable of reuse, and no objection is raised.

8.8. In terms of the proposed front dormers, it is recognised that they would impact on the streetscene given their prominent location. However, it is not considered that they would unbalance the building (since they counter-balance one another) nor would they disrupt the continuity of the terrace. Front dormers are a common feature within the local area, including the pair to 'The Nook' at 20 Kingsthorpe Road, which have subsequently found to be non-original and are of a similarly sympathetic scale, design and positioning to those proposed to Avon Court. Furthermore, the proposed front dormers do not give the appearance of an extra storey on top of the building, and are otherwise subordinate additions being well set in from the side of the building, set up from the eaves and set down from the roof ridge. In terms of the detailing, the dormer checks (areas of cladding either side of the window) have been minimised and the window itself lines with those below. The materials

proposed would match the existing (clay tiles to the dormer faces and the roof like those on the roofslope and white uPVC casement windows).

- 8.9. The full-width extension to the rear roofslope as initially proposed has been amended during the course of the application and is now broken into three individual parts; one serves a lounge, another the bedrooms and the extension in-between facilitates the internal staircase. The extensions are set over 60cm up the eaves, over 2.8m away from the sides of the building in the case of the larger additions and over 1m down from the roof ridge. The three dormers positioned in close proximity of each other would potentially be viewed as one continual block at a distance and given their size and areas of cladding are not in strict accordance with guidance contained in the SPG. Notwithstanding this, the dormers would take up less than two-thirds (62%) of the width of the roofslope overall given the expanse of the roof and would not give the appearance of an extra storey on top of the building. Again, the materials proposed would match the existing (clay tiles to the external faces of the two outer dormer and white render to that of the dormer in-between and white uPVC casement windows).. This together, with the presence of other larger dormers in the area, it is considered that the scheme as amended, whilst does not address fully the concern, is not likely to result in a harmful appearance that would warrant refusal of the application.
- 8.10. Views of the rear roofslope of the building are possible from School Road in the gap between the buildings fronting the south side of Dallington Road and those fronting the north side of Milnthorpe Road, but not directly from the latter, only from the private parking bay pertaining to Express House. However, it is not considered that the roof extensions would cause significant harm given the setback from School Road.
- 8.11. Examples of full-width roof extension have been given within the submitted Design & Access Statement and are at 17 and 19 Milnthorpe Road and 61 Grange Road and there are others within the locality. Given the width of the roofslope of Avon Court at over 17.5m compared with approx. 6m for the terraced properties on which the other roof extensions sit, larger roof extensions are considered to be permissible on this building.
- 8.12. As such, the application would be compliant with City Plan Part One Policy CP12, Local Plan Policy QD14, SPD12 and paragraphs 127 and 130 of the NPPF that require developments to add to the overall quality of the area through being visually attractive as a result of good architecture, to be sympathetic to local character and the surrounding built environment, and to improve the character and quality of an area, taking into account any local design standards or supplementary planning documents.

**Impact on Neighbouring Amenity:**

- 8.13. Paragraph 127 of the NPPF outlines that planning decisions should ensure that developments create places that promote health and well-being, with a high standard of amenity for existing and future users.

- 8.14. Given the relatively insignificant increase in the ridge height of 26cm through the construction of a new roof, this change is not considered to have a significant impact on the amenity of occupiers of neighbouring properties.
- 8.15. The windows within the proposed rear roof extensions would overlook the rear garden of all adjoining properties. As such, it is acknowledged that some loss of privacy would occur to the rear gardens, but it is considered that no significant additional harm would be caused due to the existing situation where the gardens are already overlooked. Objections have been received raising the issue of overlooking from the proposed front dormers to the properties across the street. The separation front to front distance is at least 15.5m. The separation distance is considered sufficient to not result in additional overlooking.
- 8.16. The intensification of the residential use within this building is not considered to lead to a significant increase in noise and disturbance to neighbouring occupiers.

**Standard of Accommodation:**

- 8.17. Policy QD27 of the Brighton and Hove Local Plan aims to secure a good standard of living accommodation for current and future occupiers in all new developments. Accommodation should therefore provide suitable circulation space within the communal spaces and bedrooms once the standard furniture has been installed, as well as good access to natural light and air in each habitable room.
- 8.18. The 'Nationally Described Space Standards' were introduced by the Department for Communities and Local Government in 2015 to establish acceptable minimum floor space for new build developments. Although these space standards have not been formally adopted into the Brighton and Hove City Plan, they provide a useful guideline on acceptable room sizes that would offer occupants useable floor space once the usual furniture has been installed.
- 8.19. A two bed, three person flat is proposed. The Gross Internal Area (GIA) of 66.1m<sup>2</sup>, bedroom sizes (14.3m<sup>2</sup> and 7.53m<sup>2</sup>) and internal floor to ceiling height (77.5% at 2.3m) are compliant. As such, this is considered acceptable and demonstrates that the proposal overcomes the previous reason for refusal. The flat has dual aspect (to the north and south) and therefore benefits from cross-ventilation. The lounge is now located on the south side and would receive sufficient sunlight along with the bedrooms. The kitchen and bathroom now have north aspect instead. It is considered that the six windows to the flat provides ample outlook.
- 8.20. As such, the proposed development is considered to offer acceptable living conditions for future occupiers, compliant with Local Plan Policy QD27.

**Highways:**

- 8.21. Car-free development is considered acceptable, especially since the permit uptake rate is 87%, which is above the industry standard indication of parking

stress at 85%. The restriction on future residents of the proposed flat from applying for a parking permit is recommended to be controlled by condition.

8.22. One cycle parking space is required to be provided and this would be internally, inside the hallway. This storage is considered to be secure, dry and adequately sized. A condition can be imposed to ensure that this space is fit for use as cycle storage prior to the first occupation of the flat.

8.23. Refuse and recycling bins for the flat have been shown to the front, which is adjacent to the street for easy access to the collection point on-street.

8.24. As such, subject to the imposition of suitable conditions, the impact on highways would be acceptable.

**Issues raised by consultation:**

8.25. Issues regarding quality of the building survey, the rationale behind the application, Building Regulations, health, property values and quality of architects are not relevant planning considerations and therefore have not been taken into account in the determination of this application. The description of development is not considered misleading.

**9. CONCLUSIONS**

9.1. The proposal makes a minor contribution to the Council's housing targets through the provision of well-considered, subordinate extensions to this building that offer an acceptable standard of residential accommodation without having a detrimental impact on the building itself, the streetscene or neighbouring amenity. As such, this application is recommended for approval.

**10. EQUALITIES**

10.1. The flat would not be wheelchair accessible or adaptable in compliance with Building Regulations Part M4.

**Cllr. Robert Nemeth**  
**BH2020/00325 - Avon Court, 12 Dallington Road**

**10<sup>th</sup> February 2020:**

I object to the above application and call for it to go to Planning Committee if recommended for approval.

I think that the design is downright ugly – it would add nothing but visual offensiveness to both the front and rear elevations. Not one of the proposed protrusions resembles a standard dormer.

It is concerning that residents have not been consulted. As a Councillor, I would like my view placed on the public record that an applicant should always have the courtesy to ask neighbours what they think.





# **ITEM C**

**Varndean College, Surrenden Road  
BH2020/00947  
Removal or Variation of Condition**

**DATE OF COMMITTEE: 10<sup>th</sup> June 2020**



# BH2020 00947 - Varndean College, Surrenden Road



Scale: 1:2,500

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<b><u>No:</u></b>	<b>BH2020/00947</b>	<b><u>Ward:</u></b>	<b>Withdean Ward</b>
<b><u>App Type:</u></b>	<b>Removal or Variation of Condition</b>		
<b><u>Address:</u></b>	<b>Varndean College Surrenden Road Brighton BN1 6WQ</b>		
<b><u>Proposal:</u></b>	<b>Application for Variation of Condition 2 of application BH2018/02404 (Relocation of 2no modular classroom blocks and erection of a two storey Science, Technology, Engineering and Mathematics (STEM) centre with associated cycle parking and landscaping alterations (retrospective)) to amend the wording of condition 2 to the following 'The 2no temporary classroom structures (nos. 40-72 and 47 shown on the site plan 957.18.51 Rev.D) shall be removed from the site within 3 months of the commencement of the use of the STEM building hereby approved, and the land returned to its former condition within 2 months of removal'.</b>		
<b><u>Officer:</u></b>	<b>Sonia Gillam, tel: 292265</b>	<b><u>Valid Date:</u></b>	<b>30.03.2020</b>
<b><u>Con Area:</u></b>	<b>N/A</b>	<b><u>Expiry Date:</u></b>	<b>25.05.2020</b>
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	<b>24.06.2020</b>
<b><u>Agent:</u></b>	<b>NTR Planning Clareville House 26-27 Oxendon Street London SW1Y 4EL</b>		
<b><u>Applicant:</u></b>	<b>Varndean College Varndean College Surrenden Road Brighton BN1 6WQ</b>		

## 1. RECOMMENDATION

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

### Conditions:

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

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Proposed Drawing	957.18.51	D	30 March 2020
Proposed Drawing	957.18.100	B	27 July 2018
Proposed Drawing	957.18.110	C	27 July 2018
Proposed Drawing	957.18.120	D	27 July 2018
Proposed Drawing	957.18.20	C	27 July 2018
Proposed Drawing	957.18.21	B	27 July 2018
Proposed Drawing	957.18.50	D	27 July 2018
Proposed Drawing	957.18.51	B	27 July 2018
Proposed Drawing	957.18.60	F	27 July 2018
Proposed Drawing	957.18.75	F	27 July 2018
Proposed Drawing	957.18.90	E	27 July 2018

Proposed Drawing	957.18.01	D	27 July 2018
Proposed Drawing	957.18.51	C	27 July 2018
Block Plan	957.18.03	C	27 July 2018
Proposed Drawing	957.18.04	A	27 July 2018
Proposed Drawing	957.18.10	C	27 July 2018
Proposed Drawing	957.18.114		12 March 2019
Other	Materials photos		12 March 2019
Other	Covering letter		26 February 2019

2. The 2 no. temporary classroom structures (nos. 40-72 and 47 shown on the site plan 957.18.51revD received on the 30/03/2020) shall be removed from the site within 3 months of commencement of the use of the STEM building and the land returned to its former condition within 2 months of removal.  
**Reason:** The temporary buildings are not considered suitable as a permanent form of development; to ensure a satisfactory appearance to the character and appearance of the campus and the surrounding area and to comply with policies QD14 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.
  
3. Access to the flat roof over the development hereby approved shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area.  
**Reason:** In order to protect adjoining properties from overlooking and noise disturbance and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
  
4. The hard surface hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.  
**Reason:** To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policies CP8 & CP11 of the Brighton & Hove City Plan Part One.
  
5. The development shall be carried out in accordance with the materials samples and details approved under application BH2019/00558.  
**Reason:** To ensure a satisfactory appearance to the development and to comply with policies QD14 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.
  
6. Within 3 months of first use of the STEM building hereby permitted a BREEAM Building Research Establishment has issued a Post Construction Review Certificate confirming that the non-residential development built has achieved a minimum BREEAM New Construction rating of 'Very Good' and such certificate 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 CP8 of the Brighton & Hove City Plan Part One.

7. The STEM building hereby permitted shall not be first occupied until a scheme to enhance the nature conservation interest of the site has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall accord with the standards described in Annex 6 of SPD 11 and shall be implemented in full prior to the first occupation of the development hereby approved and thereafter retained.  
**Reason:** To increase the biodiversity of the site, to mitigate any impact from the development hereby approved and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
8. The STEM building hereby permitted shall not be occupied until details of secure cycle parking facilities for the students and staff of, and visitors to, the development have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.  
**Reason:** To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan and SPD14: Parking Standards.
9. The STEM building hereby approved shall not be occupied until refuse and recycling storage facilities have been installed adjacent to the building and made available for use. These facilities shall thereafter be retained for use at all times.  
**Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policy QD27 of the Brighton & Hove Local Plan, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.
10. Within 3 months of occupation of the STEM building, the Developer or owner shall submit to the Local Planning Authority for approval in writing, an updated Travel Plan (a document that sets out a package of measures and commitments tailored to the needs of the development, which is aimed at promoting safe, active and sustainable travel choices by its users (pupils, parents/carers, staff, visitors, residents & suppliers)).

Travel Plan (a document that sets out a package of measures and commitments tailored to the needs of the development, which is aimed at promoting safe, active and sustainable travel choices by its users (pupils, parents/carers, staff, visitors, residents & suppliers)).

The updated Travel Plan shall include measures and commitments as are considered necessary to mitigate the expected travel impacts of the development and shall include as a minimum the following initiatives and commitments:

- i Measures to promote and enable increased use of active and sustainable transport modes, including walking, cycling, public transport use, car sharing and Park & Stride, as alternatives to individual motor vehicle use;

- ii Identification of a nominated member of staff to act as School Travel Plan Co-ordinator to become the individual contact for the council's School Travel Team relating to the School Travel Plan; to convene a School Travel Plan (STP) Working Group;
- iii Use of the BHCC STP guidance documents to produce and annually review the STP
- iv Production of a SMART action and monitoring plan, which shall include a commitment to undertake annual staff, parent/carer and pupil travel surveys to enable the STP to be reviewed and to update the SMART actions to address any issues identified;
- v A commitment to take part in the annual 'Hands Up' Mode of Travel Survey co-ordinated by the council's School Travel Team;
- vi Identification of mode-use targets focussed on reductions in the level of individual motor vehicle use by staff and parent/carers;
- vii A commitment to reduce carbon emissions associated with nursery and school travel;
- viii Initiatives to increase awareness of and improve road safety and personal security;
- ix Evidence of dialogue and consultation with neighbouring residents and businesses;
- x Submission of an annual STP review document, following the annual travel surveys, to the Council's School Travel Team to demonstrate progress towards the identified targets.

**Reason:** To ensure the promotion of safe, active and sustainable forms of travel and comply with policies TR4 and TR7 of the Brighton & Hove Local Plan and SA6, CP7, CP9, CP12, CP13, CP15 and CP21 of the City Plan Part One.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The applicant is advised that details of the BREEAM assessment tools and a list of approved assessors can be obtained from the BREEAM websites ([www.breeam.org](http://www.breeam.org)).
3. The applicant is advised that advice regarding permeable and porous hardsurfaces can be found in the Department of Communities and Local Government document 'Guidance on the permeable surfacing of front gardens' which can be accessed on the DCLG website ([www.communities.gov.uk](http://www.communities.gov.uk)).
4. The applicant should contact the Highway Authority Access Team for advice and information at their earliest convenience to avoid delay ([travel.planning@brighton-hove.gov.uk](mailto:travel.planning@brighton-hove.gov.uk) or telephone 01273 292233). The Travel Plan shall include such measures and commitments as are considered necessary to mitigate the expected travel impacts of the development and should include as a minimum the initiatives and commitments detailed in the condition above.



## 2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The application relates to a further education college site located in the north-west corner of the Surrenden campus, which it shares with Downsview Link College, Dorothy Stringer School, Varndean School and Balfour Primary School. The site is bounded by Surrenden Road to the north and west, Draxmont Way to the south and Friar Road and Friar Crescent to the east, all of which are residential streets.
- 2.2. Planning permission (BH2018/02404) was granted in 2019 for the relocation of 2no modular classroom blocks and the erection of a two storey Science, Technology, Engineering and Mathematics (STEM) centre with associated cycle parking and landscaping alterations. The original application was retrospective as the development had already commenced at the time of the application (the 2 no. modular classrooms mentioned in the description had been relocated). The remainder of the approved development is now substantially underway.
- 2.3. Condition 2 of the permission secured that within 18 months of the date of the permission or with 3 month of commencement of the use of the STEM building, whichever is soonest, two of the temporary classrooms (40-72 and 48-50) would be permanently removed and the land returned to its former condition within 2 months of removal.
- 2.4. This application (s73) seeks permission for the Variation of Condition 2 to amend the wording to the following:
- 2.5. 'The 2no temporary classroom structures (nos. 40-72 and 47 shown on the site plan 957.18.51 Rev.D) shall be removed from the site within 3 months of the commencement of the use of the STEM building hereby approved and the land returned to its former condition within 2 months of removal'.
- 2.6. Essentially the application seeks to remove temporary classroom no. 47 (which is in poor condition) instead of classroom no. 48-50, for logistical reasons and due to the superior condition of classroom 48-50. Furthermore it is requested that the timeframe to remove the temporary classrooms is amended to 'within 3 month of commencement of the use of the STEM building' (rather than 'within 18 months of the date of this permission or within 3 month of commencement of the use of the STEM building', whichever is soonest).

## 3. RELEVANT HISTORY

- 3.1. There is an extensive planning history for additional and replacement college buildings and alterations on the site. Of greatest relevance are the following:
- 3.2. **BH2020/00299** Application for approval of details reserved by condition 10 (submission of Travel Plan) of application BH2018/02404. Under consideration.

- 3.3. **BH2019/01385** Retention of existing 8no temporary classrooms for a further temporary period of five years. Approved 19/07/2019.
- 3.4. **BH2019/00558** Application for Approval of Details reserved by condition 5 of application BH2018/02404. Approved 14/03/2019.
- 3.5. **BH2018/02404** Relocation of 2no modular classroom blocks and erection of a two storey Science, Technology, Engineering and Mathematics (STEM) centre with associated cycle parking and landscaping alterations (retrospective). Approved 17/01/2019

#### 4. REPRESENTATIONS

- 4.1. **Eighteen (18)** letters have been received objecting to the proposed development for the following reasons:
- Impact on open space
  - Larger hut should be removed
  - Hut is unsightly
  - Impact on view
  - Lack of forward planning
  - Lack of justification for amendment
  - Overdevelopment
  - Overshadowing
  - All huts should be removed
  - College has history of trying to circumvent planning system

#### 5. CONSULTATIONS

- 5.1. **Ecology:** No objection  
The proposed variation can be supported from an ecological perspective.
- 5.2. **Sport England:** No objection  
Since Sport England raised no objection to the original application and did not request any conditions be attached, there is no objection to the variation now sought.
- 5.3. **Sustainable Transport:** No objection  
There is not forecast to be a significant increase in vehicle trip generation as a result of the proposed variation, therefore any impact on carriageways will be minimal.
- 5.4. **Planning Policy:** No comments

#### 6. MATERIAL CONSIDERATIONS

- 6.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 6.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016)
  - Brighton & Hove Local Plan 2005 (retained policies March 2016);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
  - Shoreham Harbour JAAP (adopted October 2019).
- 6.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

## 7. POLICIES

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part Two

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications but any greater weight to be given to individual policies will need to await the outcome of the Regulation 19 consultation. The council will consider the best time to carry out the consultation after the coronavirus (Covid-19) restrictions are lifted.

#### Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP7	Infrastructure and developer contributions
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP11	Flood risk
CP12	Urban design
CP16	Open space
CP17	Sports Provision
SA6	Sustainable Neighbourhoods

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

TR4	Travel plans
TR7	Safe Development
TR14	Cycle access and parking
SU9	Pollution and nuisance control

SU10	Noise Nuisance
HO19	New community facilities
QD15	Landscape design
QD18	Species protection
QD27	Protection of amenity
SR17	Smaller scale sporting and recreational facilities

Supplementary Planning Documents:

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

## **8. CONSIDERATIONS & ASSESSMENT**

- 8.1. Planning permission is sought under Section 73 of The Town and Country Planning Act to vary the wording of condition 2 of application BH2018/02404.
- 8.2. The merits of the scheme as a whole have been substantially discussed as part of the preceding application. The principal of the development of the STEM building was justified, given the limited size and nature of the open space that would be lost, the current use by temporary classrooms, and the improvement of education facilities on site, which would be of citywide benefit. The design and visual impact, impact on the amenities of adjacent occupiers, highways, ecology and sustainability issues were found to be acceptable.
- 8.3. The quantum, siting and scale of the development as a whole would not be significantly altered. The assessment of this application will therefore relate to those aspects of the current scheme that differ from the previous application.
- 8.4. The considerations in the determination of this application therefore relate to the impact of the removal of temporary classroom no. 47 instead of classroom no. 48-50, and the amended timescales for said removal.

### **Timescales:**

- 8.5. The wording of the condition currently requires the temporary buildings to be removed within 18 months of the date of the permission or within 3 months of commencement of use of the STEM building, whichever is soonest. The STEM building is now in situ, however with regard to the COVID-19 situation, the College is presently shut to most pupils. The use of the STEM building is therefore unlikely to commence on schedule and removal of the temporary classrooms would be challenging to remove prior to the 18 month deadline (17 July 2020).
- 8.6. The proposal to amend the the wording of conditon 2 to read 'within 3 months of commencement of the use of the STEM building' to allow the College more time to remove the temporary classroom buildings is considered reasonable and justifiable in the current cirumstances.

### **Design and Appearance:**

- 8.7. Given the siting, complementary design and materials and the provision of enhanced education facilities, the overall visual impact of the STEM building was considered to be acceptable. The approved scheme includes the removal of temporary classrooms 40-72 and 48-50.
- 8.8. The current application states that, following a review of the temporary structures, classroom 47 is suffering from subsidence and will be unfit for student use in the near future. Classroom 48-50 is in better condition than the other temporary classrooms on site and is more efficient in terms of flexible teaching space, general maintenance and energy efficiency. In addition, the main power supply for the entire cluster of temporary classrooms runs through classroom 48-50, thereby making its removal logistically challenging. It is therefore intended to remove classroom 47 instead.
- 8.9. It is acknowledged that the array of temporary classrooms does not make a positive contribution to the visual quality of the environment. It is also recognised that classroom 47 (73m<sup>2</sup>) has a substantially smaller footprint than classroom 48-50 (180m<sup>2</sup>).
- 8.10. However, given the design, scale and massing of the approved scheme as a whole and taking account of the challenging logistics and the superior condition of classroom 48-50, it is considered that the amendment is relatively minor in nature and the development as a whole would remain appropriate to the character of the area.
- 8.11. It should also be noted that, and although there is no firm timetable in place, the STEM building represents the first phase in the delivery of wider masterplan for the site to provide permanent teaching accommodation. This would eventually enable the removal of the existing cluster of temporary classrooms and could potentially release the central area of land back to into open recreation space use in the longer term, leading to an improved visual appearance.

**Impact on Amenity:**

- 8.12. Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 8.13. The approved scheme was not considered have a detrimental impact on the amenity of adjacent properties, given the distances involved. The proposed removal of classroom no. 47 instead of the adjacent classroom no. 48-50, both of which are set into the slope in the centre of the site, would have no material impact on adjacent properties in terms of residential amenity.

**Sustainable Transport:**

- 8.14. There is not forecast to be an increase in vehicle trip generation as a result of this variation and therefore any impact on carriageways would be minimal and

within their capacity. The Council's Highways officer has no objection to the scheme.

**Other considerations:**

- 8.15. The County Ecologist has confirmed that the amendment is unlikely to have any significant impacts on biodiversity and can be supported from an ecological perspective.

**Section 106**

- 8.16. The previous application was subject to a Section 106 agreement to secure a:
- Contribution of £19,522 to improve sustainable transport infrastructure in the vicinity of the development, in particular pedestrian footway and crossing improvement and improvements to local bus stops.
- 8.17. The obligations in the agreement remain in full force and effect so far as this Section 73 consent is concerned. The £19,522 Sustainable Transport contribution payment has been received. Therefore, the obligation under Schedule 1.2 of Section 106 Agreement has been met and discharged.

**9. EQUALITIES**

- 9.1. The approved scheme provides the following: level access to the building; eastern emergency escape route for level egress from the building for wheelchair users; new and upgraded pedestrian pathways for inclusive access to the new building from the wider college complex; accessible classroom designed for wheelchair use.

# **ITEM D**

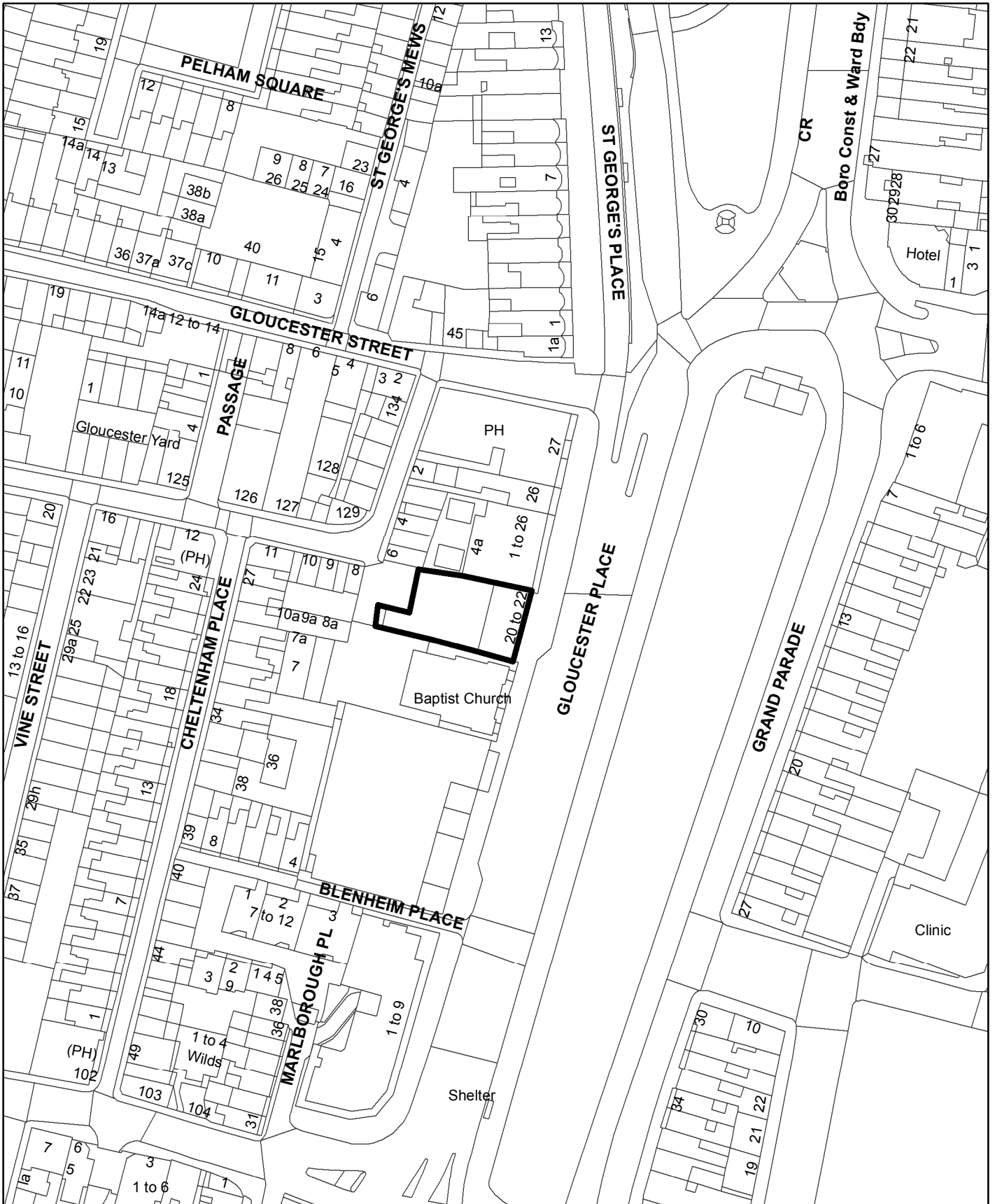
**20-22 Gloucester Place  
BH2020/00699  
Full Planning**

**DATE OF COMMITTEE: 10<sup>th</sup> June 2020**





# BH2020 00699 - 20-22 Gloucester Place



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Scale: 1:1,250

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<b><u>No:</u></b>	<b>BH2020/00699</b>	<b><u>Ward:</u></b>	<b>St. Peter's And North Laine Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>20 - 22 Gloucester Place Brighton BN1 4AA</b>		
<b><u>Proposal:</u></b>	<b>Erection of two storey extension to the roof to form 4no additional dwelling units and associated works.</b>		
<b><u>Officer:</u></b>	Sonia Gillam, tel: 292265	<b><u>Valid Date:</u></b>	10.03.2020
<b><u>Con Area:</u></b>	Valley Gardens	<b><u>Expiry Date:</u></b>	05.05.2020
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	24.06.2020
<b><u>Agent:</u></b>	Turner Associates 19A Wilbury Avenue Hove BN3 6HS		
<b><u>Applicant:</u></b>	Ammar Investments C/O Turner Associates Ltd 19A Wilbury Avenue Hove BN3 6HS		

## 1. RECOMMENDATION

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

Conditions:

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

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Proposed Drawing	TA 1255/20	A	20 April 2020
Proposed Drawing	TA 1255/21		2 March 2020
Proposed Drawing	TA 1255/23		2 March 2020
Proposed Drawing	TA 1255/24		2 March 2020
Proposed Drawing	TA 1255/25	A	20 April 2020
Proposed Drawing	TA 1255/26	A	20 April 2020
Proposed Drawing	TA 1255/27	A	20 April 2020
Proposed Drawing	TA 1255/28	A	20 April 2020
Proposed Drawing	TA 1255/29	A	20 April 2020
Proposed Drawing	TA 1255/30	A	20 April 2020
Proposed Drawing	TA 1255/33		2 March 2020
Location and block plan	TA 1255/01		2 March 2020
Proposed Drawing	TA 1255/31	A	20 April 2020

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

**Reason:** To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

3. The vehicle parking area shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles and motorcycles belonging to the occupants of and visitors to the development hereby approved and shall be maintained so as to ensure their availability for such use at all times.  
**Reason:** To ensure that adequate parking provision is retained and to comply with policy CP9 of the Brighton & Hove City Plan Part One and SPD14: Parking Standards.
4. A bee brick shall be incorporated within the external wall of the development hereby approved and shall be retained thereafter.  
**Reason:** To enhance the biodiversity of the site and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
5. No development hereby permitted shall take place until details of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):
  - a) details of all brick, render and tiling (including details of the colour of render/paintwork to be used)
  - b) details of all cladding to be used, including details of their treatment to protect against weathering
  - c) details of the proposed window, door and balcony treatments
  - d) details of all other materials to be used externallyDevelopment shall be carried out in accordance with the approved details.  
**Reason:** To ensure a satisfactory appearance to the development and to comply with policies QD14 and HE6 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton & Hove City Plan Part One.
6. No development shall take place until full details of all new windows including 1:20 scale elevational drawings and sections have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out and completed fully in accordance with the approved details and shall be 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 and CP15 of the Brighton & Hove City Plan Part One.
7. The development hereby permitted shall not be occupied until details of secure cycle parking facilities for the occupants of, and visitors to, the development have been submitted to and approved in writing by the Local Planning Authority. In addition to the cycle parking details this must include details of pedestrian access to the building and measures to protect the proposed visitor cycle parking from obstruction and conflict with other vehicles. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.

**Reason:** To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan and SPD14: Parking Standards.

8. Notwithstanding the plans submitted, the development hereby permitted shall not be first occupied until revised details of disabled car parking provision for the occupants of, and visitors to, the development has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.

**Reason:** To ensure the development provides for the needs of disabled staff and visitors to the site and to comply with policy TR18 of the Brighton & Hove Local Plan and SPD14: Parking Standards.

9. None of the residential units hereby approved shall be occupied until each residential unit built has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).

**Reason:** To ensure that the development is sustainable and makes efficient use of energy to comply with policy CP8 of the Brighton & Hove City Plan Part One.

10. None of the residential units hereby approved shall be occupied until each residential unit built has achieved as a minimum, a water efficiency standard of not more than 110 litres per person per day maximum indoor water consumption.

**Reason:** To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton & Hove City Plan Part One.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.
3. The applicant is advised that accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see Gov.uk website); two bodies currently operate in England: National Energy Services Ltd; and Northgate Public Services. The production of this information is a requirement under Part L1A 2013, paragraph 2.13.
4. The water efficiency standard is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are

installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.

## 2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. Lombard House at 20-22 Gloucester Place is an early 1960s office block (now in part residential use) over 4 storeys above ground level, plus basement. The ground and lower ground floor are commercial premises, with 2 no. first floor flats and 3 no. second and third floor maisonettes, served by a communal stair accessed from the main ground floor entrance to the northeast corner of the building. To the rear of the site is a sloping driveway down to a private parking area accommodating up to 5 vehicles.
- 2.2. Immediately adjacent to the south is the locally listed 1903 Baptist Church, in knapped flint with red brick and terracotta dressings. To the north is the grade II listed number 26 Gloucester Place, an early 19th century house re-fronted in the mid-9th century, with a tented canopy over cast iron balcony and cast-iron front railings.
- 2.3. The site is in the Valley Gardens Conservation Area which is characterised by mostly grand Regency and Victorian terraces fronting onto a series of public gardens running north to south. The site also backs onto the North Laine Conservation Area.
- 2.4. The application seeks permission for the erection of a two-storey extension to the roof to form an additional 4no dwelling units (1x 2 bed flat, 1x 1 bed and 2x studio) and associated works. Amendments have been received during the life of the application to address Heritage advice that the proposed fifth floor should be contemporary in design and should have a more lightweight appearance. Additionally, 2no. proposed small one-bed flats have been amended to open plan studio flats.

## 3. RELEVANT HISTORY

- 3.1. Council Tax records show that the 3 no. second and third floor maisonettes have been in use as such since 1993. The first floor has been in residential use (2 no. one bed flats) since 2013, although there does not appear to be planning permission for the change.
- 3.2. **BH2013/00338** Change of use at ground floor and lower ground floor levels from financial services office (A2) to cafe/restaurant (A3) with associated external alterations including extract duct to rear and new sliding doors to front elevation. Application returned.

- 3.3. **BH2013/00338** Change of use at ground floor and lower ground floor levels from financial services office (A2) to cafe/restaurant (A3) with associated external alterations including extract duct to rear and new sliding doors to front elevation. Withdrawn.
- 3.4. **BH2012/03629** Demolition of 3no garages to rear (retrospective). Approved 21.01.2013
- 3.5. **BH2012/03093** Change of use of first floor office to 2no one bedroom flats and 1no studio flat with associated alterations including replacement of existing windows to first, second and third floors to front elevation and first floor to rear elevation. Refused 11.12.2012.
- 3.6. **BH2012/03092** Change of use at ground floor and lower ground floor levels from financial services office (A2) to café/restaurant (A3) with associated external alterations including extraction duct to rear and new sliding doors to front elevation. Refused 21.01.2013.
- 3.7. **BH1997/00371/FP** Change of use from B1 office to D2 place of worship. Withdrawn

#### 4. REPRESENTATIONS

None

#### 5. CONSULTATIONS

##### 5.1. Heritage:

*Comments 15 April 2020* No objection subject to condition relating to materials and finishes, including colour, and 1:20 scale window details. The proposal would better reflect both the historic and current rhythm of this group/terrace of buildings. The resulting building would not cause any harm to the setting of the locally listed Baptist Church and would have little impact on the setting of the listed building at number 26. The fifth floor should be contemporary in design to reflect the building below and should have a more lightweight appearance. It should have a flat - not sloped - frontage and be set back on the upper line of the roof as drawn on the south elevation.

5.2. *Amendments received 23 April 2020:* The design would achieve a more appropriate, contemporary design appearance. The visual heaviness of this storey could be mitigated by choice of a lighter colour cladding material.

5.3. **Sustainable Transport:** No objection subject to conditions relating to the retention of the parking area, cycle and disabled parking provision

##### 5.4. CAG: Objection

The proposal does not enhance this important streetscape or view from Valley Gardens CA and will dwarf the important Baptist Church to the immediate south. The increased height will visually jar the eye when looking from

Gloucester Road. CAG calls the application to be heard by the Planning Committee.

## **6. MATERIAL CONSIDERATIONS**

- 6.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 6.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016)
  - Brighton & Hove Local Plan 2005 (retained policies March 2016);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
  - Shoreham Harbour JAAP (adopted October 2019).
- 6.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

## **7. POLICIES**

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part Two

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications but any greater weight to be given to individual policies will need to await the outcome of the Regulation 19 consultation. The council will consider the best time to carry out the consultation after the coronavirus (Covid-19) restrictions are lifted.

#### Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP2	Sustainable economic development
CP3	Employment land
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP12	Urban design
CP13	Public streets and spaces
CP14	Housing density



CP15	Heritage
CP19	Housing mix

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

TR4	Travel plans
TR7	Safe Development
TR14	Cycle access and parking
SU9	Pollution and nuisance control
SU10	Noise Nuisance
QD5	Design - street frontages
QD14	Extensions and alterations
QD27	Protection of amenity
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes
HE3	Development affecting the setting of a listed building
HE6	Development within or affecting the setting of conservation areas
HE10	Buildings of local interest

Supplementary Planning Documents:

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

## **8. CONSIDERATIONS & ASSESSMENT**

- 8.1. The main considerations in the determination of this application relate to principle of the development, the impact on the character and appearance of the streetscene, conservation area and on the setting of nearby listed buildings, neighbour amenity, highways and sustainability issues.
- 8.2. The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually.
- 8.3. The council's most recent housing land supply position published in the SHLAA Update 2019 shows a five year housing supply shortfall of 1,200 (equivalent to 4.0 years of housing supply). As the council is currently unable to demonstrate a five year housing land supply, increased weight should be given to housing delivery when considering the planning balance in the determination of planning applications, in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).

**Planning Policy:**

- 8.4. The provision of 4 no. residential units on the site would make a small, but positive, contribution towards meeting the City's housing target for a minimum 13,200 dwellings for the plan period as set out in City Plan Policy CP1.

- 8.5. Policy CP19 of the City Plan requires that proposals have regard to housing mix considerations and have been informed by local assessments of housing demand and need. Usually a mix of unit sizes would be sought which reflects the housing needs of the city. The proposal provides 4 new units comprising of 1 no. one bed dwelling, 1 no. two bed dwelling and 2 no. studios. Whilst the proposed housing mix provided is limited, given the restrictions of the application site in terms of amount of extra development the site can contain whilst ensuring that the character and appearance of the Conservation Area is preserved, it is considered that the proposed housing mix in this instance is acceptable.

**Design and Appearance:**

- 8.6. When considering whether to grant planning permission for development in a conservation area the council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. Likewise, in considering whether to grant planning permission which affects a listed building or its setting, the Council has a statutory duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Case law has held that the desirability of preserving the character or appearance of a conservation area or listed building and/ or its setting must be given "considerable importance and weight".
- 8.7. Lombard House at 20-22 Gloucester Place is an unattractive early 1960s office block (now in part residential use) over 4 storeys which was identified in the Valley Gardens Conservation Area Study and Enhancement Plan as detracting from the appearance and character of the conservation area due, in particular, to its undue horizontal emphasis.
- 8.8. The proposed additional storeys would enable the redesign of the front elevation to provide a more vertical proportion, with divisions to form four 'bays' and more consistent fenestration. It is considered that this would better reflect both the historic and current rhythm of the group of buildings. Following comments from the Council's Heritage officer the proposed top storey has been amended from a sloping to a flat frontage and is set back on the upper line of the roof. This fits in with the character and appearance of neighbouring properties, some of which have similar inset top storeys.
- 8.9. It is acknowledged that the resulting building would exceed the height of the locally listed Baptist Church, however it is not considered that this would cause any harm to its setting. The Church is modest, has never been a landmark building and its setting in this respect does not contribute greatly to its significance. Gloucester Place has been much more significantly redeveloped in the 20th century than other frontages in the area, with buildings of generally larger scale; therefore, the historic setting of the Church has already been significantly altered. Furthermore, it is considered that the change in scale of the application site would provide a greater contrast that would emphasise the qualities of the Church.

- 8.10. The proposal would have little impact on the setting of the listed building at number 26. From Gloucester Road in the North Laine the additional scale, where glimpsed, would cause no significant harm.
- 8.11. The concerns of the Conservation Advisory Group (CAG) with regard to the impact of the proposal on the streetscape, the Valley Gardens Conservation Area and the Baptist Church are noted. However, the Council's Heritage officer does not object to the scheme for the reasons outlined above which provide, subject to conditions relating to materials, finishes and colour, persuasive arguments in support of the design approach.
- 8.12. It should also be noted that although CAG state that the Baptist Church is a Grade II listed building, this is incorrect - the Church is, in fact, a locally listed heritage asset.
- 8.13. Overall, for the reasons outlined above, it is considered that the proposal would cause no harm to the building, surrounding streetscape or conservation area, and would not detrimentally impact on the setting of nearby listed buildings.

**Standard of accommodation:**

- 8.14. Policy QD27 seeks to ensure a good standard of amenity for future occupiers of the proposed development and this requirement is one of the core planning principles of the NPPF (para 17).
- 8.15. The government has published room and unit sizes which are considered to represent the minimum acceptable size for rooms and units, in the form of the 'Technical housing standards - nationally described space standard', March 2015. These standards are proposed to be adopted in the Brighton and Hove City Plan Part Two and so can be considered the direction of travel with regard to standard of accommodation. They provide a useful reference point in assessing standard of accommodation for dwellings size and no. of occupants. Rooms and units which would provide cramped accommodation and sub-standard levels of amenity often fall below the minimum acceptable sizes set out by Government.
- 8.16. Proposed Flat 5 on the fourth floor would have two bedrooms and at 62m<sup>2</sup> complies with the Government space standards for a two bed, 3 person flat (61m<sup>2</sup>). Proposed Flat 7 on the fifth floor would have one bedroom and, at 50m<sup>2</sup>, with a double bedroom, also complies with the Government space standards for a one bed, 2 person flat (50m<sup>2</sup>). The 2 no. studios (nos. 4 and 6) would measure 39m<sup>2</sup> and, again, are in line with Government guidance for a single person dwelling (39m<sup>2</sup>). All units would benefit from good levels of light, outlook and circulation space.
- 8.17. There is one balcony on each floor, each shared between two of the proposed units. It is recognised that this is not fully private outdoor space and is therefore not ideal; however, the constraints of the site are recognised. Additionally, the site is in a central area within the city, easily accessible to public amenity spaces.

- 8.18. The new units would share the existing on-site communal refuse and recycling facilities which is considered to be acceptable.

**Impact on Amenity:**

- 8.19. Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 8.20. The property is adjoined by a Church building immediately to the south. To the rear, the car park is enclosed by the blank flank wall of the six-storey property immediately to the north. The predominantly east-west aspect of the proposed fenestration would not cause significant overlooking, given the orientation of the site in relation to its immediate neighbours and, moreover, the distances involved to the nearest residential properties to the east (in excess of 30m) and west (some 70m). Likewise, the increased height and bulk would cause no harmful overshadowing or overbearing impact on neighbours.
- 8.21. Overall there would be no significant impacts on adjoining occupiers in terms of loss of privacy, light and outlook.

**Sustainable Transport:**

- 8.22. The proposal would increase the number of trips to the site, however the impact is not likely to be significant enough to warrant refusal of the application.
- 8.23. The proposed cycle parking provision (12 spaces) is welcomed subject to further details of the spacing, stands and shelter design. This can be secured by condition.
- 8.24. The applicant is proposing 5 standard parking spaces and 2 disabled parking spaces for the site which is deemed acceptable and is in line with the City Council's maximum Parking Standards SPD14.
- 8.25. However, the Council's Highways Officer has noted that the disabled parking bays are not designed as per government guidance (TAL 05/95, Manual for Streets, Inclusive mobility) or BS8300. All disabled bays must have 1.2m hatched areas on both sides of the spaces. It is therefore requested that the parking area is amended to accommodate this. Again, this can be secured by condition.

**Sustainability:**

- 8.26. Policy CP8 requires new residential development to achieve 19% above Part L for energy efficiency, and to meet the optional standard for water consumption. This can be secured by condition.
- 8.27. Since November 2019 the Council has adopted the practice of securing minor design alterations to schemes with the aim of encouraging the biodiversity of a site. A condition requiring a bee brick has been attached to improve ecology

outcomes on the site in accordance with the Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

## **9. EQUALITIES**

- 9.1. The requirement to meet Lifetime Homes has now been superseded by the accessibility and wheelchair housing standards within the national Optional Technical Standards. Step-free access to the (new-build) dwellings is not achievable as they would be located on upper floors without lift access. 2 no. disabled parking spaces are proposed.



# **ITEM E**

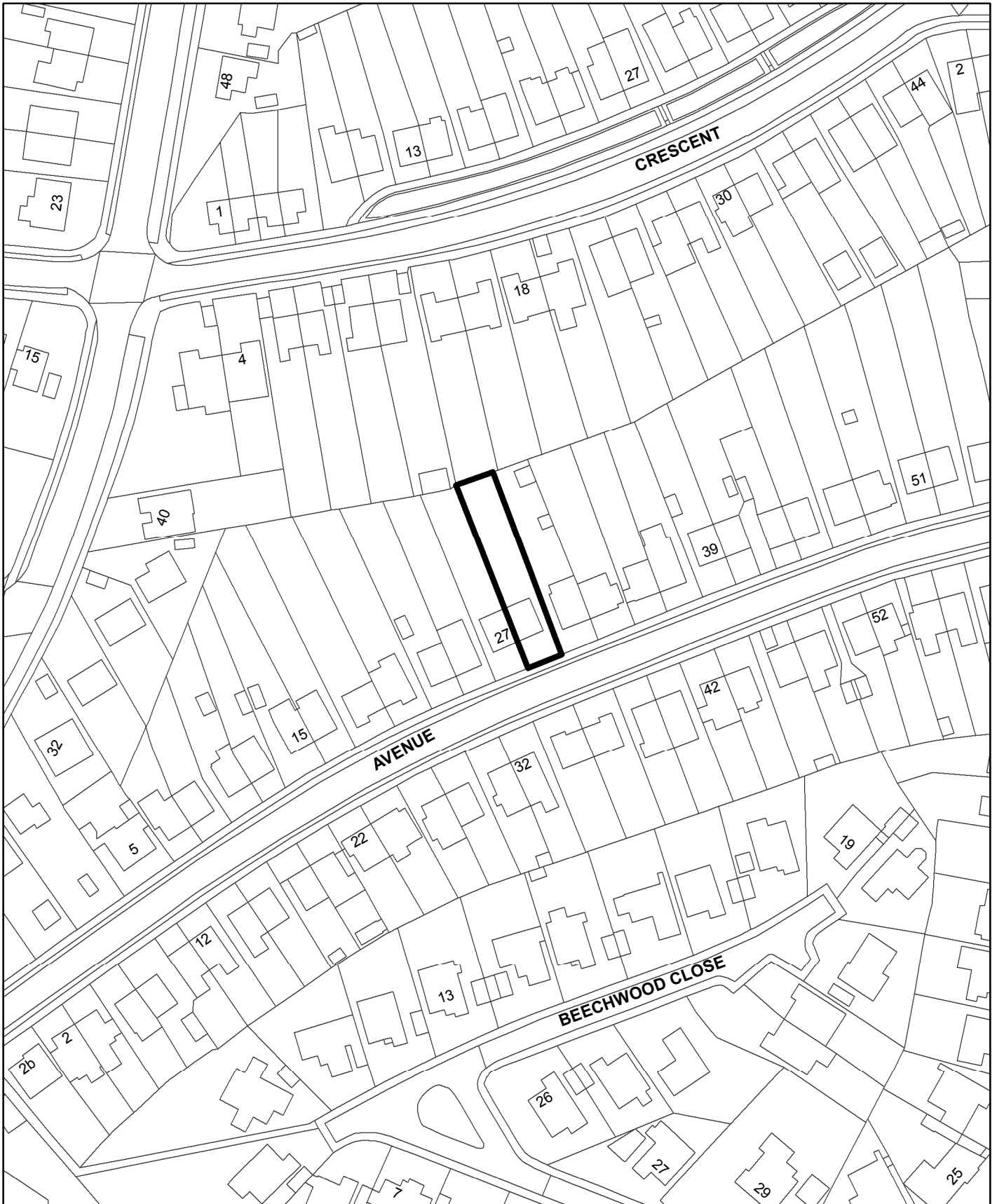
**29 Woodbourne Avenue  
BH2020/00187  
Removal or Variation of Condition**

**DATE OF COMMITTEE: 10<sup>th</sup> June 2020**





# BH2020 00187 - 29 Woodbourne Avenue



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**Scale: 1:1,250**

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<b><u>No:</u></b>	<b>BH2020/00187</b>	<b><u>Ward:</u></b>	<b>Patcham Ward</b>
<b><u>App Type:</u></b>	<b>Removal or Variation of Condition</b>		
<b><u>Address:</u></b>	<b>29 Woodbourne Avenue Brighton BN1 8EQ</b>		
<b><u>Proposal:</u></b>	<b>Variation of condition 2 of application BH2018/03661 (Retrospective consent for rear dormer extension) to remove requirement to replace cladding with tile hanging to the side gable.</b>		
<b><u>Officer:</u></b>	Nicola Van Wunnik, tel: 294251	<b><u>Valid Date:</u></b>	20.01.2020
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	16.03.2020
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Absolute Town Planning Ltd C/o Parkers At Cornelius House 178-180 Church Road Hove BN3 2DJ East Sussex		
<b><u>Applicant:</u></b>	Elizabet Holstad 29 Woodbourne Avenue Brighton BN1 8EQ		

## 1. RECOMMENDATION

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

1. The retention of cladding to the side gable would appear incongruous and unsympathetic and relates poorly to the tiled roof of the main dwelling, causing harm to the appearance of the host property and wider area contrary to policy QD14 of the Brighton and Hove Local Plan and CP12 of the Brighton and Hove City Plan Part One.

### Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. This decision is based on the drawings received listed below:

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Report/Statement			20 January 2020
Proposed Drawing	14071-P-102		27 November 2018
Location and block plan	14071-P-001		20 January 2020

## 2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The application site relates to a semi-detached bungalow on the northern side of Woodbourne Avenue. This application seeks to vary condition 2 of application BH2018/03661 to retain the existing cladding to the side gable.

### 3. RELEVANT HISTORY

- 3.1. **BH2018/03661** - Retrospective consent for rear dormer extension. Approved 25/06/2019
- 3.2. **BH2018/02640** - Reduction of existing rear roof terrace and retrospective consent for lower ground floor rear extension. Approved 01/11/2018
- 3.3. **Enforcement Notice** Issued 02/07/2018  
The notice took effect 06/08/2018 and the period for compliance with the requirements of the notice was 5 months i.e. 06/01/2019
- 3.4. **BH2018/00388** - Replacement of existing flat roof terrace incorporating balustrading and privacy screen. (Retrospective) Refused 27/04/2018
- 3.5. **BH2015/00548** - Prior approval for the erection of a single storey rear extension, which would extend beyond the rear wall of the original house by 4m, for which the maximum height would be 3.5m, and for which the height of the eaves would be 3m. Prior approval not required 02/04/2015

### 4. REPRESENTATIONS

- 4.1. **Councillor Wares** supports the proposal, a copy of the correspondence is attached to the report.

### 5. CONSULTATIONS

None

### 6. MATERIAL CONSIDERATIONS

- 6.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 6.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016)
  - Brighton & Hove Local Plan 2005 (retained policies March 2016);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);

- East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
- Shoreham Harbour Joint Area Action Plan (adopted October 2019)

6.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

## 7. POLICIES

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part Two

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications but any greater weight to be given to individual policies will need to await the outcome of the Regulation 19 consultation. The council will consider the best time to carry out the consultation after the coronavirus (Covid-19) restrictions are lifted.

#### Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development  
CP12 Urban design

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

QD14 Extensions and alterations  
QD27 Protection of amenity

#### Supplementary Planning Documents:

SPD12 Design Guide for Extensions and Alterations

## 8. CONSIDERATIONS & ASSESSMENT

8.1. The main considerations in the determination of this application relate to the impact of the retention of the cladding to the side gable on the host dwelling and wider streetscene.

#### Planning History

8.2. The application site has some considerable planning history which is briefly described as follows.

8.3. BH2015/00548 - Prior approval application for a larger ground floor rear extension (to extend beyond the rear wall of the original house by 4m, for which the maximum height would be 3.5m, and for which the height of the eaves would be 3m).

- 8.4. Works were undertaken to the property and a rear extension and loft conversion were carried out with a completion notice issued by the Building Control 13th November 2017.
- 8.5. It was established through a planning enforcement investigation that the works carried out to the property were not undertaken in accordance with the plans submitted under BH2015/00548. Whilst the intention may have been to construct the alterations in accordance with "permitted development" the alterations as carried out were not in accordance with the Town and Country Planning (General Permitted Development) Order 2015 (as amended) and therefore required planning permission.
- 8.6. Application BH2018/00388 was submitted which sought permission only for the rear terrace and not for the rear extension on which the terrace was created. This application was refused on 27th April 2018 due to concerns about size of the terrace and consequential overlooking of neighbouring properties.
- 8.7. A Planning Enforcement Notice was issued on the 2nd July 2018 and required that the roof extensions and first floor rear roof terrace were removed from the property within five months and full compliance with the notice was required on the 6th January 2019.
- 8.8. Application BH2018/02640 sought consent for the "reduction of existing rear roof terrace and retrospective consent for lower ground floor rear extension" and was approved on 1st November 2018.
- 8.9. Application BH2018/03661 was submitted in November 2018 to regularise the works undertaken to the roof-space, which included a hip to gable extension and rear dormer. These works were granted approval in June 2019.
- Variation of Condition 2
- 8.10. Application BH2018/03661 proposed the cladding that was in situ would be removed and the dormer and side gable would be tile clad to match the existing roofscape. This was secured through condition 2 which stated:  
*Within three months of the date of this permission the side gable and rear dormer of the development hereby approved shall be re-clad in tile hanging to match the roof of principle the existing dwelling.*  
*Reason: To ensure a satisfactory appearance to the development in the interests of the visual amenities of the area and to comply with policies QD14 of the Brighton and Hove Local Plan and CP12 of the Brighton and Hove City Plan Part One.*
- 8.11. The replacement of the cladding with tile hanging (in conjunction with the other modifications proposed) was considered fundamental to the acceptability of the scheme approved under BH2018/03661 and the retention of cladding to the side gable represents a reversion to a design that was not previously considered acceptable. The purpose of application BH2018/03661 was to regularise the works that had been undertaken to the roofspace of the property that could not be considered to be 'permitted development' due the alterations failing to accord with the Town and Country Planning (General Permitted

Development) Order 2015 (as amended) and were therefore unauthorised. The replacement of the side and rear cladding, which does not match the existing roof tiles, formed part of the regularisation works. Had the earlier application not shown the replacement of the cladding with tile hanging then the earlier application would have been refused. It has been suggested that the works which forms part of this application are nearly permitted development and should therefore be accepted, however, the works are not permitted development.

- 8.12. The covering letter submitted with the application refers to similar alterations that have been carried out to number 61 Woodbourne Avenue. Whilst Building Control records show completion of a roof conversion at this property, incorporating a hip to gable and rear dormer extension, in August 2017, no planning permission for the works at this property have been identified and therefore appear to be unauthorised. It is noted that the Building Control drawings show the dormer and side gable to be finished in hanging tile however this is not what has been undertaken on site. In order for such works to accord with 'permitted development' as set out in Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse, this does to appear to be the case at no. 61 and as such the completed works are considered to be unauthorised. An enforcement investigation has been opened regarding these unauthorised works.
- 8.13. The street is set on a slope that rises from west to east and due to the topography of the site, the property is at a lower level than the road. The result of this is that the side gable can be clearly seen from the public domain. The use of cladding is a marked contrast to not only the traditional roof tiles but also the traditional appearance of the bungalow. Although there may be examples of cladding within the streetscene, this is not accepted as an established precedent along the street.
- 8.14. Paragraph 130 of the NPPF sets out the approach which should be followed by Local Planning Authorities when considering design matters in planning applications. Of relevance to this current application, that section states that LPA's should ensure that the 'quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme'. For the reasons set out above, it is the view of the LPA that the design proposed under this application would diminish the appearance of the scheme compared to the approved design, and is therefore not supported.
- 8.15. The retention of cladding to the side gable would appear incongruous and unsympathetic and relates poorly to the tiled roof of the main dwelling, causing harm to the appearance of the host property and wider area contrary to policy QD14 of the Brighton and Hove Local Plan and CP12 of the Brighton and Hove City Plan Part One

#### Impact on Amenity

- 8.16. Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 8.17. It is not considered that the proposed variation would result in any significant impact on the amenity of neighbours by any means.

**9. EQUALITIES**  
None identified



**Cllr. Lee Wares**  
**BH2020/00187 – 29 Woodbourne Avenue**

**13th February 2020:**

Please accept this letter as my SUPPORT of the above application.

I have been aware of the historic situation relating to this property and note that in response to the original enforcement notice issued by the Local Planning Authority (LPA), the applicant has dealt with all the matters concerning the LPA except for the cladding to the gable and rear dormer.

The situation now present is that by virtue of the enforcement notice, the applicant appears “locked” into a scenario whereby the LPA could consider enforcement action to compel the applicant to remove the cladding and fit tiles.

However, if the issue and circumstances of the enforcement notice had not occurred Then the applicant most probably would have been able to clad the gable and rear dormer under permitted development.

Likewise, the use of cladding and the like is evident in the immediate area and in particular Woodbourne Avenue. The use of cladding on 29 Woodbourne Avenue would therefore appear consistent with other nearby developments and the street scene generally.

It would seem unreasonable for the LPA to invoke its powers under the enforcement notice to remove a material that would otherwise likely be permitted development that also features elsewhere in the immediate vicinity of the subject property. To that end I feel the applicant is acting responsibly in seeking to rectify the issues and I support their application to vary condition 2 that would also by nature of the application being granted, satisfy the enforcement notice.

Should the LPA consider refusing this application, I request that it is brought to Planning Committee for determination where I reserve my right to speak to my letter and the application.



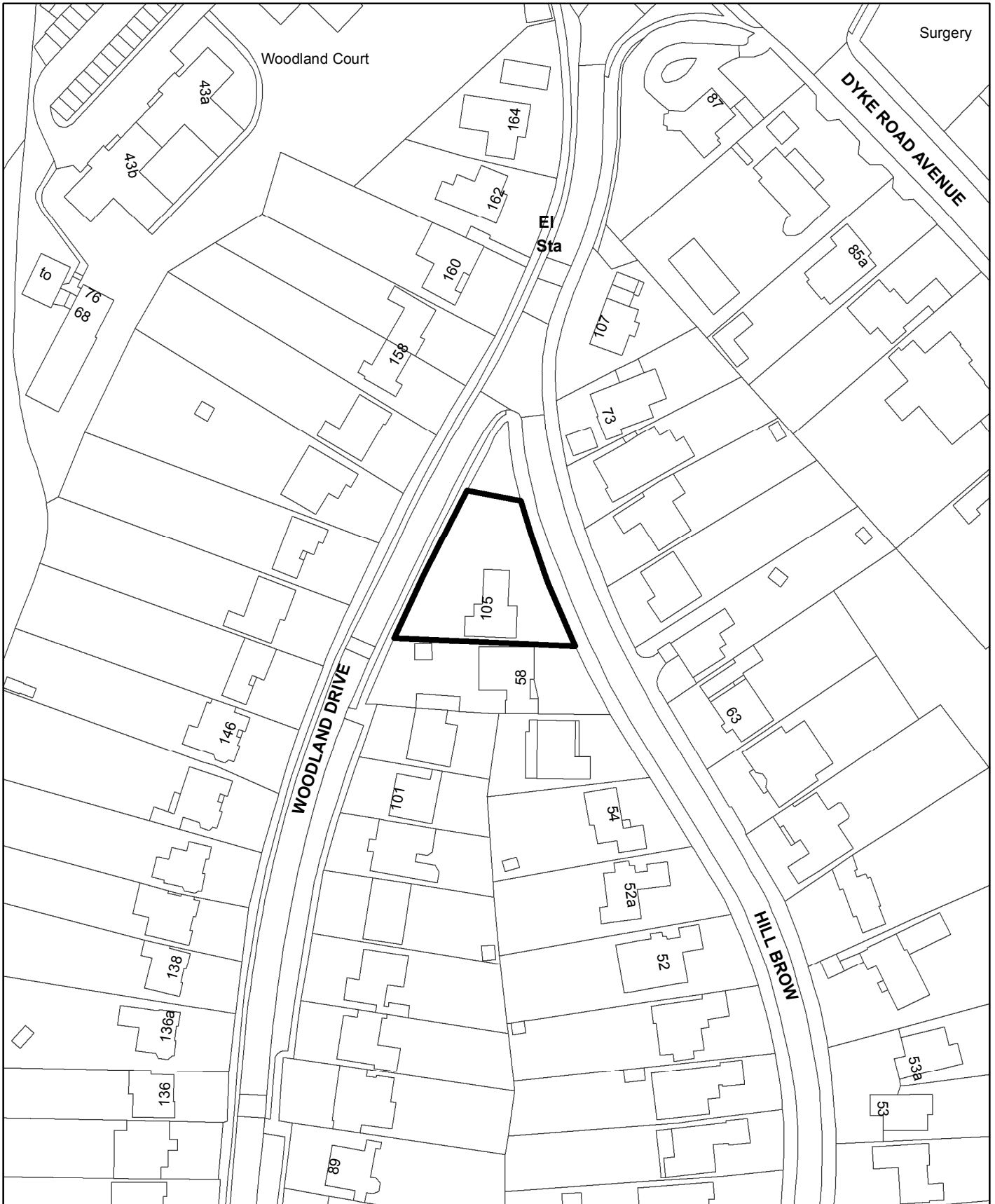
# **ITEM F**

**105 Woodland Drive  
BH2019/00694  
Full Planning**

**DATE OF COMMITTEE: 10<sup>th</sup> June 2020**



# BH2019 00694 - 105 Woodland Drive



N



**Scale:** 1:1,250

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<b><u>No:</u></b>	<b>BH2019/00694</b>	<b><u>Ward:</u></b>	<b>Hove Park Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>105 Woodland Drive Hove BN3 6DF</b>		
<b><u>Proposal:</u></b>	<b>Erection of a three storey, 4no. bedroom house, incorporating the demolition of part of the existing double garage to provide a single garage for the existing house, revisions to boundary wall, parking and associated works</b>		
<b><u>Officer:</u></b>	Nick Salt, tel:	<b><u>Valid Date:</u></b>	12.03.2019
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	07.05.2019
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Liam Russell 24 Windlesham Road Brighton BN1 3AG		
<b><u>Applicant:</u></b>	David Hughes C/O Liam Russell Architects Ltd 24 Windlesham Road Brighton BN1 3AG		

## 1. RECOMMENDATION

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

### Conditions:

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

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Proposed Drawing	1581 - FE - 001	A	16 April 2020
Proposed Drawing	1581- FE - 002	A	16 April 2020
Proposed Drawing	1581 - FE - 003	A	16 April 2020
Proposed Drawing	1581 - FE - 004	A	22 April 2020
Proposed Drawing	1581 - FE - 005		22 April 2020
Proposed Drawing	1581- FE - 007		19 May 2020
Other	1581 - FE - 008		19 May 2020
Location and block plan	1581 - FE - 006		14 May 2020
Location and block plan	1581 - PA 001		8 March 2019

- 2 The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

**Reason:** To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

- 3 Notwithstanding the elevational drawings submitted, no development above ground floor slab level of any part of the development hereby permitted shall take place until samples of all materials to be used in the construction of the

external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):

- a) samples of all brick, render and tiling (including details of the colour of render/paintwork to be used)
- b) samples of all cladding to be used, including details of their treatment to protect against weathering
- c) samples of all hard surfacing materials
- d) details of the proposed window, door and balcony treatments
- e) samples of all other materials to be used externally

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 HE6 of the Brighton & Hove Local Plan and policies CP12 and CP15 of the Brighton & Hove City Plan Part One.

- 4 The new/extended crossovers and accesses shall be constructed prior to the first occupation of the development hereby permitted.

**Reason:** In the interests of highway safety and to comply with policies TR7 of the Brighton & Hove Local Plan and SA6, CP7, CP9, CP12, CP13 and CP15 of the Brighton & Hove City Plan Part One.

- 5 The hard surface hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.

**Reason:** To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policies CP8 and CP11 of the Brighton and Hove City Plan Part One.

- 6 Prior to first occupation of the development hereby permitted, details of secure cycle parking facilities for the occupants of, and visitors to, the development shall have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.

**Reason:** To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan.

- 7 The vehicle parking areas shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles and motorcycles belonging to the occupants of and visitors to the development hereby approved.

**Reason:** To ensure that adequate parking provision is retained and to comply with policy CP9 of the Brighton & Hove City Plan Part One.

- 8 Prior to first occupation of the development hereby permitted, pedestrian crossing improvements (dropped kerbs with paving and tactile paving) shall have been installed at the junction of and across Hill Brow with Woodland Drive.

**Reason:** To ensure that suitable footway provision is provided to and from the development and to comply with policies TR7, TR11 and TR12 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One.



- 9 The development hereby approved shall not be occupied until refuse and recycling storage facilities have been installed to the side or rear of the building and made available for use. These facilities shall thereafter be retained for use at all times.  
**Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policy QD27 of the Brighton & Hove Local Plan, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.
- 10 No tree shown as retained on approved drawing 1581-FE-008 shall be cut down, uprooted, destroyed, or damaged in any manner during the development phase and thereafter within 5 years from the date of occupation of the building for its permitted use, other than in accordance with the approved plans and particulars or as may be permitted by prior approval in writing from the Local Planning Authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.  
**Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area, to provide ecological, environmental and bio-diversity benefits and to maximise the quality and usability of open spaces within the development in compliance with policies QD15 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.
- 11 Prior to occupation of the development hereby permitted, a scheme for landscaping shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping shall be implemented in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. The scheme shall include the following:
- a. details of all hard and soft surfacing to include type, position, design, dimensions and materials and any sustainable drainage system used;
  - b. a schedule detailing sizes and numbers/densities of all proposed trees/plants including details of tree pit design, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period;
  - c. details of all boundary treatments, including the boundary of the garden/patio above the double garage, to include type, position, design, dimensions and materials;
- Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.  
**Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD15 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.

- 12 None of the residential units hereby approved shall be occupied until each residential unit built has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).  
**Reason:** To ensure that the development is sustainable and makes efficient use of energy to comply with policy CP8 of the Brighton & Hove City Plan Part One.
- 13 None of the residential units hereby approved shall be occupied until each residential unit built has achieved as a minimum, a water efficiency standard of not more than 110 litres per person per day maximum indoor water consumption.  
**Reason:** To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton & Hove City Plan Part One.
- 14 The development hereby permitted shall not be occupied until the dwelling(s) hereby permitted have been completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) and shall be retained in compliance with such requirement thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.  
**Reason:** To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.
- 15 A bee brick shall be incorporated within the external wall of the development hereby approved and shall be retained thereafter.  
**Reason:** To enhance the biodiversity of the site and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
- 16 No extension, enlargement, alteration of the dwellinghouse(s) or provision of buildings etc incidental to the enjoyment of the dwellinghouse within the curtilage of the of the dwellinghouse(s) as provided for within Schedule 2, Part 1, Class[es A - E] of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.  
**Reason:** The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and to the character of the area and for this reason would wish to control any future development to comply with policies HE6 and QD27 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton & Hove City Plan Part One.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of

sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.

- 2 The applicant is advised that the extensive use of grey brick is not considered appropriate and as such the approval is based on an external finish incorporating brick with the colour yet to be confirmed. Condition 3 therefore requires a different brick sample to be provided as part of the subsequent approval of details application to the grey brick shown in the visuals submitted as part of this application.
- 3 The planning permission granted includes an obligation upon the applicant to carry out small scale footway improvements on the adopted (public) highway that is owned by the Highway Authority (in this case Brighton & Hove City Council). Previously the applicant would have been conditioned to enter into a bespoke legal agreement and pay a contribution towards these works being carried out for the benefit of the development but to amongst other reasons reduce the costs of these works for all parties concerned the council is now obligating the applicant to carry out these works. The applicant or their representative is advised to contact the Council's Streetworks team (permit.admin@brighton-hove.gov.uk 01273 290729) who will provide information and if approved, a licence (instead of a bespoke legal agreement) for what, when & where work can be done, who will be permitted to carry out the works, possible contractor contact details to place orders with, design advice, material advice and will check that the footway improvements are built satisfactorily. The emphasis where possible is on minimising what needs to be done to build a satisfactory footway improvement for the benefit of the applicant, future occupants and visitors of the site and the community as a whole, and in particular the mobility and visually impaired of those respective groups. Finally be advised that the applicant or their representative must obtain all necessary highway approval from the Highway Authority prior to any works commencing on the adopted (public) highway to satisfy the law and requirements of condition 3.
- 4 The planning permission granted includes vehicle crossovers which require alterations and amendments to areas of the public highway. All necessary costs including any necessary amendments to a Traffic Regulation Order (TRO), the appropriate license and application fees for the crossing and any costs associated with the movement of any existing street furniture will have to be funded by the applicant. Although these works are approved in principle by the Highway Authority, no permission is hereby granted to carry out these works until all necessary and appropriate design details have been submitted and agreed. The crossover is required to be constructed under licence from the Highway Authority. The applicant must contact the Streetworks Team (permit.admin@brighton-hove.gov.uk 01273 290729) at their earliest convenience to avoid any delay and prior to any works commencing on the adopted (public) highway.
- 5 The applicant is advised that advice regarding permeable and porous hard surfaces 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](http://www.communities.gov.uk)).

- 6 In order to be in line with Policy TR14 Cycle Access and Parking of the Brighton & Hove Local Plan 2005 cycle parking must be secure, convenient (including not being blocked in a garage for cars and not being at the far end of a rear garden), accessible, well lit, well signed, near the main entrance, by a footpath/hardstanding/driveway and wherever practical, sheltered. It should also be noted that the Highway Authority would not approve vertical hanging racks as they are difficult for many people to use and therefore not considered to be policy and Equality Act 2010 compliant. Also, the Highway Authority approves of the use of covered, illuminated, secure 'Sheffield' type stands spaced in line with the guidance contained within the Manual for Streets section 8.2.22 or will consider other proprietary forms of covered, illuminated, secure cycle storage including cycle stores, "bunkers" and two-tier systems where appropriate.
- 7 The applicant is advised that accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see Gov.uk website); two bodies currently operate in England: National Energy Services Ltd; and Northgate Public Services. The production of this information is a requirement under Part L1A 2013, paragraph 2.13.
- 8 The water efficiency standard required under condition 15 is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.
- 9 Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.

## **2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1. This site is located at the corner of Hill Brow and Woodland Drive and currently appears as a densely tree-lined wedge-shaped plot, framing the northern approach to the Woodland Drive Conservation Area.
- 2.2. The character of the Woodland Drive Conservation Area is a leafy, cohesive suburban development of well detailed mock Tudor detached houses dating from the 1930s. Three Cornered Copse provides a dense wooded backdrop to the houses and along with the abundance of mature trees and shrubbery within the generous front gardens and the street trees provides an important sylvan setting to the houses.
- 2.3. The application site and the existing house is currently almost entirely screened by boundary planting, and the stepped redbrick boundary wall along

the Western boundary compliments the conservation area opposite and makes a very positive contribution to the setting of the conservation area.

- 2.4. The application proposes the erection of a three storey 4no bedroom house, incorporating the demolition of part of the existing double garage to provide a single garage for the existing house, revisions to boundary wall, parking and associated works
- 2.5. To address concerns regarding impact upon the setting of the Woodland Drive Conservation Area, the scale of the proposed dwelling and its height has been reduced from the original submission. The number of bedrooms has reduced from 5 bedrooms to 4 as a result of the amendments to the proposed dwelling.
- 2.6. Other than the demolition of part of the existing garage at 105 Woodland Drive to accommodate the proposed dwelling, no other amendments to the existing dwelling of 105 Woodland Drive are now proposed.

### **3. RELEVANT HISTORY**

- 3.1. **PRE2018/00044** - Demolition of existing dwelling and the construction of 8 flats over 4 storeys. Response issued June 2018 advising the proposal constituted over-development of the site.

### **4. REPRESENTATIONS**

- 4.1. **Six (6)** letters of objection have been received in relation to the application raising the following concerns:
  - Inappropriate for site and wider conservation area;
  - Overshadowing;
  - Overlooking;
  - Impact on property value;
  - Impact on trees;
  - Inappropriate height;
  - Overdevelopment;
  - Loss of view;
  - Noise.

### **5. CONSULTATIONS**

- 5.1. **CAG:** Recommend refusal  
The recommendation for refusal was based on the view that this was an overdevelopment of a garden site and on the concern that the loss of trees would reveal a structure on this corner site that would harm the setting of the conservation area, it being dominant and out of character with other properties when viewed from further north along Woodland Drive. The lack of design detail in the application was regretted.

- 5.2. **Heritage:** Comments 11/04/2019 - Seek amendments  
It is considered that due to the relationship of the site to the northern approach into the conservation area, and its position on raised ground, the main impact of this development on the heritage asset would be the loss of the natural (apparently undeveloped) setting and the introduction of a 4 storey building amongst properties which are typically only 2 storeys. Both of these factors combining to make the new building an unduly prominent element in views into the conservation area.
- 5.3. The choice of a contemporary design approach is not resisted, however the use of materials, and sensitivity to scale, massing and established frontages are important in achieving a modern development that appears respectful.
- 5.4. Whilst creating a non-typical silhouette the impact of a flat roof can be balanced by lowering the overall height of a proposal, and it is considered that in view of the prominence of the site the new building should be reduced in height by 1 storey to ensure that the scale of the new building does not harm the setting of the conservation area.
- 5.5. The proposed use of brick is welcomed. Zinc does not feature significantly in the area and although it would not be resisted entirely the extensive use of it in this development is not considered suitable.
- 5.6. Confirmation of the extent of existing brick wall fronting Woodland Drive that is to be retained, and detailing and materials for the new pedestrian and vehicular gates is required.
- 5.7. Comments 8/01/2020 - Following receipt of amended plans December 2019 - seek additional information  
The proposal still includes the removal of trees from the north- eastern part of the site, and also at the Woodland Drive access ways, however some additional planting within the site is noted.
- 5.8. This scheme has the potential to resolve much of the Heritage concerns raised with the previous submissions. Limiting the proposal to the addition of the new building only would reduce the dominance of the scheme and thereby its impact on the setting of the conservation area, and the general design approach to the new building is considered acceptable.
- 5.9. However, the degree to which the natural screening of the site (which is considered to make an important contribution to the sylvan setting of the conservation area at its most visible approach from the north) is unclear, and an accurate tree survey showing the existing trees and identifying the ones to be removed. Further detail is also required for the proposed new planting in order to allow assessment of the degree to which this might augment the natural screening of the site, along with realistic images from Woodland Drive.
- 5.10. The reduction of the proposed new building by one storey, as originally advised, is noted, however the existing and proposed ground levels will clearly affect the overall height of the new development. The scale of the development

has been raised as an issue from the outset, and therefore comparable elevations are considered necessary prior to further comment on this point. The proposals for materials are not considered sufficiently specific to allow a comment to be made on this point, however the apparent deletion of large areas of zinc cladding is welcomed.

- 5.11. Further comments 16/04/2020 following receipt of amended plans 15/04/2020 - Seek amendments:  
Flat drawings, at the same scale, of the south West elevation (facing Woodland Drive) showing the current and original proposals should be requested in order to allow direct comparison, specifically of the proposed overall height of the new building.
- 5.12. The most recent proposals indicate changes to the materials however these are not specified. The rendered images appear to show vertical natural timber cladding to upper parts of the building and grey brick to lower areas including the double garage and terrace wall. Confirmation that this has been correctly interpreted is necessary. Neither of these finishes are common elsewhere in the immediate area and whilst it could be argued that the radically different architectural form justifies distinctive materials it remains the view of the Heritage Team that the new development should not unnecessarily jar with its setting. For this reason it is considered that the dominance of grey brick in the view from the entrance in Woodland Drive, which appears harsh and conflicts with both the boundary treatment and the retained neighbouring building should be addressed.
- 5.13. The retention of the character of the existing boundary wall is considered important, and therefore the creation of a separate entrance should include defined piers at each side of the openings with pier caps to match existing.
- 5.14. Final comments 23/04 following receipt of amended plans 22/04.2020 - Approve  
The information that has now been received on drawings 1581 -FE-005 (front boundary) and 1581-FE-004 rev A (true elevations with original outline overlay) provide a direct comparison between the most recent developments of the scheme, previously submitted drawings and the existing boundary arrangement, which until now has not been possible. As a result it is considered that the revised scheme now has a form and scale that can be supported by the Heritage Team, and the alterations proposed for the Woodland Drive boundary wall follow existing details and are therefore also acceptable.
- 5.15. The proposed materials will be important considerations and as these are not specified the approval of this will have to be secured by condition.
- 5.16. Considers that the extensive use of grey brick, as indicated by the coloured drawings, should be reconsidered and a tone more typical of Woodland Drive would be welcomed.
- 5.17. **Sustainable Transport:** No objection subject to conditions relating to:

- Cycle parking and access;
- Developer Contribution - pedestrian crossing improvements;
- The new crossover;
- Hard surfaces;
- Retention of car parking.

## 6. MATERIAL CONSIDERATIONS

- 6.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 6.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016)
  - Brighton & Hove Local Plan 2005 (retained policies March 2016);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
  - Shoreham Harbour Joint Area Action Plan
- 6.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

## 7. POLICIES

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part Two

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications but any greater weight to be given to individual policies will need to await the outcome of the Regulation 19 consultation. The council will consider the best time to carry out the consultation after the coronavirus (Covid-19) restrictions are lifted.

#### Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP12	Urban design



CP14	Housing density
CP15	Heritage
CP19	Housing mix

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

TR7	Safe Development
TR14	Cycle access and parking
SU9	Pollution and nuisance control
SU10	Noise Nuisance
QD14	Extensions and alterations
QD15	Landscape design
QD16	Trees and hedgerows
QD18	Species protection
QD27	Protection of amenity
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes
HE6	Development within or affecting the setting of conservation areas

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD06	Trees & Development Sites
SPD11	Nature Conservation & Development
SPD14	Parking Standards

## **8. CONSIDERATIONS & ASSESSMENT**

- 8.1. The main considerations in the determination of this application relate to:
- The principle of the development;
  - The impact on the appearance of the site and the conservation area;
  - Impact on trees/ecology;
  - Standard of living accommodation;
  - Neighbour amenity;
  - Sustainable transport/highways issues;
  - Sustainability.

**Principle of Development:**

- 8.2. The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually.
- 8.3. The Council's most recent housing land supply position published in the SHLAA Update 2019 shows a five year housing supply shortfall of 1,200 (equivalent to 4.0 years of housing supply). As the council is currently unable to demonstrate a five year housing land supply, increased weight should be given to housing delivery when considering the planning balance in the determination of planning applications, in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).

- 8.4. The new dwelling proposed would be a small contribution towards the City's housing targets. Accordingly this aspect must be given due weight in the decision. Additional weight is afforded to this as per NPPF paragraph 11.
- 8.5. No objection is raised with regard to the acceptability in principle of the proposed development. The side garden plot which forms the application site is somewhat limited in area and dimensions but could be capable of facilitating development of some form. The new dwelling would help to alleviate the housing shortage in the City, albeit in a limited way, through the provision of one unit of accommodation suitable for a family.
- 8.6. The proposal is considered acceptable in terms of the broader principle of residential development on this site and would accord with CP1 and CP19 of the City Plan policies, subject to detailed considerations below.

**Design and Appearance:**

- 8.7. When considering whether to grant planning permission for development in a conservation area the council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. The site lies just outside the boundary of Woodland Drive Conservation Area, and therefore any development within the application site has the potential to impact on the overall character and appearance of the Conservation Area. Case law has held that the desirability of preserving the character or appearance of a conservation area must be given "considerable importance and weight".
- 8.8. The key test therefore is whether the development proposed would harm the character and appearance of the adjacent conservation area in relation to the above as outlined earlier in the site description section of this report.
- 8.9. Proposed is the erection of a three storey, 4no bedroom house, revisions to the boundary wall, new parking arrangements and associated works. The proposed new dwelling would be attached to the existing at no.105 via adjacent garages (double width for the proposed dwelling and single for 105 following the demolition of part of the existing double garage). The main dwelling would be an elliptical shaped contemporary 3 storey building mainly finished in a mix of timber cladding and brick.
- 8.10. In terms of the general siting of the proposed dwelling, it would follow the building line of the adjacent 105 Woodland Drive, and would also be similar in footprint to that property, albeit utilising an elliptical shape. The closest properties in the area are at an angle towards the west, with 58 Hill for example being set back from the road further than 105 Woodland Drive. The proposed dwelling would be set back from the road by a lesser degree due to the nature of the site being in a triangular plot and the junction of Woodland Drive and Hill Brow. The main part of the dwelling (first and second floor) would be approximately 11m north of no.105, with the exception of the adjoining garages. This would provide a good degree of separation between

the existing and proposed dwellings, ensuring that the risk of an appearance of overdevelopment is reduced.

- 8.11. The height of the dwelling and its general scale and bulk has been reduced from the initial proposal and now sits more comfortably in the context of the more traditionally designed adjacent properties. The flat roof of the building would sit 0.75m higher than the ridge of no.105, and 2.75m higher than its eaves, as a consequence of the steep topographical rise to the north and the 3 storied design of the proposal. The height would be roughly level with 58 Hill Brow - at the southern side of No.105.
- 8.12. The overall design of the flat roofed dwelling is unique, both due to its elliptical layout and a large amount of glazing, and the materiality proposed. The flat roofed, non-traditional design would not be in keeping with the predominant appearance of the local built environment, however this does not in itself result in an unacceptable proposed. The use of timber cladding - mainly on the primary western and northern elevation- and brick, on the base, garage and elsewhere, would reduce the visual impact of the dwelling whilst providing a link to the existing verdant nature of the site.
- 8.13. As noted, the site is dominated by coniferous trees surrounding it, and accordingly contributes to the overall character of the streetscene by providing a green break between buildings, in what is a less dense residential area notable for trees. The proposal presents the development of the site for residential purposes without severely impacting this, and the overall nature of the streetscenes of Hill Brow and Woodland Drive. With the retention of the majority of the boundary tree cover, views into the site will be limited and mainly from a small open section at the northern end, and at the main entrance onto Woodland Drive.
- 8.14. Drawings that provide a direct comparison between the dwelling as amended and as originally submitted have recently been submitted. Following the amendments it is considered the proposal has an acceptable form, height and scale.
- 8.15. The existing stepped redbrick boundary wall along the western boundary compliments the conservation area opposite and makes a very positive contribution to the setting of the conservation area. The recently submitted drawings also show that the alterations proposed to the Woodland Drive boundary wall, namely the creation of an additional entrance formed of double timber gates to provide a separate vehicular access point for 105 to the new dwelling, will follow existing details. The separate entrance includes defined piers at each side of the openings with pier caps to match existing and therefore is considered acceptable.
- 8.16. The proposed finish materials for the exterior of the proposed dwelling will be important and samples will be required by condition. The use of grey brick shown in the visuals is not considered acceptable as it would appear harsh and conflicts with the boundary treatment and the retained building at 105. Therefore approval is recommended on the basis that the use of brick as part

of the external finish is acceptable but with the colour of the brick to be agreed via condition.

- 8.17. The protection of trees marked for retention and the overall landscaping of the site to ensure that impact is kept to a minimum. Views from elsewhere in the conservation area would be limited.
- 8.18. The existing garage relating to no. 105 Woodland Drive will be reduced in size from a double garage to a single garage in order to accommodate the proposed new dwelling. No objections to this alteration to the existing dwelling are raised.
- 8.19. Overall, the careful design of the revised building in terms of its unique and contemporary layout, and its relationship with the site and its topography, would reduce the visual impact of the development on the streetscene and wider Conservation Area context and would not unacceptably harm their character and appearance. It is considered that the proposal is in accordance with policies CP12 and CP15 of the Brighton and Hove City Plan Part One and HE6 of the Brighton and Hove Local Plan.

Impact on trees and ecology:

- 8.20. As shown in drawing no. 1581-FE-008, the development proposed would result in a loss of 3 trees, one in the northern part of the site where the main part of the new dwelling would be sited and two in the area of the proposed new vehicular entrance for no. 105 Woodland Drive.
- 8.21. Woodland Drive and Hill Brow meet with a triangular area of land between, the end of which comprises the proposal site. This area is characterised by solid tree coverage forming a uniform hedge appearance and partly screening the existing building at no.105.
- 8.22. The existing trees on the site form a substantial part of the verdant nature of the junction and therefore, whilst some loss of cover is regrettable it is considered acceptable for the provision of a new family dwellin. However it is essential that all the other trees shown as being retained are adequately protected - this can be secured via condition.
- 8.23. In terms of wider ecology, it is likely that given the location of the site and the junction of two residential roads, there is limited ecological value to the site. However, it is open and currently a planted garden. Any such impact should be offset where possible through careful landscape design - secured by condition. The retention of the majority of the trees on the site will preserve them as the main ecological feature. Policies QD15, QD16 and QD18 of the Local Plan would be complied with, subject to the relevant conditions as outlined.
- 8.24. A condition requiring a bee brick has been attached to improve ecology outcomes on the site in accordance with the Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

Standard of accommodation:

- 8.25. Policy QD27 of the Brighton and Hove Local Plan aims to secure a good standard of living accommodation for current and future occupiers in all new developments. Accommodation should therefore provide suitable circulation space within the communal spaces and bedrooms once the standard furniture has been installed, as well as good access to natural light and air in each habitable room.
- 8.26. The 'Nationally Described Space Standards' (NDSS) were introduced by the Department for Communities and Local Government in 2015 to establish acceptable minimum floor space for new build developments. Although these space standards have not been formally adopted into the Brighton and Hove City Plan, Draft City Plan Part 2 proposes to adopt them and indicates a direction of travel on behalf of the LPA. The NDSS provide a useful guideline on acceptable room sizes that would offer occupants useable floor space once the usual furniture has been installed. The NDSS identifies a minimum floor space that should be achieved for a single bedroom as measuring at least 7.5m<sup>2</sup>, and a double bedroom should measure at least 11.5m<sup>2</sup>. The minimum floor space requires a head height of above 1.5m. For a 4 bedroom dwelling over 3 storeys, the NDSS require a minimum of 130m<sup>2</sup> of internal floorspace. The overall GIA of the proposed dwelling is 190m<sup>2</sup>, excluding the proposed double garage, which exceeds the floorspace for such property set out in the NDSS.
- 8.27. The proposed dwelling would provide the following accommodation;
- Ground Floor (56m<sup>2</sup>) - entrance hall, utility room, store 2 double bedrooms (a bedroom of 18m<sup>2</sup> including en-suite and a second bedroom of 14m<sup>2</sup>) and a double garage,
  - First Floor (67 m<sup>2</sup>) - Living room, hallway, kitchen and dining room, with access to the proposed garden/patio located on top of the double garage
  - Second Floor (67m<sup>2</sup>) - a bathroom, hall way, two bedrooms (one of 20.4m<sup>2</sup> including en-suite and a second of 25m<sup>2</sup> including en-suite)
- 8.28. The 4 bedrooms proposed are of double size and as such the proposed dwelling would provide a total maximum occupancy for 8 persons.
- 8.29. The large amount of glazing around the dwelling would provide ample opportunity for natural light into the dwelling in each room. Bedroom 4 on the second floor for example is proposed with 6 windows. This would be limited to a degree by the level of tree cover surrounding the site, but most rooms would have multi-aspect outlooks and access to natural daylight which would be commensurate with good occupant amenity standards. The layout, despite the unique design and dimensions, would provide acceptable circulation spaces and interior openness. The proposal would accord with policy QD27 of the Brighton and Hove Local Plan in this respect.
- 8.30. Residential units are required to have private useable outdoor amenity space, commensurate to the type of unit, as set out in policy HO5 of the Local Plan. A 45m<sup>2</sup> hard surfaced patio area on the roof of the proposed double garage

would be provided, in addition to planted areas to the front and northern side, and a larger garden laid to lawn to the east. Sufficient outdoor amenity space would be provided for a dwelling of this size and likely occupancy of 5 persons.

**Impact on Amenity:**

- 8.31. Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 8.32. Given the proposed height, distances and ground levels involved the development is unlikely to cause a significant impact on existing neighbouring properties in terms of loss of light or outlook. At ground floor level the proposed dwelling would be connected to the altered garage of no. 105 via a double garage. A distance of approximately 11m would be located between the southernmost part of the 1st floor and 2nd floor of the proposed dwelling and the northern façade of no.105 to the south.
- 8.33. Due to the natural east-west movement to the sun, and the alignment of the site and neighbouring properties, no unacceptable shadowing would occur.
- 8.34. Outlook from No.105 to the north would be reduced, however sufficient outlook to the west would be retained and the gap between the properties would prevent an enclosed or oppressive outlook.
- 8.35. Similarly, due to the retention of the majority of the trees around the site, the only property at real risk of overlooking impact or loss of privacy would be No.105 adjacent. As noted, there would be substantial window coverage throughout the proposed property. The south-east facing windows of the proposed dwelling would look towards existing windows in the side elevation of no. 105 however on the floor plans submitted for 105, these side facing windows are shown to relate to a void and a shower room and therefore it is not considered that the proposal would result in loss or privacy to these windows.
- 8.36. It is considered some overlooking could occur from the garden/patio area proposed above the double garage of the proposed dwelling, with the potential for views into the rear garden of no.105. The proposed patio/amenity area would be located at a level below the ridge of the alerted garage retained for no. 105 and therefore the roof of the retained garage would provide a screen between the patio and the side elevation of no. 105. Furthermore the banked nature of the rear garden of No.105 and the set back patio area would reduce direct overlooking from the proposed amenity area. The correct use of planting and boundary treatment, through a landscape scheme secured by condition, should further reduce such impact.
- 8.37. Noise levels generated are unlikely to exceed those normally experienced in a residential area such as this. The street is characterised mainly by large family dwelling of a similar scale to the one proposed, noise or disturbance would not

be unusual or unacceptably increased as a result. The distance from other properties with the exception of No.105 would also limit and such impact, with more noise disturbance likely from the adjacent roads. The retention of most of the boundary trees will likely reduce the impact of road noise and disturbance on the occupants of the dwelling to an acceptable level.

- 8.38. The proposal would result in a reduction of outdoor amenity space for 105 Woodland Drive, which is regrettable. A rear patio area would be retained however, as would a sizeable front garden screened by mature trees. The resulting amenity space would remain appropriate for the size of the dwelling.
- 8.39. Overall, impacts on neighbour amenity would be mainly on No.105 as discussed above, but not at a level which would unacceptably harm the amenity of the occupants through loss of privacy, outlook, light or space. In this respect, subject to conditions, the proposal would accord with policy QD27 of the Brighton and Hove Local Plan.

**Sustainable Transport:**

- 8.40. The proposal would result in a modest increase in demand on local pedestrian and road routes relative to the additional dwelling. The footpaths in the area and existing road network is capable of accommodating this, and adverse impact on highway safety would be relatively minimal. The Highway Authority do not object to the application.
- 8.41. SPD14 states that a minimum of 1 cycle parking space is required for every residential unit with up to 2 beds and 2 for 3 plus beds and 1 space per 3 units for visitors after 4 units. For this development the cycle parking standard is 2 cycle parking spaces in total. The applicant has not offered any cycle parking therefore cycle parking is recommended to be secured by condition. It is possible that bicycles could be stored in the garage.
- 8.42. SPD14 states that the maximum car parking standard for 3 plus bedroom dwellings within the Outer Area is 1 space per dwelling plus 1 space per 2 dwellings for visitors. The applicant is proposing 2 spaces within the garage, which would exceed the maximum standard. As the parking is within the garage, it is feasible that it will be used for storage and cycle parking however, the garage is of an appropriate size to the dwelling. The provision of 2 parking spaces is not considered likely to have an impact on sustainable transport to a degree which would render the proposal unacceptable. Adequate parking provision would also be retained for 105 Woodland Drive following the demolition of half of the existing double garage.
- 8.43. Appropriate turning area provision would be provided on the driveway to ensure adequate and safe egress from the site onto the road with the required visibility - avoiding any reversing onto the road.
- 8.44. There would be a modest increase in trip generation as a result, but this would be limited to journeys associated with a single household and is not forecast to be significant. Nevertheless, the Highways team have requested a condition requiring pedestrian crossing improvements at the junction of and across Hill

Brow with Woodland Drive to create the necessary pedestrian and mobility and visually impaired access to and from the site to the Dyke Road Avenue bus services.

- 8.45. The driveway and hardstanding materials should be porous and/or permeable and no surface water should run-off (for example, in heavy prolonged rain) onto the adopted (public) highway. This shall be secured via condition.
- 8.46. Subject to the above conditions, the proposal would not have an unacceptable impact on highway and pedestrian safety and access, or on sustainable transport.

**Sustainability:**

- 8.47. Policy CP8 requires new development to achieve 19% above Part L for energy efficiency, and to meet the optional standard for water consumption. This will be secured by condition.

**Other Matters:**

- 8.48. Loss of view and impact on property value have been noted as concerns raised objections to this scheme. Whilst the loss of open outlook and adequate natural light would be a material planning consideration (as discussed in this report) loss of view is not. Similarly, impact on property value is not a material planning consideration and has therefore not been assessed.

**9. CONCLUSION:**

- 9.1. The site and the proposed dwelling are both unique in nature and this poses a number of potential challenges to the acceptability of any proposed development. Issues with design and impact on the Woodland Drive Conservation Area character have been addressed with the reduction in scale of the proposal as amended, and impact on neighbouring amenity and transport is also likely to be limited. The dwelling would provide an acceptable family accommodation unit utilising the restricted plot layout and size and contemporary design. Overall, it accords with the relevant policies and is recommended for approval subject to conditions.

**10. EQUALITIES**

- 10.1. New residential buildings are expected to be built to a standard whereby they can be adapted to meet the needs of people with disabilities without major structural alterations. Conditions will be applied to ensure the development complies with Requirement M4(2) of the optional requirements in Part M of the Building Regulations.



# **ITEM G**

**Hove Park Nevill Campus, 38 Nevill Road  
BH2020/00206  
Full Planning**

**DATE OF COMMITTEE: 10<sup>th</sup> June 2020**



# BH2020 00206 - Hove Park Nevill Campus, 38 Nevill Road



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**Scale:** 1:1,500

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<b><u>No:</u></b>	<b>BH2020/00206</b>	<b><u>Ward:</u></b>	<b>Hove Park Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Hove Park Nevill Campus 38 Nevill Road Hove BN3 7BN</b>		
<b><u>Proposal:</u></b>	<b>Erection of double height extension to existing gymnasium to create a two court sports hall incorporating part demolition of existing gymnasium &amp; corridor, replacement of existing doorway with window, two new access ramps and refurbishment works.</b>		
<b><u>Officer:</u></b>	Michael Tucker, 292359	tel: <b><u>Valid Date:</u></b>	29.01.2020
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	25.03.2020
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Brighton And Hove City Council Norton Road Hove BN3 3BQ	Property & Design	First Floor
<b><u>Applicant:</u></b>	Brighton And Hove City Council Norton Road Hove BN3 3BQ	Hove Town Hall	First Floor

## 1. RECOMMENDATION

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

Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.  
**Reason:** For the avoidance of doubt and in the interests of proper planning.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Proposed Drawing	NC-013	-	22 January 2020
Report/Statement	Archaeological Impact Assessment	-	29 January 2020
Report/Statement	Ecological Impact Assessment	01	29 January 2020
Report/Statement	Transport Assessment	-	22 January 2020
Location Plan	NC-003	-	22 January 2020
Block Plan	NC-004	-	22 January 2020
Proposed Drawing	NC-006	A	29 January 2020
Proposed Drawing	NC-008	-	22 January 2020
Proposed Drawing	NC-009	A	29 January 2020
Proposed Drawing	NC-010	A	29 January 2020
Proposed Drawing	NC-012-1	-	22 January 2020
Proposed Drawing	NC-012-2	-	22 January 2020

- 2 The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.  
**Reason:** To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
- 3 No development shall commence until a Site Waste Management Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details approved.  
**Reason:** To maximise the sustainable management of waste and to minimise the need for landfill capacity and to comply with policy WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.
- 4 No development shall take place until an ecological design strategy (EDS) addressing mitigation of the impacts on biodiversity and enhancement of the site for biodiversity, as set out in the Ecological Impact Assessment (Lizard Landscape Design & Ecology, 18/12/19) has been submitted to and approved in writing by the local planning authority. The EDS shall include the following:
- a) purpose and conservation objectives for the proposed works;
  - b) review of site potential and constraints;
  - c) detailed design(s) and/or working method(s) to achieve stated objectives;
  - d) extent and location /area of proposed works on appropriate scale maps and plans;
  - e) type and source of materials to be used where appropriate, e.g. native species of local provenance;
  - f) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
  - g) persons responsible for implementing the works;
  - h) details of initial aftercare and long-term maintenance;
  - i) details for monitoring and remedial measures;
  - j) details for disposal of any wastes arising from works.
- The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.  
**Reason:** To ensure that any adverse environmental impacts of development activities can be mitigated, compensated and restored and that the proposed design, specification and implementation can demonstrate this, and to provide a net gain for biodiversity as required by Section 40 of the Natural Environment and Rural Communities Act 2006, paragraphs 170 and 175 of the National Planning Policy Framework, and Policy CP10 of the Brighton & Hove City Council City Plan Part One.
- 5 The development hereby permitted shall not be commenced until a programme of archaeological works in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority. A written record of any archaeological works undertaken shall be submitted to the Local Planning Authority within 3 months of the completion of any archaeological investigation unless an alternative timescale for submission of the report is first agreed in writing with the Local Planning Authority.

**Reason:** To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with policy HE12 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.

- 6 No construction above ground floor slab level of any part of the development hereby permitted shall take place until samples/details of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, to include:
- samples of the proposed aluminium cladding and roofing material;
  - details of all other materials to be used in the construction of the external surfaces of the development.

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 QD14 of the Brighton & Hove Local Plan and policy CP12 of the Brighton & Hove City Plan Part One.

- 7 If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority), shall be carried out until a method statement identifying and assessing the risk and proposing remediation measures, together with a programme for such works, shall be submitted to the Local Planning Authority for approval in writing. The remediation measures shall be carried out as approved and in accordance with the approved programme.

**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.

- 8 Notwithstanding the approved plans, no additional external lighting shall be installed until:

- i) details of external lighting, which shall include details of; levels of luminance, predictions of both horizontal illuminance across the site and vertical illuminance affecting immediately adjacent receptors, hours of operation and details of maintenance have been submitted to and approved in writing by the Local Planning Authority.
- ii) the predicted illuminance levels have been tested by a competent person to ensure that the illuminance levels agreed in part 1 are achieved. Where these levels have not been met, a report shall demonstrate what measures have been taken to reduce the levels to those agreed in part i).

The external lighting shall be installed, operated and maintained in accordance with the approved details and thereafter retained.

**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to comply with policies QD25 and QD27 of the Brighton & Hove Local Plan.

- 9 A bee brick shall be incorporated within the external wall of the development hereby approved and shall be retained thereafter.

**Reason:** To enhance the biodiversity of the site and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
- 2 Paragraph 49 of the National Planning Practice Guidance provides guidance on what could be covered in the SWMP in order to meet the requirements of the condition 3.
- 3 Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.
- 4 Under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.
- 5 The applicant is advised to contact the East Sussex County Archaeologist to establish the scope for the Written Scheme of Archaeological Investigation as required by condition 5.
- 6 It is advised that any increase in the number, frequency or intensity of the 'external lets' of the sports hall and sports facilities may require an application for planning permission to introduce an element of Assembly & Leisure (D2) use on the site so that the amenity and transport implications of the increase can be fully assessed and mitigated.

## **2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1. The application relates to the Nevill Road campus of Hove Park School. The site is not located within a conservation area and no listed buildings are nearby.
- 2.2. Planning permission is sought for the partial demolition of the existing gymnasium and corridor and the erection of a two-court sports hall. The proposal also includes the replacement of an existing doorway with a window, two new external access ramps and associated works. No increase in pupil numbers is proposed.
- 2.3. As part of these building operations the internal layout of the school will also be partially reconfigured. These reconfigurations will be entirely internal and will not result in an increase in pupil numbers, and as such do not require planning permission. In addition, an area to the west of the Cullum Centre/SEN building will be fenced off. This fencing does not form part of this application for planning permission and will be erected under permitted development rights.

## **3. RELEVANT HISTORY**



- 3.1. **BH2019/03453** - Demolition of existing mobile classroom and erection of mobile classroom in adjacent location and relocation of bike shed. Approved.
- 3.2. **BH2019/01463** - Erection of a single storey kitchen and dining block. Proposals also incorporate the demolition of the former dining block. Approved.
- 3.3. **BH2019/00541** - Replacement of existing single glazed curtain walling to east & south elevations of school hall with new double glazed, aluminium curtain walling incorporating two sets of double doors. Approved.

#### **4. REPRESENTATIONS**

- 4.1. **Seven (7)** letters have been received, supporting the proposal for the following reasons:
  - Good design
  - Welcomed improvements to the quality of buildings on the school site
  - Will bring sports facilities at Hove Park School up to standard with other secondary schools in the city
  - Improved sports facilities at the school will support the physical and mental wellbeing of pupils
- 4.2. **Five (5)** letters have been received, objecting to the proposal for the following reasons:
  - Overshadowing
  - Poor design
  - Restriction of view
  - Aluminium cladding out of character and may cause glare from sunlight
  - Additional traffic
  - Noise
  - Too close to boundary
  - Sports hall/gym may be used for non-school activities
  - Detrimental effect on property value
  - Loss of privacy

#### **5. CONSULTATIONS**

- 5.1. **Brighton & Hove Archaeological Society:** No comment  
The proposed development is close to the location of an archaeological find spot. A number of Palaeolithic implements have been found in this area in the past.
- 5.2. The BHAS would suggest that the County Archaeologist is contacted for their recommendations.
- 5.3. **County Archaeology:** No objection

The submitted archaeological information indicates that there is a risk that archaeological remains will be damaged. Nonetheless it is acceptable that the risk of damage can be mitigated by securing the following by planning condition:

1. A programme of archaeological works in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.
  2. That a written record of all archaeological works then undertaken shall be submitted to the Local Planning Authority.
- 5.4. **Sustainable Transport:** First response received 16/02/2020: Objection  
The proposal could be acceptable if there was more information about existing and proposed out-of-school-hours activities. Depending on this information, further details of footpath layouts, street design, a school travel plan and car and cycle parking could be required.
- 5.5. **Sustainable Transport:** Second response received 05/05/2020: No objection  
The applicant has clarified that there will be no increase in out-of-school-hours activities as a result of the proposal. On this basis approval is recommended.
- 5.6. **Environmental Health:** No objection  
No new external lighting is planned. No openings on the outer façade to allow noise breakout.
- 5.7. **Children & Young Peoples Trust:** No comment received
- 5.8. **Economic Development:** No comment received
- 5.9. **Sport England:** No objection  
The proposed development meets exception 3 of the Sport England playing fields policy, insofar as it only affects land incapable of forming part of a playing pitch and does not reduce the size of any playing pitch or result in the inability to use any playing pitch for its intended purpose. Sport England does not wish to raise an objection to this application.
- 5.10. **Policy Team:** No objection  
The proposal would accord with the objectives of City Plan Policy CP17, and would not result in the loss of open space or playing fields.
- 5.11. Policy WMP3d of the Waste and Minerals Plan requires development proposals to minimise and manage waste produced during construction, demolition and excavation. A Site Waste Management Plan should be required by condition. Paragraph 49 of the NPPF provides guidance on what could be covered in the SWMP.
- 5.12. **Sports Facilities:** No comment received
- 5.13. **City Parks:** No comment received

5.14. **Environmental Agency:** No comment received

5.15. **Ecology:** Comment

The submitted documentation has not met best practice standards and/or the requirements of the NERC Act and NPPF. However, the risk can be mitigated to acceptable levels through securing an Ecological Design Strategy by condition.

## 6. MATERIAL CONSIDERATIONS

6.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report

6.2. The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016)
- Brighton & Hove Local Plan 2005 (retained policies March 2016);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
- Shoreham Harbour Joint Area Action Plan (adopted October 2019);

6.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

## 7. POLICIES

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part 2:

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications but any greater weight to be given to individual policies will need to await the outcome of the Regulation 19 consultation. The council will consider the best time to carry out the consultation after the coronavirus (Covid-19) restrictions are lifted.

#### Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity

CP12	Urban design
CP16	Open space
CP17	Sports provision
CP18	Healthy City

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

TR4	Travel plans
TR7	Safe Development
TR14	Cycle access and parking
SU9	Pollution and nuisance control
SU10	Noise Nuisance
QD14	Extensions and alterations
QD15	Landscape design
QD18	Species protection
QD27	Protection of amenity

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD11	Nature Conservation & Development
SPD12	Design Guide for Extensions and Alterations

## 8. CONSIDERATIONS & ASSESSMENT

- 8.1. The main considerations in the determination of this application relate to the principle of the development, the design and appearance of the proposed external additions and the impact of the proposal on neighbouring amenity. Archaeology, ecology and sustainable transport are also material considerations.

**Planning Policy:**

- 8.2. Policy CP16 of the Brighton and Hove City Plan Part 1 seeks to retain and enhance existing open space and playing fields. Policy CP17 of the Brighton and Hove City Plan Part 1 seeks the enhancement and more effective use of existing sports facilities. Policy CP18 of the Brighton and Hove City Plan Part 1 encourages development that promotes active living for children.
- 8.3. The Local Planning Authority is supportive of the provision of improved facilities for schools. The proposed sports hall would represent a significant enhancement of the sports facilities at Hove Park School compared to the existing gymnasium, which is not adequate for the number of pupils and the types of sports the school would like to offer. The increased height of the proposed hall would enable sports such as badminton to be played.
- 8.4. The proposal would accord with the objectives of Policy CP17, and no conflict with Policy CP16 has been identified as no designated open space or playing fields would be affected. The proposal would also accord with Policy CP18 insofar as providing improved active space for children attending the school.

- 8.5. The applicant has confirmed that there will be no increase in "external lets" (uses of the sports facilities by out of school bodies such as sports clubs), compared to the existing arrangement whereby a Tae Kwon Do club makes use of the existing sports hall on Mondays between 6.15 to 9pm.
- 8.6. As a part of the school, the use class in planning terms of the existing sports hall is ancillary to the main D1 education use of the school site. It is considered that if either the number or frequency of the external lets were to be increased, this may require a planning application to be made to introduce an element of D2 use for the sports hall but this will depend on the amount and nature and whether the uses could still be considered ancillary or not. Given that planning permission may be necessary in any event a further condition to secure ancillary use would not be reasonable or necessary in this context.

**Design and Appearance:**

- 8.7. The proposed sports hall would have a maximum height ranging from 9.4m to 9.6m (due to sloping ground levels) compared to approx. 5.7m for the existing gymnasium, an increase which is necessary to allow for sufficient internal headroom for sports such as badminton to be played. The proposed building would extend beyond the existing gymnasium by approx. 8.8m northwards and 5.5m westwards (for a total footprint of approx. 18.8m x 17.7m - approx. 209sqm greater than existing) to accommodate 2no tennis courts compliant with Sport England requirements. The building would be in facing brick at ground floor level to match the existing building, with aluminium cladding panels to the overhanging upper levels. The gently sloping dual-pitched roof would be in aluminium standing seam.
- 8.8. It is recognised that the proposed sports hall would be of a significant scale, with substantially increased height and footprint compared to the existing gymnasium, and that the use of aluminium cladding and aluminium roof material would not match the materiality of the original school buildings which are in facing brick with tiled roofs. It is further recognised, however, that the dimensions of the building are necessary in order to provide the requisite enhancement of the sports facilities at the school. The choice of materials is considered not to be objectionable, given that the proposed sports hall will clearly be viewed as a non-original and modern addition to the school site. It is noted that there are other examples on the site of non-original buildings differing in material and detailing to the original school buildings.
- 8.9. Moreover, the proposed sports hall itself would not be readily visible from public places, being concealed from view from Nevill Road to the east and Old Shoreham Road to the south by the other school buildings. From Nevill Avenue to the north the sports hall would be visible only in glimpses in between the residential properties. Views from the allotments to the west would be possible, however it is noted that this would be at some distance from over the playing fields, and would also include the new dining building which itself is of a contemporary design.
- 8.10. The visual impact of the proposed sports hall on the appearance of the site is therefore considered to be minimal, and given the dimensional requirements

necessary to provide an enhancement of the sports facilities at the school, the proposed sports hall is considered to be of an acceptable design that would not detract from the appearance of the site or the wider area, in accordance with Policy CP12 of the Brighton and Hove City Plan Part One and Policy QD14 of the Brighton and Hove Local Plan.

- 8.11. No objection is raised to the proposed access ramps or replacement window on design grounds. The two ramps would be located within the central courtyard area to the south of the proposed sports hall with a supporting structure in brick to match the existing building and would not have a detrimental visual impact on the appearance of the school site.
- 8.12. No objection is raised on design grounds to the associated landscaping works to cut into the embankment to the northeast of the proposed sports hall to retain adequate road width for wide vehicles such as fire engines.

**Impact on Amenity:**

- 8.13. Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 8.14. The impact of the proposal on neighbouring amenity has been fully assessed following a site visit and no significant harm has been identified.
- 8.15. There is no increase in pupil numbers or external lets arising from the proposal and so there would be no increase in the intensity of the use of the sports hall or the hours in which it is used.
- 8.16. The proposed sports hall would be positioned approx. 34m away from the nearest residential building to the north-east (compared to 42m as existing), which is considered to be a sufficient distance to not overshadow or result in an increased sense of enclosure for the habitable rooms of these properties. Given the height of the proposed sports hall there may however be some overshadowing of the rear gardens of these properties, particularly at the southern end of the gardens where the sports hall would be approx. 11m away from the rear boundaries (compared to 18m as existing). Due to the orientation of the site and the residential properties to the north any overshadowing of the rear gardens would be most acute in the early morning and late evening of the winter months when the sun would be lower in the sky. It is considered however that whilst some overshadowing of the rear gardens will occur during this time of year, on balance, given the offset orientation of the site the most affected properties would be those to the north east of the proposal during the latter part of the day in the winter months. Whilst it is acknowledged that there would be some impact, on balance this is not considered sufficient to warrant refusal of the application.

- 8.17. There would be no external windows and so there would be no increased overlooking towards the residential properties to the north, nor would there be potential for breakout noise disturbance.
- 8.18. No additional external lighting is proposed and so there would be no increased light overspill towards the residential properties to the north. A condition is recommended to require an application be made for any future external lighting prior to its installation, so that the impact on the neighbouring properties can be assessed.
- 8.19. It is noted that the Environmental Health team have raised no concerns regarding noise impacts or overspill lighting.
- 8.20. The proposed landscaping works would result in vehicular movements being up to approx. 1.2m closer to the properties to the northeast, for a stretch of approx. 15m. A separation of at least 30m would remain to the nearest residential building.
- 8.21. Concerns raised by objectors regarding impact on southerly views are noted, however loss of views is not a material planning consideration and so cannot form part of the planning assessment. Concerns relating to excessive sunlight reflection from the proposed aluminium cladding are noted, and a condition is recommended to require a sample of the proposed cladding to be approved by the LPA prior to construction of the sports hall.

**Archaeology:**

- 8.22. The site is within an Archaeological Notification Area known for prehistoric and Roman archaeology.
- 8.23. A Desk Based Assessment (DBA) has been submitted, which concludes that no further archaeological works are necessary to inform the determination of planning consent.
- 8.24. The County Archaeologist has reviewed the DBA and disagrees with this conclusion. The County Archaeologist considers that the proposal has the potential to impact on heritage assets with archaeological interest and has recommended that a programme of archaeological works be carried out prior to the commencement of development to enable any archaeological deposits or features that would be disturbed by the proposal to be preserved or adequately recorded. A condition to this effect is recommended.

**Ecology:**

- 8.25. An Ecological Impact Assessment has been submitted, which concludes that *"with appropriate mitigation, compensation and enhancement the proposal will have no significant effects upon any habitats or protected species within or adjacent to the site."*
- 8.26. The County Ecologist has reviewed the submitted EIA and has raised concerns regarding the methodology used and the non-committal language when referring to the suggested mitigations. A condition is therefore recommended

to secure an Ecological Design Strategy prior to the commencement of the development.

**Sustainable Transport:**

- 8.27. On basis of there being no additional pupils, staff or external lets, the proposal would not result in an significant uplift in trip generation. Nor would there be a requirement for additional car or cycle parking to be provided.
- 8.28. The increased footprint of the sports hall would result in the loss of some car parking spaces currently located to the north and west of the existing gymnasium. It is understood these are to be relocated to the site of the old dining hall, which is to be demolished as part of BH2019/01463.

**Other Considerations:**

- 8.29. Development of this scale has the potential to produce significant quantities of construction, demolition and excavation waste and in accordance with Policy WMD3d of the Waste and Minerals Plan, a Site Waste Management Plan will be secured by condition.
- 8.30. The proposed building works will include the breaking up of brownfield land and a Contaminated Land Discovery Strategy will therefore be secured by condition.
- 8.31. A condition requiring a bee brick has been attached to improve ecology outcomes on the site in accordance with the Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

**Conclusion:**

- 8.32. The proposal would enhance the provision of educational facilities on the site and would accord with the objectives of Policies CP16, CP17 and CP18 of the Brighton and Hove City Plan Part One. No increase in 'external lets' is proposed, and on this basis the proposal is considered acceptable in principle. No significant concerns are held regarding the design and appearance of the proposal. On the basis of there being no increase in 'external lets' there are no concerns regarding transport matters. Concerns regarding archaeology, ecology and waste generated during demolition/construction can be mitigated to an acceptable level by suitably worded conditions. The proposed sports hall may result in some overshadowing of the rear gardens of nearby properties to the north, however on balance this is considered not to outweigh the benefits of the scheme in the provision of enhancement educational facilities. Approval is therefore recommended.

**9. EQUALITIES**

- 9.1. The proposed access ramps would improve disabled accessibility within the school site and this is welcomed.



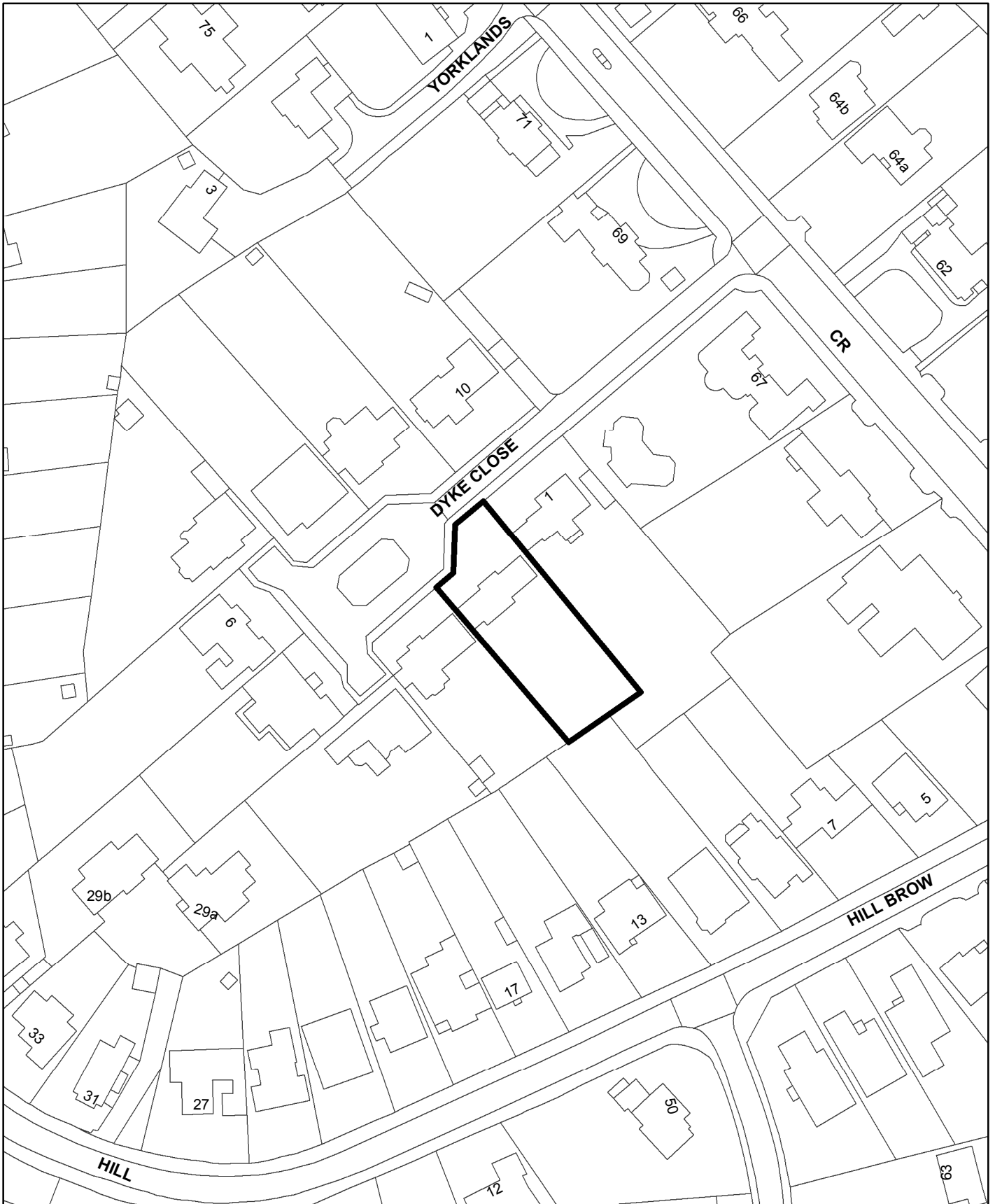
# **ITEM H**

**2 Dyke Close  
BH2020/00724  
Householder Planning Consent**

**DATE OF COMMITTEE: 10<sup>th</sup> June 2020**



# BH2020 00724 - 2 Dyke Close



N



**Scale: 1:1,250**

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<b><u>No:</u></b>	<b>BH2020/00724</b>	<b><u>Ward:</u></b>	<b>Hove Park Ward</b>
<b><u>App Type:</u></b>	<b>Householder Planning Consent</b>		
<b><u>Address:</u></b>	<b>2 Dyke Close Hove BN3 6DB</b>		
<b><u>Proposal:</u></b>	<b>Erection of two-storey rear extension incorporating 2no first floor balconies. Roof alterations including 2no front dormer windows, rear dormer featuring balcony, and removal of existing chimneys. Repositioning of garage, alterations to fenestration and associated works.</b>		
<b><u>Officer:</u></b>	Jack Summers, 296744	tel: <b><u>Valid Date:</u></b>	04.03.2020
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	29.04.2020
<b><u>Listed Building Grade:</u></b>	<b><u>EOT:</u></b>		
<b><u>Agent:</u></b>	ECE Planning Limited Worthing BN12 4AP	Brooklyn Chambers	11 Goring Road
<b><u>Applicant:</u></b>	Mr P Papanichola 11 Goring Road Worthing BN12 4AP	C/o ECE Planning Limited	Brooklyn Chambers

## 1. RECOMMENDATION

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

1. The proposed two-storey rear extension, by reason of its height and depth, together with its siting in close proximity to the shared boundary, would be likely to cause overshadowing to the unimplemented window on rear façade of No.1 Dyke Close, including which benefits from extant permission; and would present as an overbearing structure which would be unduly overbearing and intrusive. Accordingly, the proposal is considered to cause significant harm to the amenities of residents of No.1 Dyke Close, contrary to policies QD14 and QD27 of the Brighton and Hove Local Plan.

### Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. This decision is based on the drawings received listed below:

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Block Plan	01	K	25 March 2020

Location Plan	02	J	4 March 2020
Proposed Drawing	03	M	22 May 2020
Proposed Drawing	04	M	22 May 2020
Proposed Drawing	05	J	4 March 2020
Proposed Drawing	06	M	22 May 2020
Proposed Drawing	07	K	25 March 2020
Proposed Drawing	08	M	22 May 2020

## 2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The application relates to a substantial two-storey detached dwellinghouse on the south side of the Dyke Close cul-de-sac.
- 2.2. Planning permission is sought for a number of alterations including a two-storey rear extension incorporating first-floor and rooftop-level balconies; the relocation and enlargement of the built-in garage; and alterations to fenestration at the front of the house, with two dormer windows.
- 2.3. The proposal is similar to a recently refused and dismissed scheme for this property. The two key changes are a reduction in the length of the rear extension and the removal of the basement level accommodation.

## 3. RELEVANT HISTORY

- 3.1. **BH2019/00150** Erection of two storey rear extension, formation of lower ground floor, roof alterations incorporating front rooflights and rear terrace area with balcony, revision to garage location, rear terrace with access to garden and associated works. Refused - Appeal Dismissed
- 3.2. The reason for refusal was:  
The proposed two-storey rear extension, by reason of its scale and bulk together with its siting in close proximity to the shared boundary would cause overshadowing to the garden and areas of the rear facade of the adjacent property at No.1 Dyke Close, and would also represent an overbearing structure to Nos. 1 and 3 Dyke Close. Accordingly the proposal is considered to be contrary to policies QD14 and QD27 of the Brighton and Hove Local Plan.
- 3.3. **BH2017/03369 - No.1 Dyke Close** Erection of a single storey rear extension with associated roof extension to match existing and conversion of garage into habitable space including associated fenestration alterations. Approved
- 3.4. **BH2012/02921 - No.6 Dyke Close** Erection of single storey front and side extension with enlargement of front car parking area & external works including new front gable end & alterations to fenestration. Approved

## 4. CONSULTATIONS

- 4.1. Transport - Comments on previous proposal No objection - the infrastructure in place is sufficient to deal with the alternative parking arrangement.
- 4.2. Arboriculture - Comments on previous proposal No objection, subject to tree protection measures being implemented around the cedar (protected by a tree preservation order TPO (1) 2019) and flowering cherry tree prior to works commencing.

## 5. REPRESENTATIONS

- 5.1. **Ten (10)** letters have been received objecting to the proposal on the following grounds:
- Loss of privacy
  - Light pollution
  - The size of the extension will cause an overbearing impact
  - Loss of daylight due to overshadowing
  - Detrimental impact on property value
  - If trees are felled [as per original proposal under BH2019/00150] then further loss of privacy
  - Loss of chimneys and other changes of the dwellinghouse causes harm to its character
  - Future planning applications by the developer may cause further impact on the amenities of neighbours
  - The proposal is overly large
  - The proposal is larger than other extensions in the area
  - Loss of trees on site
  - Impacts of the building works themselves
  - Permissions described as similar in the local area differ in fundamental ways and do not set a precedent.
- 5.2. **Nine (9)** letters have been received, supporting the proposal for the following reasons:
- Some objections have been received from persons who have themselves made alterations, which is unreasonable.
  - Planning permission at no.6 Dyke Close [BH2012/02921] is not in keeping with the character of the streetscene, therefore it is not understood why planning permission would be refused in this instance.
  - The proposal is smaller than the previous refused application [BH2019/00150].
  - The proposal will enhance the building whilst retaining its character.
  - The proposal is a sympathetic improvement
  - The proposal is similar to other local approved developments
  - Other properties have had far larger extensions approved
  - There are no established front or rear building lines within Dyke Close

- 5.3. Letters have been received from **Councillors Brown and Bagaeen** supporting the application; copies have been attached to this report.

## 6. MATERIAL CONSIDERATIONS

- 6.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 6.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016);
  - Brighton & Hove Local Plan 2005 (retained policies March 2016);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
  - Shoreham Harbour JAAP (adopted October 2019);
- 6.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

## 7. RELEVANT POLICIES

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part Two (CPP2)

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications but any greater weight to be given to individual policies will need to await the outcome of the Regulation 19 consultation. The council will consider the best time to carry out the consultation after the coronavirus (Covid-19) restrictions are lifted.

#### Brighton & Hove City Plan Part One (CPP1)

SS1	Presumption in Favour of Sustainable Development
SA6	Sustainable Neighbourhoods
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP11	Flood risk
CP12	Urban design

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

TR7	Safe development
TR14	Cycle access and parking



QD5	Design - street frontages
QD14	Extensions and alterations
QD15	Landscape design
QD16	Trees and hedgerows
QD27	Protection of amenity
HO5	Provision of private amenity space in residential development

## **8. CONSIDERATIONS & ASSESSMENT**

8.1. The main considerations in the determination of this application relate to the impacts of the proposal on the character and appearance of the host building and wider streetscene, and the impacts on the amenities of local residents. Also of consideration are the impacts on the adopted highway and existing biodiversity.

8.2. Planning Practice Guidance states that the Courts have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property is not a material consideration. The potential impact caused by the building works themselves to other properties is also not a material planning consideration to be given any weight in the assessment of this proposal. Concerns regarding the loss of trees within the site appear to relate to the previous application, BH2019/00150, and would not appear to be relevant to the current proposal. Concerns have also been raised as to what future developments may be proposed at this site by the current owner; these are not grounds for refusal of the current application, which is assessed on its own merits.

### Design and Appearance

8.3. The proposal includes several minor cosmetic alterations to the front elevation of the property which would be visible from the adopted highway. These are similar to what was proposed in the previous proposal and, as before, there is no objection to this aspect of the scheme. The only significant dissimilarity is the installation of two modest dormer windows. These are set centrally within the large roof-scape and appear as subservient, traditional additions and are considered acceptable.

8.4. The loss of architectural features such as chimneys may detract from the traditional character of the local built environment, however it should be noted that the site does not lie within a conservation area and is not covered by any Article Four Direction and thus the demolition of one or more chimneys and subsequent covering over of any gaps in the roof-scape would likely be permitted development for a single dwellinghouse such as this, and therefore does not warrant a strong objection in this instance.

8.5. The main section of the existing dwellinghouse has a depth of approximately 6.1m; with a 1m projection at the front and 1.5m projection to the rear. The proposed rear extension, as measured from the rear elevation of the main dwellinghouse, would have a depth of approximately 5.9m at ground floor level

and approximately 5.3m (not counting the depth of the small balcony) at first floor level. The rear extension proposed under BH2019/00150 had a total depth at both ground and first floor of approximately 7m. The general form of the extension, particularly from the rear, is largely unchanged, with the only other significant alteration being the reduction in depth of the two first floor level balconies from 1.6m to 0.6m each.

- 8.6. Although the submitted drawings indicate the depth of the extension as, "3755mm", this denotes only the additional depth as measured from the existing central rear projection (rather than the main rear elevation of the dwelling) and is not considered to be an accurate depiction of the additional bulk that would be erected adjacent to the shared boundary with No.1 Dyke Close.
- 8.7. The basement level that was included in the previous proposal, BH2019/00150) has been omitted from the current scheme. There was no objection to that element previously and therefore its removal has a neutral impact on the consideration of the proposal.
- 8.8. The proposal been further amended during the course of the application with the inclusion of sustainability improvements, including solar tiles on the southern roof slope and subterranean water butts. Both of these items are supported within policies SA8 and CP8 of the Brighton & Hove City Plan Part 1, and if planning permission was to be granted, their inclusion in the design would be secured by condition. Further details would likely be required at least regarding the solar tiles to ensure an acceptable appearance.

Impact on Amenity

- 8.9. As was the case during the previous refused application, the residents of no.1 Dyke Close are those most likely to be impacted upon by the proposal in terms of loss of light. This property sits both to the north of the application site and forward of it in terms of building line. The issues raised previously were the loss of light to a habitable room with glazing in the rear wall and more generally the bulk of the extension causing an overbearing impact. (It should be noted that the habitable room in question is part of a permission to convert the garage at number 1 to a habitable room and this permission has been implemented but is yet to be completed.)
- 8.10. The appeal Inspector was concerned that the previous proposal at the application site had not taken this neighbour's extant permission into account and that the proposal would potentially cause harm to it, noting:  
*That permitted extension at no.1 had been built by the time of the site inspection, extending approximately 3m to the rear, close to the mutual boundary, although the proposed rear wall glazing was not in place, that wall being blank. The addition is not shown on the application drawings nor the sunlight drawings which appear to have been derived from them.*
- 8.11. The Inspector concluded that this omission meant that overshadowing of a habitable room window could result.

- 8.12. The applicant's agent for the current application suggests that although the window could be implemented it is unlikely to happen as the room was meant to be a cinema room and therefore a non-habitable space and therefore on that basis the insertion of the window is unlikely and a decision should be made on what exists at present.
- 8.13. The Local Planning Authority cannot control how individuals use particularly rooms within their properties and just because a drawing indicates that the room will be used in a particular way does not mean that this will occur or will not change. Indeed, the inclusion of the window may suggest that the occupiers were not sure exactly how the room would be used. Similarly, a new occupier may wish to use the room in a different way and take advantage of the option to insert the approved window. The Inspector was clear in his conclusion, referring to the room as a habitable room and there is nothing to suggest that the Local Planning Authority should consider it in a different way now. It would not be in the public interest for the Local Planning Authority to second guess an owners intentions without any clear evidence nor would it be appropriate to prejudice an extension which has previously been approved and which an Inspector has agreed should be considered as part of the considerations on the basis that it is a habitable room with a rear window.
- 8.14. The current proposal is supported by documentation that shows that the revised scheme would still break the 45 degree rule with regards to the rear window of the neighbour's extant permission. (The 45 degree 'rule of thumb' is set out within Building Research Establishment guidelines and is used in SPD12.) Whilst the 45 degree rule is a guide as to whether there is likely to be harm and not necessarily determinative in itself, the Inspector noted that the proposed extension would breach the 45 degree line previously and this contributed to his concerns and conclusions.
- 8.15. The submitted Planning Statement also makes reference to a 60 degree angle taken from the rear window of the extant permission. Although 60 degree angles are not referenced in SPD12: Extensions and Alterations, it is sometimes used to help assess the impact to an affected window on the first floor of a building. The affected window in this instance is a ground floor window and so the reference is of less relevance.
- 8.16. The previous shadow study has been resubmitted but not updated. It thus refers to a larger proposed extension at the application site but does not show the extension to the neighbour at No.1 Dyke Close. Given the Inspector's conclusion previously that:  
*"...the extant permission at number 1 has not been taken into account and overshadowing of a habitable room window could result."*
- 8.17. It is difficult for the Local Planning Authority to now reach a different conclusion based on no additional information. The application has not demonstrated that the extant permission will not be affected by the revised proposal and thus the Council's concerns remain.

- 8.18. The appeal Inspector also acknowledged that *"on a technical level the proposal would allow sunlight and daylight to the neighbouring houses as they stand at present without undue adverse effects,..."* The revised scheme will not alter that situation.
- 8.19. Nevertheless, the Inspector was principally concerned with the impact of the overall scale and bulk of the rear extension on the amenity of No.1 Dyke Close. Whilst he acknowledged that for this neighbour the open aspect to the rear would not change and that they would still enjoy a large garden he concluded that *"...the bulk of the extension together with the pitched roof would be an ever-present intrusion into the outlook and the depth, height and proximity taken together with being to the south of the neighbouring dwelling would result in planning harm to the living conditions of the occupiers of 1 Dyke Close. Notwithstanding the BRE findings, the sense of enclosure would likely be greater from a large structure to the south."*
- 8.20. Although the impact of the revised scheme would be less than previously found due to the reduced length, the proposed extension is still placed close to the shared boundary and is still a significant, two-storey development. Given the position of the neighbour's patio areas it is clear that the proposed extension will still represent a prominent and dominant structure that will create a sense of enclosure to this neighbour.
- 8.21. The applicants' make reference to a difference in levels making 1 Dyke Close sit higher than the application site and that there is an existing high boundary treatment. However, these existed previously and would have been taken into account by the Inspector
- 8.22. It is acknowledged that the depth has been reduced but the Inspector particularly referred to a combination of factors including the height of the extension and its proximity to the boundary as well as the depth. The Inspector concluded his decision by saying:  
*"...the depth and height of the addition and its siting relative to the location of that neighbouring property would be unduly overbearing and intrusive, contrary to the aims of the Supplementary Planning Document as well as Policies QD14 and QD27 and that failing alone is sufficient to conclude that for the reasons given above the appeal should be dismissed."*
- 8.23. It was clearly the combination of these three factors together which created the potential harm and reducing one does not necessarily compensate for not reducing the other elements.
- 8.24. The Inspector noted that the neighbour to the other side, no.3 Dyke Close, is to the south of the application site and therefore would not be unduly impacted in terms of loss of sunlight and that any impact would not be harmful. Given the revised scheme, there is no objection in terms of the impact on this neighbour.
- 8.25. Concerns have also been raised with regard to a loss of privacy; however this was not considered cause for significant concern at the time of the previous application. Given the reduction in scale in terms of overall depth, and the size

of the rear balconies, it is not considered that any loss of privacy to occur would be significantly harmful. Properties to the rear of the site, fronting Hill Brow, are a significant distance away, it is also noted, as before, that although the properties all benefit from large gardens some element of distant overlooking is inevitable.

- 8.26. The balconies could have created a small degree of overlooking to the sides but amended plans have been received which include obscure screening to a height of 1.8m on the external side edges of both first floor balconies, which would reduce any overlooking that could occur.
- 8.27. Concerns have also been raised regarding the potential for light pollution resulting from the large areas of glazing at the rear of the proposal. These are noted but given the significant distance between the rear of the proposal and the rear faces of properties fronting Hill Brow - approximately 70m - it is not considered that any light source from the application site would constitute a significant nuisance.

#### Impact on the Adopted Highway

- 8.28. The proposal is not considered likely to result in a significant increase in trips to and from the site, and the impact on the adopted highway is considered acceptable. The site would retain a secure garage that could easily accommodate cycle parking, and no dedicated cycle parking would be considered necessary were this scheme otherwise found acceptable.

#### Biodiversity

- 8.29. Since November 2019 the Council has adopted the practice of securing minor design alterations to schemes with the aim of encouraging the biodiversity of a site, particularly with regards to protected species such as bees. Recently received, amended plans have included a bee brick within the external face of the rear extension and whilst this is supported in principle, it is noted that the siting of the brick is on a north-facing wall that would not receive any direct sunlight and would be less desirable by bees as a result. A condition could secure the implementation of a bee brick in an alternative location would be attached to allow flexibility in the location of said brick, which would be best placed on the rear or south-side elevation, if the scheme was acceptable in all other respects.
- 8.30. No development appears to be proposed within the root protection areas of retained trees on site, however it is considered that were the scheme otherwise acceptable that an arboriculture method statement detailing tree protection measures would be required by condition in order to ensure that the health of existing trees would be safeguarded during the course of the construction process.

#### Other Considerations

- 8.31. Requests have been received that an audit of all extensions granted permission on Dyke Close be undertaken. Firstly, this application must be assessed on its own merits and therefore such an audit would be inappropriate. Secondly, the proposed works are not considered to cause any

harm to the character and appearance of the host building or the wider cul-de-sac and therefore there is little value in comparing extensions. Thus, as the recommendation is based on the harm caused to neighbouring amenity such an audit would clearly be superfluous.

#### Conclusion

- 8.32. The rear extension has been amended but despite a reduction in depth, the extension remains at such a depth that it would still cause harm to the permitted window at no.1 Dyke Close and the submitted information does not provide the Local Planning Authority with any indication to the contrary. Furthermore, and notwithstanding the reduced depth of the extension it would, in conjunction with its height and proximity with the shared boundary still create an overbearing impact. The inclusion of sustainability improvements in the design is supported but does not outweigh the identified harm, and for these reasons the proposal is considered to be contrary to policies QD14 and QD27 of the Brighton and Hove Local Plan.

9. **EQUALITIES**  
None identified.

**Cllr. Vanessa Brown**  
**BH2020/00724 – 2 Dyke Close**

**12<sup>th</sup> March 2020:**

As a Ward Councillor for Dyke Close I am writing in support of this application.

The last application for this property was refused but the applicant has addressed all the previous reasons for refusal.

The new scheme is smaller than some of the other houses in the Close and is sympathetic to the surrounding properties.

This new scheme has been significantly scaled back in size. There are no protruding balconies. They have been integrated into the building. The basement has been removed and the terrace reduced in size. The extensions are subservient to the main building.

If officers should be minded to refuse this new application I would request that it goes before the Planning Committee for decision.





**Cllr. Samer Bagaeen**  
**BH2020/00724 – 2 Dyke Close**

**12<sup>th</sup> March 2020:**

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

- Good Design

Comment: I'll start with the easy one which is that it is unfortunate that of the tick list on this form, the only positive aspect we can support is good design.

Everything else appears to be negative and the council has to revisit this list.

The second matter is that for a minor application such as this, in a close with a limited number of houses, I cannot accept as the local councillor (and a planner and surveyor) that we allow objectors to hide their names and addresses. This is out of line with other local authorities and I am aware that the Brighton Society has objected separately to the council.

The third and more important point is that this revised scheme, and I supported its predecessor, is in keeping with every other rebuild/redevelopment that happened in the close. It is perfectly in keeping with the houses around it and I do not see matters of restriction of views, boundary issues, height, or the impact on property value coming into play here. This scheme has my full support and it should go to committee if needed.

If it does go to committee, then I expect an audit of every single planning application approved in the close to go alongside it so that councillors can see how this proposal sits alongside the redevelopment and enlargement works that have been previously approved in the close. This scheme, in my view, is in keeping with extensions that the neighbouring properties have had done.

If anything, it is less harmful to the surrounding that some existing ones and I believe an audit prepared and presented to councillors will demonstrate this.



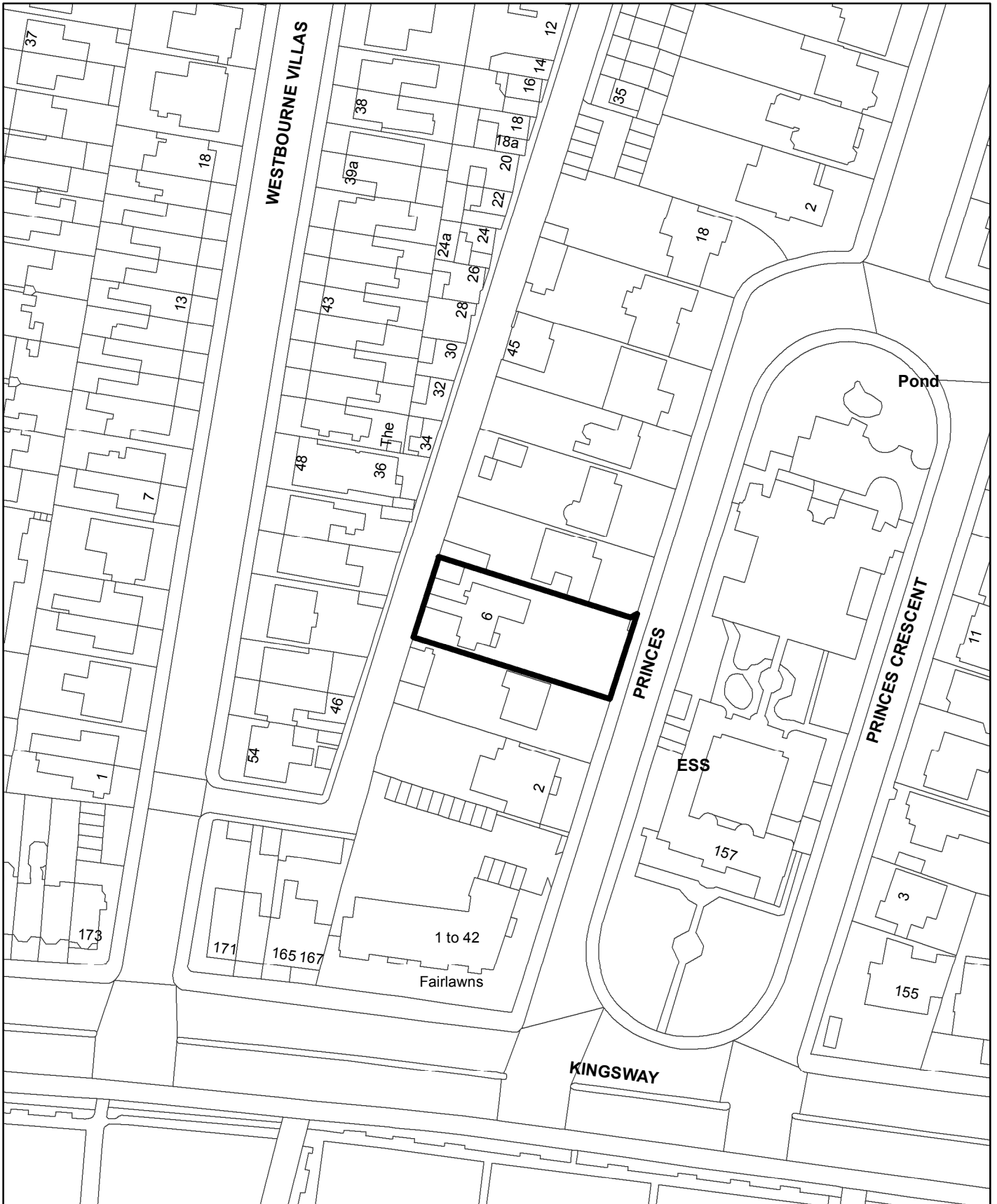
# **ITEM I**

**6 Princes Crescent  
BH2020/00776  
Full Planning**

**DATE OF COMMITTEE: 10<sup>th</sup> June 2020**



# BH2020 00776 - 6 Princes Crescent



N



Scale: 1:1,250

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<b><u>No:</u></b>	<b>BH2020/00776</b>	<b><u>Ward:</u></b>	<b>Westbourne Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>6 Princes Crescent Hove BN3 4GS</b>		
<b><u>Proposal:</u></b>	<b>Demolition of existing house and erection of new detached two-storey dwellinghouse (C3).</b>		
<b><u>Officer:</u></b>	Jack Summers, 296744	tel: <b><u>Valid Date:</u></b>	10.03.2020
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	05.05.2020
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	15.06.2020
<b>Agent:</b>	Turner Associates 19A Wilbury Avenue Hove BN3 6HS		
<b>Applicant:</b>	Mr & Mrs Ornellas 6 Princes Crescent Hove BN3 4GS		

## 1. RECOMMENDATION

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

### Conditions:

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

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan	TA1259/01	-	10 March 2020
Proposed Drawing	TA1259/10	A	14 April 2020
Proposed Drawing	TA1259/11	A	14 April 2020
Proposed Drawing	TA1259/12	A	14 April 2020
Proposed Drawing	TA1259/13	A	14 April 2020
Proposed Drawing	TA1259/14	A	14 April 2020
Proposed Drawing	TA1259/15	A	14 April 2020
Proposed Drawing	TA1259/16	A	14 April 2020
Proposed Drawing	TA1259/17	A	14 April 2020
Proposed Drawing	TA1259/18	A	14 April 2020
Proposed Drawing	TA1259/19	A	14 April 2020
Proposed Drawing	TA1259/20	A	14 April 2020
Proposed Drawing	TA1259/21	A	14 April 2020
Proposed Drawing	TA1259/22	A	14 April 2020
Proposed Drawing	TA1259/24	A	14 April 2020

- 2 The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

**Reason:** To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

- 3 No development above ground floor slab level shall take place until details of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including:
- a) details of the brickwork and tiles to be used
  - b) details of the flat roof between the two proposed front wings
  - c) details of the proposed window and door treatments including joinery details, including dormer window cheeks
  - d) details of the materials to be used in the construction of the rear glazed extension.
  - e) Details of all downpipes and rainwater goods
  - f) Details of the front door
  - g) Details of the rear garage door fronting Westbourne Place
- Development shall be carried out in accordance with the approved details.
- Reason:** To ensure a satisfactory appearance to the development; to reduce the demand for new building materials; and to comply with policies HE6 of the Brighton & Hove Local Plan and SA6, CP8 and CP15 of the Brighton & Hove City Plan Part One.
- 4 The side-facing windows at first floor level servicing the laundry/linen store and ensuite bathrooms; and the side-facing rooflights servicing bedroom 5 and the second-floor bathroom/dressing area of the development hereby permitted shall be obscure glazed and non-opening, unless the parts of the window(s) which can be opened are more than 1.7 metres above the floor of the room in which the window is installed, and thereafter permanently retained as such.
- 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 Access to the areas of flat roof hereby approved shall be for maintenance or emergency purposes only and no area of flat roof shall be used as a roof garden, terrace, patio or similar amenity area.
- Reason:** In order to protect adjoining properties from overlooking and noise disturbance and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
- 6 The development hereby approved shall not be occupied until refuse and recycling storage facilities have been installed to the side or rear of the building and made available for use. These facilities shall thereafter be retained for use at all times.
- Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policy QD27 of the Brighton & Hove Local Plan, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.
- 7 No cables, wires, aerials, pipework (except rainwater downpipes as shown on the approved plans), meter boxes or flues shall be fixed to any elevation facing a highway.



**Reason:** To safeguard the appearance of the building and the visual amenities of the locality and to comply with policy HE6 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.

- 8 The hard surface hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.

**Reason:** To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policies CP8 & CP11 of the Brighton & Hove City Plan Part One.

- 9 The rooflights hereby approved shall have steel or cast metal frames colour-finished black or dark grey, fitted flush with the adjoining roof surface and shall not project above the plane of the roof.

**Reason:** To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.

- 10 The photovoltaic panels hereby approved shall be fitted flush with the adjoining roof surface and shall not project above the plane of the roof.

**Reason:** To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.

- 11 Within nine months of the demolition/dismantlement of the existing rear extension, the gap in the flint wall shall be filled in (to a height matching that of the rest of the wall) and made good. All new flintwork and works of making good of the flintwork shall match the original flint walls in the type of flints, coursing, strike and density of stones, and the mortar's colour, texture, composition, lime content and method of pointing and the pointing of the brick dressings shall match the colour, texture, lime content and style of the original brick pointing.

**Reason:** To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.

- 12 The works of demolition/dismantlement hereby permitted shall not be begun until documentary evidence has been submitted to and approved in writing by the Local Planning Authority to show that contracts have been entered into by the developer to ensure that building work on the site the subject of this consent is commenced within a period of 6 months following commencement of demolition/dismantlement in accordance with a scheme for which planning permission has been granted.

**Reason:** As this matter is fundamental to the acceptable delivery of the permission to prevent premature demolition in the interests of the character and appearance of the Conservation Area and to comply with policy HE8 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.

- 13 Prior to occupation of the development hereby permitted, a scheme for landscaping shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping shall be implemented in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. The scheme shall include the following:
- details of all hard and soft surfacing to include type, position, design, dimensions and materials and any sustainable drainage system used;
  - a schedule detailing sizes and numbers/densities of all proposed trees/plants including details of tree pit design, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period;
  - details of all boundary treatments to include type, position, design, dimensions and materials;
- Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD15 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.
- 14 Prior to the installation of the new vehicle gates fronting Princes Crescent hereby approved, details (including 1:20 scale elevational drawings and plans showing the inward-opening method) shall be 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; to ensure the smooth running of the adopted highway; and to comply with policies TR7 and HE6 of the Brighton and Hove Local Plan and CP9 and CP15 of the City Plan Part One.
- 15 The development hereby permitted shall not be occupied until details of secure cycle parking facilities for the occupants of, and visitors to, the development have been submitted to and approved in writing by the Local Planning Authority. Details shall include a cross section, construction method statement, the seed mix, and a maintenance and irrigation programme for any green roof to the facility.
- The approved details shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.
- Reason:** To ensure that satisfactory facilities for the parking of cycles are provided; to encourage travel by means other than private motor vehicles; to ensure that the development contributes to ecological enhancement on the site and to comply with policies TR14 of the Brighton & Hove Local Plan, CP10 of the City Plan Part One and SPD14: Parking Standards.
- 16 No development above ground floor slab level shall take place until a scheme setting out highway works to implement the reinstatement of redundant vehicle access on Westbourne Place has been submitted to and approved in writing by

the Local Planning Authority. No part of the building hereby approved shall be occupied until the approved highway works have been carried out in accordance with the approved scheme.

**Reason:** In the interests of highway safety and to comply with policies TR7 of the Brighton and Hove Local Plan and CP9 of the City Plan Part One.

- 17 Prior to the first occupation of the development hereby permitted the redundant vehicle accesses on Westbourne Place shall be removed and replaced with curbing to match the existing.

**Reason:** In the interests of highway safety and to comply with policies TR7 of the Brighton and Hove Local Plan and CP9 of the City Plan Part One.

- 18 The development hereby permitted shall not be occupied until the dwelling hereby permitted has been completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) and shall be retained in compliance with such requirement thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.

**Reason:** To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.

- 19 The works of demolition/dismantlement hereby permitted shall not be begun until an Energy and Embodied Carbon brief, and a Deconstruction and Reuse strategy, detailing the proposed measures to salvage building fabric from the existing dwellinghouse, have been submitted to and approved in writing by the Local Planning Authority. The demolition/dismantlement shall be carried out in accordance with the approved details.

**Reason:** To reduce the demand for new building materials; and to comply with policies SA6 and CP8 of the City Plan Part One.

- 20 None of the residential units hereby approved shall be occupied until each residential unit built has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).

**Reason:** To ensure that the development is sustainable and makes efficient use of energy to comply with policy CP8 of the Brighton & Hove City Plan Part One.

- 21 None of the residential units hereby approved shall be occupied until each residential unit built has achieved as a minimum, a water efficiency standard of not more than 110 litres per person per day maximum indoor water consumption.

**Reason:** To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton & Hove City Plan Part One.

- 22 If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority), shall be carried out until a method statement identifying and assessing the risk and proposing remediation

measures, together with a programme for such works, shall be submitted to the Local Planning Authority for approval in writing. The remediation measures shall be carried out as approved and in accordance with the approved programme.

**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.

23 The development hereby approved shall not be occupied until the following items indicated on the approved plans have been fully implemented.

- Integrated photovoltaic solar panels
- Solar thermal panels
- Composting bin(s)
- Below-ground 1500L rainwater harvesting tank

These facilities shall thereafter be retained for use at all times.

**Reason:** To ensure that the development is sustainable and makes efficient use of energy to comply with policy CP8 of the Brighton & Hove City Plan Part One.

24 The development hereby approved shall not be occupied until the following items indicated on the approved plans have been fully implemented.

- Bee Bricks
- Bird Boxes
- Bat Boxes

These facilities shall thereafter be retained at all times.

**Reason:** To ensure that the development is sustainable and makes efficient use of energy to comply with policy CP10 of the Brighton & Hove City Plan Part One.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The applicant is advised that advice regarding permeable and porous hardsurfaces can be found in the Department of Communities and Local Government document 'Guidance on the permeable surfacing of front gardens'.
3. The applicant is advised that the application of translucent film to clear glazed windows does not satisfy the requirements of Condition 4.
4. The applicant is advised that they must enter into a Section 278 Agreement with the Highway Authority prior to any works commencing on the adopted highway.
5. The applicant is advised that accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see Gov.uk website); two bodies currently operate in England: National Energy Services Ltd; and Northgate Public Services. The production of this information is a requirement under Part L1A 2013, paragraph 2.13.

- 6 The water efficiency standard required under condition 21 is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.

## 2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The application site is a substantial two-storey detached dwellinghouse on the west side of Prince's Crescent within the Pembroke & Princes conservation area. The rear of the site abuts the east side of Westbourne Place and the boundary of the Sackville Gardens conservation area. The original property has been previously enlarged with a disproportionately slender, two-storey rear wing.
- 2.2. Planning permission has previously been granted for substantial alterations to the existing building, including the creation of a second forward-facing two-storey wing, and demolition of the aforementioned rear wing to be replaced with a part single part two-storey rear extension that links the main dwellinghouse with a detached outbuilding in the northwest corner of the property. This permission has been amended via subsequent applications and remains extant until October 2021.
- 2.3. Subsequent to these previous approvals the applicants have discovered that given the fabric and structural integrity of the building it would be more cost effective to demolish the existing building and rebuild the entire structure rather than extend the existing building. Accordingly, planning permission is now sought to demolish the entire building and erect a new dwellinghouse which is substantially similar in terms of scale and appearance to that previously approved albeit the current proposal omits a previously approved basement level and subterranean garage.

## 3. RELEVANT HISTORY

- 3.1. **BH2019/03533** Variation of condition 1 of application BH2019/00660 (Variation of condition 1 of application BH2018/02760 (Remodelling of property incorporating two storey front extension, part one part two storey rear extension, enlargement of existing roof with insertion of rooflights, revised fenestration and other associated alterations.) to allow amendments to approved drawings.) to allow amendments to approved drawings. Approved
- 3.2. **BH2019/02256** Variation of Condition 1 of BH2019/00660 (Variation of condition 1 of application BH2018/02760 - Remodelling of property incorporating two storey front extension, part one part two storey rear

extension, enlargement of existing roof with insertion of rooflights, revised fenestration and other associated alterations) to make amendments to the approved drawings. Refused

- 3.3. **BH2019/00660** Variation of condition 1 of application BH2018/02760 (Remodelling of property incorporating two storey front extension, part one part two storey rear extension, enlargement of existing roof with insertion of rooflights, revised fenestration and other associated alterations.) to allow amendments to approved drawings. Approved
- 3.4. **BH2018/02760** Remodelling of property incorporating two storey front extension, part one part two storey rear extension, enlargement of existing roof with insertion of rooflights, revised fenestration and other associated alterations. Approved

#### 4. **CONSULTATIONS**

##### 4.1. **Planning Policy:**

No comments

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

No comments

##### 4.3. **Conservation Advisory Group:**

The Group noted it had seen several applications of different intentions on this site. However it was surprised by the present application to demolish and to rebuild. The Group recommended refusal for the building to be demolished 11 in favour and 1 abstention, and also recommended refusal to the rebuild, again 11 voted in favour of refusal with 1 abstention. The Group recommends that the proposal be put before the Planning Committee. It believes the proposals are harmful to the conservation area and made the following comments;

- The present proposal is for a building of a contemporary design on a larger footprint which bears no architectural relevance to other buildings in the CA, the listed Grade II Cromie's Barford Court opposite, or the Tudorbethan style that exists elsewhere.
- The construction of a flat roof garage in the front garden, over the building line, would be freely visible from street level and would be harmful to the site and CA.\*
- The fenestration again is contemporary in design and the additional roof lights on the front elevation are unacceptable
- In the proposed site Block Plan, item L, marked on the plan's legend denotes a new site entrance, however this is not marked on any of the other plans in the submission. Does this mean a breaching of the attractive front boundary wall which again would not be acceptable?
- The removal of the central chimney stack, an architectural feature, from the existing building would be harmful to this part of the CA
- The relationship to Barford Court of any proposed new build is one of the key factors, and at present the proposal does not enhance the relationship

that the present building has with this important Grade II mansion island site.

- Any works to be carried out should include the re-instatement of the attractive cobbled wall to the west of the site, fronting Westbourne Place.

4.4. *It should also be noted that the Conservation Advisory Group raised "no objection on conservation grounds" to application BH2019/03533 which they assessed in January 2020, which featured an appearance very similar to that currently proposed. The Group was also consulted with on the previous application, BH2019/02256, where they stated it did not have an issue with the remodelling of the building.*

4.5. **Transport:**

No Objection subject to the inclusion of planning conditions regarding cycle parking provision; the removal of the redundant vehicle crossover; and a scheme describing the methodology of necessary works to the public highway.

4.6. **Heritage:**

This application proposes a building to the same appearance as the previously approved application BH2019/03533. This proposal was considered acceptable when originally submitted largely due to the significant enhancement to the Westbourne Place street frontage, from the removal of the two storey extension, and the reduction in the anomalous set back from Princes Crescent as a result of the front extensions.

4.7. The current proposal states that the cost of improvements makes the approved scheme unviable; however information supporting this does not appear to be included. It is also mentioned that a new structure would enable enhanced thermal efficiency, however other sustainability considerations encompassed by the One Planet approach, such as embedded energy in line with CP8 would not be met by the proposed demolition and re-build.

4.8. If these matters were to be suitably addressed, the opportunity to further improve the alignment of the building with the rest of the group should be taken.

4.9. This scheme introduces a separate garage in front of the house. This would be an uncharacteristic structure placed prominently in the street scene and the Heritage Team strongly resists this part of the proposal.

Further comments following amendments

4.10. A revised scheme omitting the garage from the front garden is welcomed and further information provided by the structural engineer and quantity surveyor provides the background to the decision to re-build.

4.11. Further details on the proposals to salvage and re-use existing materials will be necessary in due course and approval of all new materials to be used, along with window and door joinery details etc. can be required by condition. It should be noted that in the event that the condition of the existing roof tiles is

deemed too poor for their re-use, the specification of clay tiles would be considered necessary for this location.

4.12. It is disappointing that the anomalous alignment of the building cannot be addressed during the re-development of this site.

**4.13. Urban Design Officer:**

The site lies within the Pembroke & Princes Conservation Area and is opposite the grade II listed 157 Kingsway (Barford Court) and boundary walls. The existing dwelling is set back farther from Princes Crescent than its neighbours on either side and is accessed both from Princes Crescent and Westbourne Place to its rear.

4.14. The proposal is to demolish the existing dwelling and replace with a larger single, detached dwelling. This application follows approval (BH2019/03533) for extension and remodelling of the existing dwelling to an increased scale matching current proposals. The applicant states that extension and remodelling works would be unviable; thus demolishing and building new is more economical.

4.15. In principle, removing the existing dwelling and building new is acceptable. However, given the contribution of the existing dwelling to the character of the conservation area, the council expects high quality design, and opportunities to improve and enhance the conservation area setting to be taken.

4.16. The current proposals present some concerns with regard to:

- Sustainability
- Site layout
- Appearance

**Further comments following amendments**

- Sustainability / Climate Emergency:

4.17. The proposals now include measures of sustainability and biodiversity gains including *"raised potages to grow food, fruit trees to the front garden, solar and thermal PV panels, bird, bat boxes and bee bricks, as well as permeable paving to replace current non-permeable hard surfaces... [and] a 1500 litre tank under the rear garden area to harvest rainwater"*. Added to this, *"The rear vehicular access and garage are omitted together with the second previously driveway to the front, which significantly reduces reliance on car usage"*, as shown on revised drawing TA 1259-10A-140420-FRFC.

4.18. These additions are considered to be a positive contribution to the scheme and are to be commended. The proposed solar PV panels and solar thermal panels are noted; however the applicant is encouraged to consider whether a larger array could be accommodated in order to minimise reliance on the national grid, whilst respecting the character of the conservation area. For example, could a greater number of solar PV panels as well as the solar thermal panels be accommodated on the roof of the garden room to the west of the site?



- 4.19. Previous comment with regard to energy performance encouraged the applicant to "consider pushing the energy performance beyond the (minimum) 19% over Part L requirements" and, though commitment to this minimum target is acceptable, an improvement on this target would be considered a positive mitigation of the loss of the existing dwelling. Confirmation of building fabric and energy performance can be dealt with by condition.
- 4.20. With regard to reuse of existing materials, the applicant states that "This has already been identified within the Contract to ensure that materials can be reused where possible and otherwise salvaged for reuse elsewhere". Confirmation of materials to be salvaged for reuse is sought by condition.
- 4.21. The revised site plan along with suggested conditions negates the requirement for an energy & embodied carbon brief as well as a deconstruction & reuse strategy as previously advised.
- Site Layout:
- 4.22. The applicant has confirmed that the south-facing windows on the neighbouring property to the north of the application site are primary aspect for this property and thus moving the proposed dwelling eastwards to align with the prevailing building line of Princes Crescent would be overbearing to this neighbouring dwelling. These considerations are noted.
- 4.23. If the proposed dwelling is to remain in the position of the existing, care should be taken not to increase potential overlooking of residential amenity to the west. In this regard, the proposed west-facing dormer at 2nd floor level and the west-facing bay window/sun room at 1st floor level are considered to be concerning. These elements also present concerns with regard to architectural form (see below).
- Architectural Form / Composition / Materiality:
- 4.24. Previous comment had advised that the proposals were neither heritage-led nor contemporary in appearance; that if designed in accordance with the architectural style and detailing of the surrounding conservation area, this should include traditional window styles and other traditional detailing; but that there was the opportunity for a contemporary design solution whilst remaining sensitive to the conservation area.
- 4.25. The applicant has stated that they "*do not wish to create a contrasting high contemporary home on this site, but continue to proceed with a more sympathetic solution for the area*", but has presented design revisions with the intent to "contemporise the look of the house". It is considered that the revised proposals remain neither heritage nor contemporary in appearance and, as the ambition is not for a contemporary design, that they could be more sympathetic to the prevailing architectural context.
- 4.26. The fenestration design is considered to be incongruous with the predominantly traditional appearance of the dwelling. The size and verticality of proposed windows is such that they dominate the elevations and detract from the genteel character of the existing elevational composition and that of

neighbouring properties. This is of particular concern at 1st floor level, where it is considered that the scale and cill height of windows to bedrooms 2 and 3 on the rear elevation is more appropriate and should be extended to bedroom 4 and the master bedroom on the front elevation. The proposed full height glazing over the front door can be accommodated as this is recessed between the two primary volumes and thus is less impactful. Aligned with comment above, the proposed west-facing dormer at 2nd floor level and the west-facing bay window/sun room at 1st floor level are considered to be over dominant to this elevation.

- 4.27. The removal of the vertical tile hanging from first floor serves to harshen the appearance of the dwelling, which could be softened by the reintroduction of this element; this would also contribute towards a more sympathetic relationship to surrounding architectural context.

## 5. REPRESENTATIONS

- 5.1. **Three (3)** letters have been received objecting to the proposal on the following grounds:
- Loss of privacy to garden
  - Loss of privacy to rooms
  - Rear dormer will be used as a 'viewing area'
  - The rear dormer should be fitted with obscure glazing
  - The council has not provided any support in the renovation of a neighbouring property
- 5.2. A letter of support has been received from **Councillor Appich**. A copy of the letter is attached to this report.

## 6. MATERIAL CONSIDERATIONS

- 6.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 6.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016);
  - Brighton & Hove Local Plan 2005 (retained policies March 2016);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
  - Shoreham Harbour JAAP (adopted October 2019);

- 6.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

## **7. RELEVANT POLICIES**

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One (CPP1)

SS1	Presumption in Favour of Sustainable Development
SA6	Sustainable Neighbourhoods
CP1	Housing delivery
CP7	Infrastructure and developer contributions
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP11	Flood risk
CP12	Urban design
CP13	Public streets and spaces
CP14	Housing density
CP15	Heritage

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

TR7	Safe development
TR14	Cycle access and parking
SU9	Pollution and nuisance control
QD5	Design - street frontages
QD15	Landscape design
QD27	Protection of amenity
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes
HE3	Development affecting the setting of a listed building
HE6	Development within or affecting the setting of conservation areas
HE8	Demolition in conservation areas

#### Brighton & Hove City Plan Part 2

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications but any greater weight to be given to individual policies will need to await the outcome of the Regulation 19 consultation. The council will consider the best time to carry out the consultation after the coronavirus (Covid-19) restrictions are lifted.

## **8. CONSIDERATIONS & ASSESSMENT**

- 8.1. The main considerations in the determination of this application relate to the principle of the demolition/dismantlement and subsequent development; the

design and appearance of the proposed dwellinghouse and the impact it would have on the historic significance of heritage assets in the vicinity; and the impact on the amenities of local residents. Consideration is also given to the potential impact on the adopted highway and on local biodiversity.

#### Principle of Development

- 8.2. The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually.
- 8.3. The council's most recent housing land supply position published in the SHLAA Update 2019 shows a five year housing supply shortfall of 1,200 (equivalent to 4.0 years of housing supply). As the council is currently unable to demonstrate a five year housing land supply, increased weight should be given to housing delivery when considering the planning balance in the determination of planning applications, in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).
- 8.4. The proposal is replacing an existing dwellinghouse with a new one and will cause no change in the housing stock. This is considered acceptable and there is no conflict with the development plan in this regard.

#### Design and Appearance

- 8.5. The proposal, in terms of the main dwellinghouse, largely mimics the appearance previously found acceptable under permission BH2019/03533, but will feature brick facades rather than hanging tiles. The front elevation would include the previously approved pair of double bay windows with a glazed central gallery between the bay windows. The hipped roof form would be replicated, as will the conservation style rooflights and a small rear dormer facing Westbourne Place.
- 8.6. The existing rear wing and the associated ground floor garage beneath it, which were to be removed as part of the previous proposals will similarly be omitted from this scheme. This is welcomed in terms of the benefits it will have to the Westbourne Place streetscene.
- 8.7. The appearance of the dwelling is influenced by the addition of several sustainability enhancements including photovoltaic panels on the south-facing roof-slopes. Due to the height of the building and its siting - set back reasonably far from the adopted highway - it is not considered that the panels will appear dominant or incongruous from where they may be visible. Both the rooflights and solar panels will be conditioned to prevent them from overly projecting above the roof plane.
- 8.8. An ambitious landscaping scheme has been submitted, showing fruit trees, raised bed potagers, cycle parking, compost bins, and other hard and soft landscaping across the site.

- 8.9. It is noted that the existing gate fronting Princes Crescent would be replaced with one of an alternative design. From the streetscene drawing it appears as if it would be of a cast iron design similar to the existing, however more details would be required by condition prior to any alterations.
- 8.10. A condition will be attached to ensure that no cables, wires, aerials, pipework, meter boxes or flues shall be affixed to the front or rear elevations, in order to reduce the risk of the property appearing cluttered and impacting on the visual amenity of the conservation areas.
- 8.11. The proposal represents an improvement over the scheme previously approved (most recently under BH2019/03533 on 23rd January 2020) in terms of sustainability. The demolition and replacement of the existing building allows the opportunity to replace the failing existing fabric and use modern energy-saving techniques to reduce the long-term carbon footprint of the building. Discussions have also been had with the agent regarding the possibility of salvaging and re-using as much of the existing fabric as possible. This will not only help to integrate the scheme with its setting as quickly as possible but it will also help to reduce the reliance on new building materials, reduce the potential use of landfill capacity and the vehicle movements associated with these activities.
- 8.12. Whilst it is noted that the application has not taken the opportunity to explore other beneficial design changes (as noted by the Urban Design Officer), it largely replicates the appearance of what could result from the extant permission and on that basis the proposal is not considered to have a harmful impact in terms of its design and appearance.

#### Impact on Heritage Assets

- 8.13. In considering whether to grant planning permission which affects a listed building or its setting the Council has a statutory duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 8.14. Case law has held that the desirability of preserving a listed building or its setting or the character or appearance of a conservation area must be given "considerable importance and weight".
- 8.15. The appearance of the previous extensions were considered acceptable in terms of the impact they would have on heritage assets, including the two conservation areas and the grade II listed building that is opposite. The removal of the existing harmful rear wing to the rear and reinstatement of the flint wall is considered to represent a significant improvement to the Westbourne Place streetscene. The reinstatement of the historic flint boundary wall would be secured by condition, as it has been previously.
- 8.16. The building itself is set far back within its plot and the impact of the more contemporary aspects of the design are thus reduced. The boundary wall fronting Princes Crescent has not been altered by the proposal.

- 8.17. A condition will be attached to any permission requiring evidence be provided to the Local Planning Authority prior to demolition showing that a contract has been entered into by the developer to ensure that development commences on the proposal, in order to reduce the risk of the premature demolition/dismantlement and the impact that could have on the local streetscene and conservation areas.
- 8.18. Although concerns have been raised about the proposed dwelling, notably by CAG, in this instance it is considered that the current proposal would have a neutral impact upon the heritage assets given the extant permissions and a neutral impact would preserve the character and appearance of the conservation area together with the setting of the listed building opposite.

#### Impact on Amenity

- 8.19. The impact on the amenities of local residents from the proposal would match that of the previously approved design. Strong concerns have been raised regarding the inclusion of a rear dormer window each time it has been proposed. This is due to the building being set well back within its curtilage, bringing the rear elevation of the building into closer proximity with the rear of its own plot and the rear gardens of properties on the west side of Westbourne Place.
- 8.20. However, as the rear dormer is at a similar distance to these neighbours' properties as the existing first floor windows are on the existing dwellinghouse it has not previously been considered to be so harmful as to materially reduce the privacy of these neighbours. It is noted that it served the upper floor gallery/hall rather than a bedroom or living room and so the actual use of the window as a means of outlook is likely to be very limited especially as the internal space within the dormer itself has a width of only approximately 1.3m.
- 8.21. Application BH2019/02256, which was refused, related to a much larger rear dormer that incorporated a Juliette balcony. The refusal was in part due to the size and appearance of the dormer but also the likely loss of privacy to rear gardens of neighbouring properties. The proposed smaller dormer does not raise these concerns.
- 8.22. Whilst the dormer does add an additional window to the rear elevation, given the character of the area total privacy within a rear garden is unlikely to be achievable and some mutual overlooking is inevitable. It is considered that the proposal is unlikely to lead to any loss of privacy more harmful than that which already exists.
- 8.23. Access to the areas of flat roof will be restricted by condition to maintenance or emergencies, given that use of such areas could afford unobstructed views into private amenity space.
- 8.24. Side-facing windows and rooflights at first floor level or higher will be conditioned to be fitted with obscure glazing and to be fixed shut to an internal height of 1.7m in order to protect to privacy of rear gardens of adjacent properties on Princes Crescent, given the proximity of the these windows and

the unobstructed views they would otherwise afford residents of what is currently private amenity space.

#### Standard of Accommodation

- 8.25. The property provides approximately 475m<sup>2</sup> of floor space split between two storeys and the habitable loft space. Five bedrooms are shown on the floor plans. Although the loft-space bedroom would only be served by a roof-light and the sloping ceiling may impact on the usability of the space, this is not unusual and within the context of the wider proposal and the extant permission it is not considered that this minor concern warrants refusal of the proposal.
- 8.26. The proposal would also continue to benefit from spacious outside amenity areas in the front and rear gardens, and there are no concerns in this regard. The site is also proximal to open public spaces such as the Western Lawns and the beach itself.

#### Impact on the Adopted Highway

- 8.27. It is not considered that the proposal would lead to any significant increase in trips to and from the site. The proposal would reduce the area of vehicle hardstanding, though the retained area is still significant and would continue to provide a safe vehicular turning circle. The hardstanding will be conditioned to be made from a porous material or to direct surface water run-off into a location within the site, to prevent water egress across the adopted highway.
- 8.28. The introduction of purpose-built cycle parking is welcomed and will encourage trips to and from the site by means other than private motor vehicle. The site is also close by to bus routes running along New Church Road.
- 8.29. Details of the cycle parking facilities will be required by condition, together with the provision of the green roof atop it.
- 8.30. It is also considered necessary that after the works have been carried out, that the adjacent highway be reinstated as on-street parking; this will be secured by condition.

#### Biodiversity

- 8.31. Since November 2019 the Council has adopted the practice of securing minor design alterations to schemes with the aim of encouraging the biodiversity of a site, particularly with regards to protected species such as bees. The proposal has included multiple biodiversity improvements including bee bricks, bird boxes, a green roof atop the cycle store, and the aforementioned wider landscaping plan. All these inclusions will be secured by condition in order that the proposal may introduce some significant benefits to the biodiversity of the site.

#### Other Considerations

- 8.32. Given the significant demolition and works on brown-field land that is occurring, it is considered that the potential for contamination on site exists. For this reason, a precautionary condition will be attached requiring the cessation of works if previously unidentified contaminants are found on site, in the interests

of the health and wellbeing of not only the workmen themselves but future residents.

Conclusion

- 8.33. The replacement of the existing with the proposed dwellinghouse is necessary in order to overcome issues caused by the failing quality of the existing fabric, and represents a more viable and sustainable solution. The proposed works would introduce improvements in terms of biodiversity and accessibility and would cause no more harm to the amenities of local residents than the scheme for which there is extant permission. The scheme will have a neutral impact upon the heritage assets and overall the proposal accords with both local and national policies. Accordingly the application is recommended for approval.

**9. EQUALITIES**

- 9.1. The replacement of the existing building allows for the opportunity to improve the accessibility of the building for those with mobility-related disabilities, be they necessary in the future. The proposal's compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) shall be secured by condition.



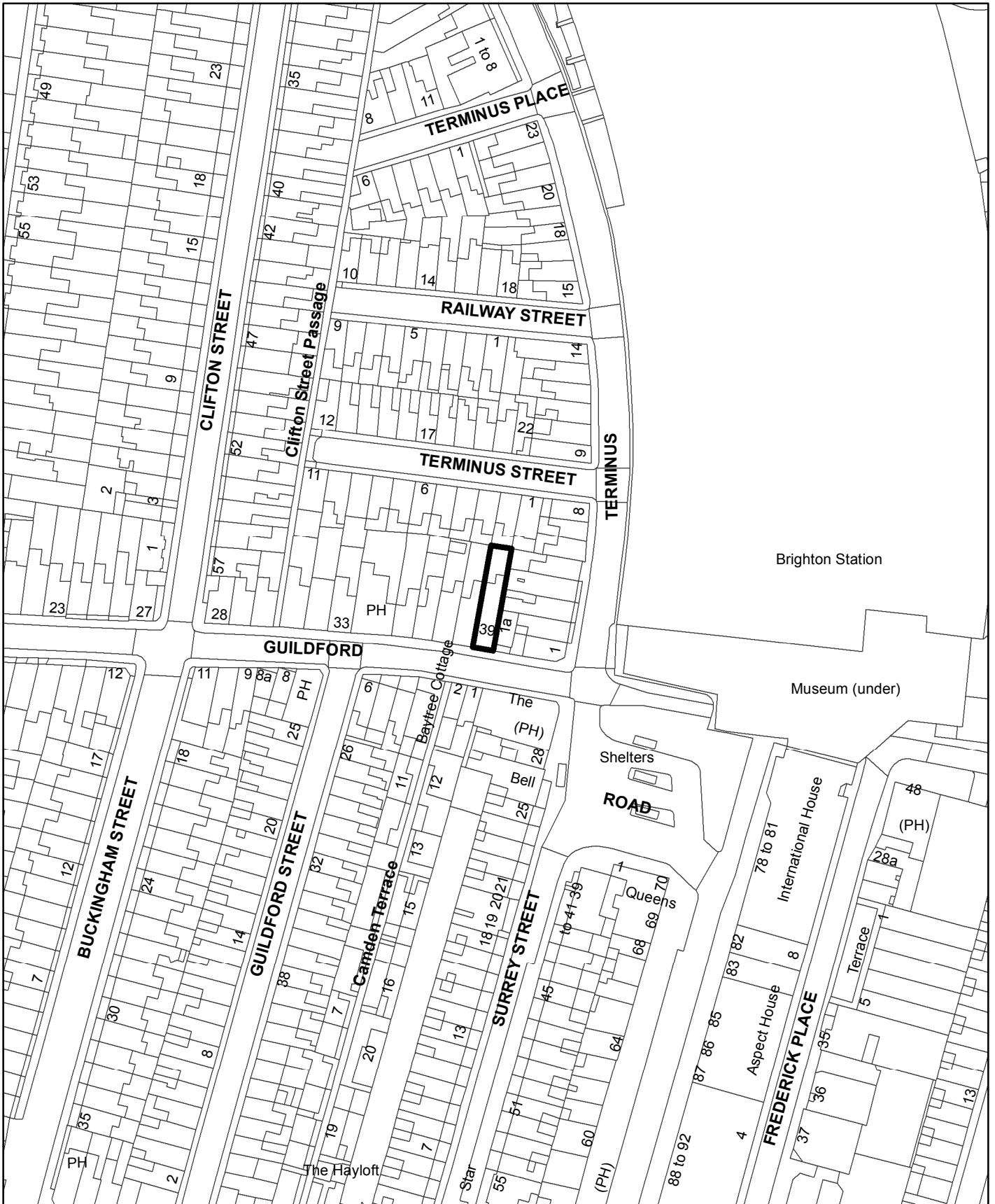
# **ITEM J**

**Flat at 39 Guildford Road  
BH2020/00235  
Full Planning**

**DATE OF COMMITTEE: 10<sup>th</sup> June 2020**



# BH2020 00235 - Flat at 39 Guildford Road



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Scale: 1:1,250

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<b><u>No:</u></b>	<b>BH2020/00235</b>	<b><u>Ward:</u></b>	<b>St. Peter's And North Laine Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Flat At 39 Guildford Road Brighton BN1 3LW</b>		
<b><u>Proposal:</u></b>	<b>Change of use from existing 3no bedroom flat (C3) to a 4no bedroom small house in multiple occupation (C4).</b>		
<b><u>Officer:</u></b>	Mark Thomas, tel: 292336	<b><u>Valid Date:</u></b>	24.01.2020
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	20.03.2020
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Lewis And Co Planning SE Ltd Road Brighton BN1 5PD	Lewis & Co Planning	2 Port Hall Road Brighton BN1 5PD
<b><u>Applicant:</u></b>	Mr Kelmend Murataj Brighton BN1 5PD	C/o Lewis & Co Planning	2 Port Hall Road Brighton BN1 5PD

## 1. RECOMMENDATION

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

### Conditions:

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

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location and block plan	A-01		24 January 2020
Proposed Drawing	A-03		16 March 2020

- 2 The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.  
**Reason:** To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
- 3 The kitchen/dining/lounge area as detailed on drawing no. A03 received on 16 March 2020 shall be retained as communal space at all times and shall not be used as a bedroom.  
**Reason:** To ensure a suitable standard of accommodation for occupiers to comply with policy QD27 of the Brighton & Hove Local Plan.
- 4 The House in Multiple Occupation hereby approved shall only be occupied by a maximum of four (4) persons.  
**Reason:** To ensure a satisfactory standard of accommodation for future occupiers and to comply with policy QD27 of the Brighton & Hove Local Plan.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.

## **2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1. The application relates to a three-storey terraced house on the north side of Guildford Road. At ground floor is a vacant commercial unit, most recently occupied as a fish-and-chip shop. The upper floors are a residential maisonette.
- 2.2. The application seeks permission for a change of use from a three-bedroom maisonette (C3 use class) to a four bedroom small house in multiple occupation (C4 use class). Originally the application included an additional bedroom within the roofspace and the installation of rooflights. This aspect of the scheme has been removed by the applicant during the consideration of the application.

## **3. RELEVANT HISTORY**

No relevant planning history.

## **4. REPRESENTATIONS**

- 4.1. Thirteen (13) representations have been received, objecting to the proposed development for the following reasons:
  - Loss of fish-and-chip shop
  - Increased noise
  - Increased domestic waste
  - More parking permit applications and increased parking stress
  - HMOs mean loss of Council Tax revenue
  - No fire exit proposed
  - Area to suited to HMOs
  - There are HMOs close by at nos. 35 and 39 Guildford Road

## **5. CONSULTATIONS**

- 5.1. **Sustainable Transport:** Verbal Comment
  - The property is situated within a CPZ, so consideration should be given to making the development car free.
  - No cycle parking is proposed, but there is no opportunity to provide this due to the constraints of the site. Parking standards SPD14 requires 3

spaces, however due to site constraints there is no objection on lack of cycle parking.

- Trip generation is unlikely to be significantly increased from the current C3 use.

## 5.2. **Private Sector Housing:**

- It is important there is a minimum 60 minutes of fire resistance (ceiling and walls) between the commercial premises and residential parts including removing the shared entrance from takeaway to ground floor hallway in residential parts with materials providing 60 minutes of fire resistance.
- We would expect to find AFD mains wired and linked coverage between the commercial unit and residential parts (Grade D LD2) with heat alarms located in ground floor commercial premises linked to floors above. All issues can be addressed through licensing process.

## 6. **MATERIAL CONSIDERATIONS**

6.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report

6.2. The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016);
- Brighton & Hove Local Plan 2005 (retained policies March 2016);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);

6.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

## 7. **POLICIES**

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part Two

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications but any greater weight to be given to individual policies will need to await the outcome of the Regulation 19 consultation. The council will consider the best time to carry out the consultation after the coronavirus (Covid-19) restrictions are lifted.

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP9	Sustainable transport
CP21	Student housing and Housing in Multiple Occupation

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

TR14	Cycle access and parking
SU9	Pollution and nuisance control
SU10	Noise Nuisance
QD27	Protection of amenity

Supplementary Planning Documents:

SPD14	Parking Standards
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## 8. CONSIDERATIONS & ASSESSMENT

- 8.1. The main considerations in the determination of this application relate to the principle of the change of use, impact upon neighbouring amenity, the standard of accommodation which the use would provide and transport issues.

**Principle of Development:**

- 8.2. Policy CP21 of the Brighton and Hove City Plan Part One specifically addresses the issue of changes of use to either class C4, a mixed C3/C4 use or to a sui generis House in Multiple Occupation and states that:
- 8.3. 'In order to support mixed and balanced communities and to ensure that a range of housing needs continue to be accommodated throughout the city, applications for the change of use to a Class C4 (Houses in multiple occupation) use, a mixed C3/C4 use or to a sui generis House in Multiple Occupation use (more than six people sharing) will not be permitted where:
- 8.4. More than 10 per cent of dwellings within a radius of 50 metres of the application site are already in use as Class C4, mixed C3/C4 or other types of HMO in a sui generis use.'
- 8.5. A mapping exercise has taken place which indicates that there are 69 neighbouring residential properties within a 50m radius of the application property. 5 neighbouring properties have been identified as being in HMO use within the 50m radius. The percentage of neighbouring properties in HMO use within the radius area is thus 7.25%.
- 8.6. Based upon the existing percentage of neighbouring properties in HMO use, which is less than 10%, the proposal to change to a small HMO would be in accordance with policy CP21.

**Standard of accommodation:**

- 8.7. Policy QD27 of the Brighton and Hove Local Plan aims to secure a good standard of living accommodation for current and future occupiers. Accommodation should therefore provide suitable circulation space within



bedrooms once the standard furniture for an adult has been installed (such as a bed, wardrobe and desk), as well as good access to natural light and adequate outlook in each bedroom. The communal facilities should be of a sufficient size to allow unrelated adults to independently cook their meals at the same time, sit around a dining room table together, and have sufficient space and seating to relax in a communal lounge.

- 8.8. The 'Nationally Described Space Standards' were introduced by the Department for Communities and Local Government in 2015 to establish acceptable minimum floor space for new build developments. Although these space standards have not been formally adopted into the Brighton and Hove City Plan and relate to new build developments, they provide a useful guideline on acceptable room sizes that would offer occupants useable floor space once the usual furniture has been installed. The 'Nationally Described Space Standards' establishes the minimum floor space for a single bedroom as measuring at least 7.5m<sup>2</sup>, and a double bedroom should measure at least 11.5m<sup>2</sup>.
- 8.9. The first-floor accommodation would comprise 2 bedrooms (7.9m<sup>2</sup> and 8.6m<sup>2</sup>), a communal living room/Kitchen/Diner (16.2m<sup>2</sup>) and a shower room. The second-floor accommodation would comprise 2 further bedrooms (8.7m<sup>2</sup> and 10.7m<sup>2</sup>) and a shower room.
- 8.10. The proposed layout would allow for all rooms to have adequate natural light and circulation space. The communal spaces are considered of an appropriate size for 4 occupiers. The proposed floor plans show indicative furniture layouts for the bedrooms, which show how a bed and storage furniture could be accommodated.
- 8.11. The application originally proposed an additional bedroom within the roofspace. It was considered that occupation by 5 people would have resulted in the communal areas feeling more cramped. There was further concern that the bedroom in the loft would have had restricted headroom. It is welcomed that the applicant agreed to remove this additional bedroom from the proposals during consideration of the application.
- 8.12. Overall, the proposed change of use would not result in substandard living conditions for future occupiers.

**Impact on Amenity:**

- 8.13. Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 8.14. The increased occupation of the building is not considered likely to result in significantly increased activity which would cause noise/disturbance to occupiers of neighbouring properties beyond the existing residential use.

**Sustainable Transport:**

- 8.15. The change of use is not considered to result in a significant increase in on street parking pressure. The proposed scheme is not considered to result in a significant increase in trip generation.
- 8.16. No cycle parking is proposed by reason of site constraints (the garden is within the demise of the ground floor use). Given the sustainable location of the site for public transport, and the constraints of the site, refusal is not recommended on the grounds of insufficient cycle parking.
- 8.17. Whilst the site is in a controlled parking zone, the small increase in occupancy is unlikely to result in a trip generation or demand for parking permits than would have been available for the occupiers of the property as a three-bedroom maisonette.

**Other Issues:**

- 8.18. Letters of representation have been received referring to the loss of the ground floor fish-and-chip shop. The ground floor does not form part of the current application nor part of the proposed floor space for the HMO use. When the planning officer visited the property, the ground floor was vacant, and there was no evidence that any works or change of use requiring planning permission had been carried out.

**9. EQUALITIES**

No issues identified.

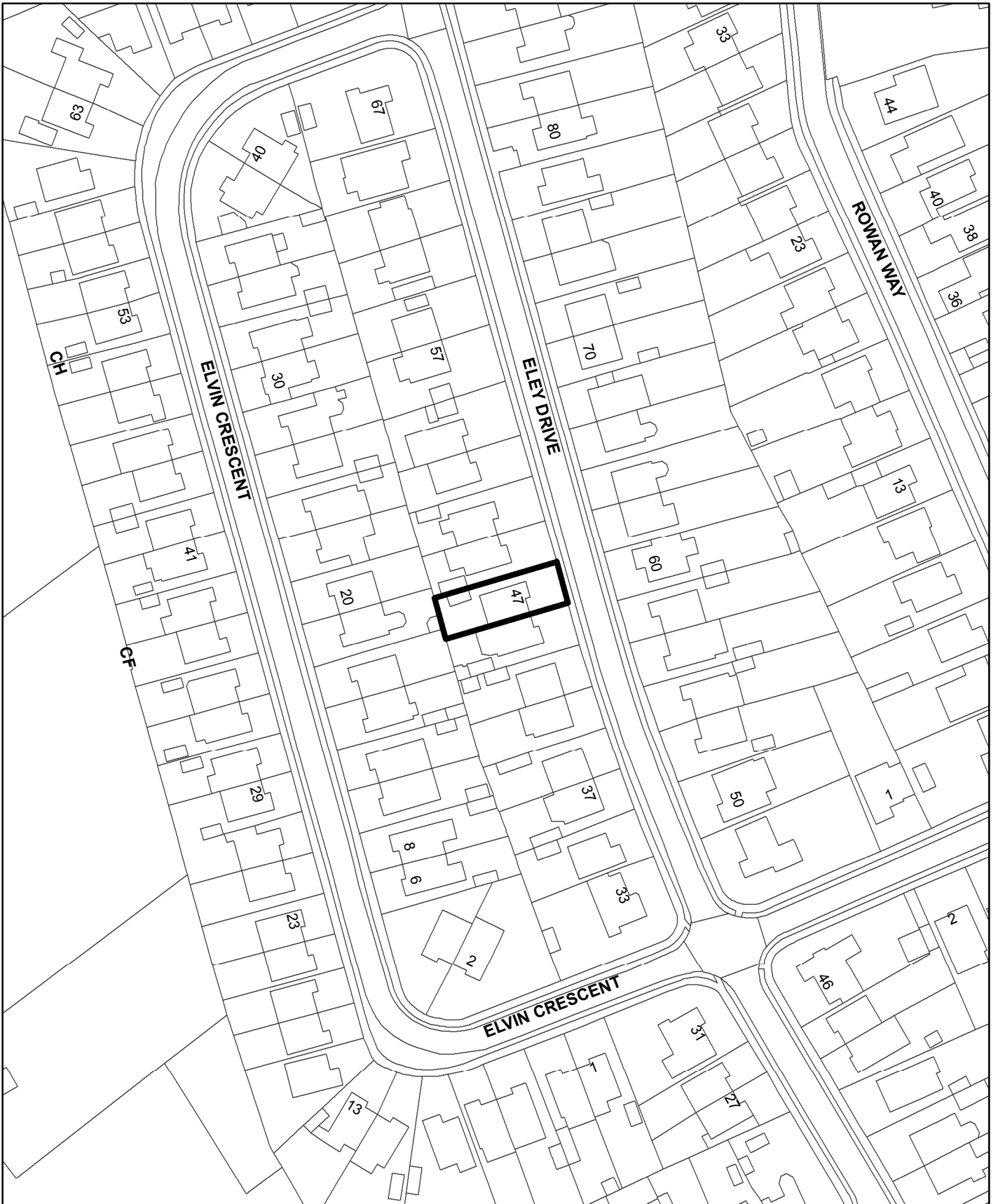
# **ITEM K**

**47 Eley Drive  
BH2020/00791  
Householder Planning Consent**

**DATE OF COMMITTEE: 10<sup>th</sup> June 2020**



# BH2020 00791 - 47 Eley Drive



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Scale: 1:1,250

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<b><u>No:</u></b>	<b>BH2020/00791</b>	<b><u>Ward:</u></b>	<b>Rottingdean Coastal Ward</b>
<b><u>App Type:</u></b>	<b>Householder Planning Consent</b>		
<b><u>Address:</u></b>	<b>47 Eley Drive Rottingdean Brighton BN2 7FG</b>		
<b><u>Proposal:</u></b>	<b>Demolition of garage and erection of single storey rear extension and rendering of the existing property (Part Retrospective).</b>		
<b><u>Officer:</u></b>	Nicola Van Wunnik, tel: 294251	<b><u>Valid Date:</u></b>	20.03.2020
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	15.05.2020
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Stephen Bromley Associates 5 West Street Shoreham By Sea BN43 5WF		
<b><u>Applicant:</u></b>	Ms T Reynolds 47 Eley Drive Rottingdean Brighton BN2 7FG		

This proposal is being determined by Planning Committee as it is an officer linked application.

## 1. RECOMMENDATION

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

### Conditions:

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

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Block Plan			10 March 2020
Location Plan			10 March 2020
Proposed Drawing	11624-1g		1 May 2020

2. A bee brick shall be incorporated within the external wall of the development hereby approved and shall be retained thereafter.

**Reason:** To enhance the biodiversity of the site and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

### Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.

2. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.
3. The applicant is advised that this application is being considered as an extension to the dwelling. Any use of the side extension as a separate unit of accommodation would require an application for planning permission as this would represent the formation of a new planning unit.
4. A formal application for connection to the public sewerage system is required in order to service this development. Please read Southern Water's New Connections Services Charging Arrangements documents which has now been published and is available to read on our website via the following link [southernwater.co.uk/infrastructure-charges](http://southernwater.co.uk/infrastructure-charges).

## 2. RELEVANT HISTORY

None

## 3. CONSULTATIONS

### 3.1. Rottingdean Parish Council

No comments received

### 3.2. Southern Water Comment

Southern Water requires a formal application to be submitted and have requested that should this application receive planning approval, an informative is attached to the consent.

## 4. REPRESENTATIONS

### 4.1. **Two (2)** letters (from the same resident) has been received objecting to the proposed development on the following grounds:

- Inappropriate height on boundary
- Overshadowing
- Poor design
- Too close to boundary
- Setting a precedent for future development
- Extension could be used as independent space with own entrance.

### 4.2. **One (1)** letter has been received supporting the proposed development on the following grounds:

- Good design

## 5. RELEVANT POLICIES

The National Planning Policy Framework (NPPF)



Brighton & Hove City Plan Part Two

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications but any greater weight to be given to individual policies will need to await the outcome of the Regulation 19 consultation. The council will consider the best time to carry out the consultation after the coronavirus (Covid-19) restrictions are lifted.

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

CP10 Biodiversity

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

QD14 Extensions and alterations

QD27 Protection of Amenity

Supplementary Planning Documents:

SPD11 Nature Conservation and Development

SPD12 Design Guide for Extensions and Alterations

**6. CONSIDERATIONS & ASSESSMENT**

- 6.1. The main considerations in the determination of this application relate to the impact of the proposed development on the appearance and character of the building and the wider streetscene, and the amenities of adjacent occupiers.
- 6.2. During the course of this application, the agent was approached requesting some amendments in order to make the scheme more acceptable. Amended plans were submitted which removed the timber cladding from the extension and incorporated rendering of the existing dwelling into the proposal. As amended plans had been submitted and the description changed, a 14 day neighbour re-consultation was carried out.
- 6.3. Planning permission is sought for demolition of the existing garage and erection of a single storey extension and rendering of the property. The applicant has provided photographs that show the works have already started including the demolition of the garage, alterations to fenestration and the property is partially rendered. As the works have started but have not been completed, the application is part retrospective.

Design and Appearance

- 6.4. The property as existing has a garage at the end of the driveway. The proposed extension would be partially constructed over the footprint of the garage and have an 'L' shape, with a portion running down the side of the property having a width of approximately 2.6m. The rear element of the extension would extend approximately 6m past the existing rear elevation. The

extension would be contained within the boundary of the site and would have a subservient appearance to the main building.

- 6.5. Due to alterations to the internal layout, three of the windows on the side elevation will be blocked up and bi-fold doors will be installed to the rear to replace the existing windows and doors.
- 6.6. The new extension will have a render finish which will complement the main dwelling which will also be rendered. Eley Drive has a varied streetscene without a prevailing character to its properties. Within the vicinity of the site there are a number of properties that have a rendered finish or have painted brick (including the adjoining semi-detached property) and as a result of this the proposed rendered finish is not considered to be out of keeping.
- 6.7. The proposed extension, alterations to fenestration and external render are considered suitable alterations to the building which would not harm its appearance or that of the wider area in accordance with policy QD14 of the Brighton & Hove Local Plan.

#### Impact on Amenity

- 6.8. Due to the covid-19 pandemic, a site visit has not been undertaken in this instance, however, the impacts of the proposal can be clearly assessed from the plans provided and from aerial imagery of the site. In addition, the applicant provided site photos throughout the course of the application.
- 6.9. Due to the location of the proposed works, the properties that are going to be impacted by the proposed development are number 45 and 49 Eley Drive.
- 6.10. The submitted photographs show that the property to the north of the site, number 49 Eley Drive, features ground floor side windows that face the application site. It is acknowledged that the proposed extension would be built up to the shared boundary and project further forward than the existing garage, which will cause some loss of light and overshadowing to these side windows, however this is not considered so harmful to warrant refusal of the application due to the separation distance provided by the neighbours access to the garage at no 49.
- 6.11. With regards to number 45 Eley Drive, it is noted that the extension would introduce new fenestration facing this neighbouring property, however due to the distance between the extension and number 45, this is not considered to cause any harm to neighbouring amenity.
- 6.12. Overall, the proposed scheme is therefore not considered to cause significant harm to the adjacent properties in accordance with policy QD27 of the Brighton and Hove Local Plan.

#### Other Matters

- 6.13. Concerns have been received raising concerns that the extension could be used as a separate unit. It is noted that the extension features an entrance door to the front, however the plans show that the extension is linked internally

to the main dwelling, therefore this application is being considered as an extension to the dwelling. Any use of the side extension as a separate unit of accommodation would require an application for planning permission as this would represent the formation of a new planning unit and an informative is recommended advising of this.

- 6.14. Since November 2019 the Council has adopted the practice of securing minor design alterations to schemes with the aim of encouraging the biodiversity of a site. A condition requiring a bee brick has been attached to improve ecology outcomes on the site in accordance with the Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

**7. EQUALITIES**  
None identified



# PLANNING COMMITTEE

## Agenda Item 9

Brighton & Hove City Council

### NEW APPEALS RECEIVED (07/05/20 – 20/05/20)

#### WARD

#### **CENTRAL HOVE**

APPEALAPPNUMBER

ADDRESS

Unit 1 Planet House 1 The Drive Hove BN3 3JE

DEVELOPMENT DESCRIPTION

Appeal against

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

11/05/2020

APPLICATION DECISION LEVEL

Not Assigned

#### WARD

#### **MOULSECOOMB AND BEVENDEAN**

APPEALAPPNUMBER

ADDRESS

117 Milner Road Brighton BN2 4BR

DEVELOPMENT DESCRIPTION

Appeal against without planning permission the material change of use from small House in Multiple Occupation (C4) to a 8 bedroom House in Multiple Occupation (Sui Generis) and a loft conversion including a dormer to the rear roof slope to facilitate the unauthorised change of use to HMO (Sui Generis).

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

18/05/2020

APPLICATION DECISION LEVEL

Not Assigned

#### WARD

#### **QUEEN'S PARK**

APPEALAPPNUMBER

ADDRESS

23 Freshfield Street Brighton BN2 9ZG

DEVELOPMENT DESCRIPTION

Appeal against

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

14/05/2020

APPLICATION DECISION LEVEL

Not Assigned



#### **APPEAL DECISIONS FOR THE PERIOD BETWEEN 22/04/2020 AND 26/05/2020**

**WARD****APPEAL APPLICATION NUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL TYPE****APPEAL DECISION****PLANNING APPLICATION NUMBER****APPLICATION DECISION LEVEL****GOLDSMID**

APL2020/00018

15 Wilbury Crescent Hove BN3 6FL

Certificate of lawfulness for proposed loft conversion, incorporating rear dormer and side dormer to existing outrigger.

Against Refusal

APPEAL DISMISSED

BH2019/02391

Delegated

**WARD****APPEAL APPLICATION NUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL TYPE****APPEAL DECISION****PLANNING APPLICATION NUMBER****APPLICATION DECISION LEVEL****HOLLINGDEAN AND STANMER**

APL2020/00061

4 Barrow Hill Brighton BN1 7FF

Change of use from dwellinghouse (C3) to four bedroom small house in multiple occupation (C4) (retrospective).

Against Refusal

WITHDRAWN APPEAL

BH2019/03551

Delegated

**WARD****APPEAL APPLICATION NUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL TYPE****APPEAL DECISION****PLANNING APPLICATION NUMBER****APPLICATION DECISION LEVEL****MOULSECOOMB AND BEVENDEAN**

APL2020/00017

33 Hillside Brighton BN2 4TF

Certificate of lawfulness for existing single storey rear extension, loft conversion incorporating hip to gable roof extension with rear dormer and 2no front rooflights.

Against Refusal

APPEAL ALLOWED

BH2018/03404

Delegated

**WARD****APPEAL APPLICATION NUMBER****ADDRESS****PATCHAM**

APL2020/00060

134A Carden Hill Brighton BN1 8DD

<u>DEVELOPMENT DESCRIPTION</u>	Erection of single storey rear extension and two storey side extension, revisions to fenestration, replacement of render with cladding, painting brickwork.
<u>APPEAL TYPE</u>	Against Refusal
<u>APPEAL DECISION</u>	APPEAL ALLOWED
<u>PLANNING APPLICATION NUMBER</u>	BH2019/03346
<u>APPLICATION DECISION LEVEL</u>	Delegated

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<b><u>WARD</u></b>	<b>QUEEN'S PARK</b>
<u>APPEAL APPLICATION NUMBER</u>	APL2020/00020
<u>ADDRESS</u>	8 Margaret Street Brighton BN2 1TS
<u>DEVELOPMENT DESCRIPTION</u>	Change of use from 3 bedroom dwelling house (C3) to 6 bedroom small House in Multiple Occupation (C4).
<u>APPEAL TYPE</u>	Against Non-determination
<u>APPEAL DECISION</u>	APPEAL ALLOWED
<u>PLANNING APPLICATION NUMBER</u>	BH2019/01592
<u>APPLICATION DECISION LEVEL</u>	Not Assigned

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<b><u>WARD</u></b>	<b>ST. PETER'S AND NORTH LAINE</b>
<u>APPEAL APPLICATION NUMBER</u>	APL2019/00221
<u>ADDRESS</u>	85A Ditchling Road Brighton BN1 4SD
<u>DEVELOPMENT DESCRIPTION</u>	Conversion to form 4no dwellings (C3) incorporating a 2no storey rear extension, roof alterations to include a dormer window, associated internal and external alterations and revised fenestration.
<u>APPEAL TYPE</u>	Against Refusal
<u>APPEAL DECISION</u>	APPEAL ALLOWED
<u>PLANNING APPLICATION NUMBER</u>	BH2018/02402
<u>APPLICATION DECISION LEVEL</u>	Delegated

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<b><u>WARD</u></b>	<b>WESTBOURNE</b>
<u>APPEAL APPLICATION NUMBER</u>	APL2020/00024
<u>ADDRESS</u>	2 Princes Avenue Hove BN3 4GD
<u>DEVELOPMENT DESCRIPTION</u>	Block pave front garden to create driveway.
<u>APPEAL TYPE</u>	Against Refusal
<u>APPEAL DECISION</u>	APPEAL DISMISSED
<u>PLANNING APPLICATION NUMBER</u>	BH2019/03520
<u>APPLICATION DECISION LEVEL</u>	Delegated

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<b><u>WARD</u></b>	<b>WISH</b>
<u>APPEAL APPLICATION NUMBER</u>	APL2019/00278
<u>ADDRESS</u>	31 Welbeck Avenue Hove BN3 4JP



DEVELOPMENT DESCRIPTION

Certificate of lawfulness for the proposed erection of a single storey rear/side extension, single storey side extension, hip to gable roof extension, rear dormer with juliette balcony and 2 front rooflights, alterations to the porch and revised fenestration.

APPEAL TYPE

Against Refusal

APPEAL DECISION

APPEAL DISMISSED

PLANNING APPLICATION NUMBER

BH2019/01606

APPLICATION DECISION LEVEL

Delegated

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