





**Brighton & Hove
City Council**

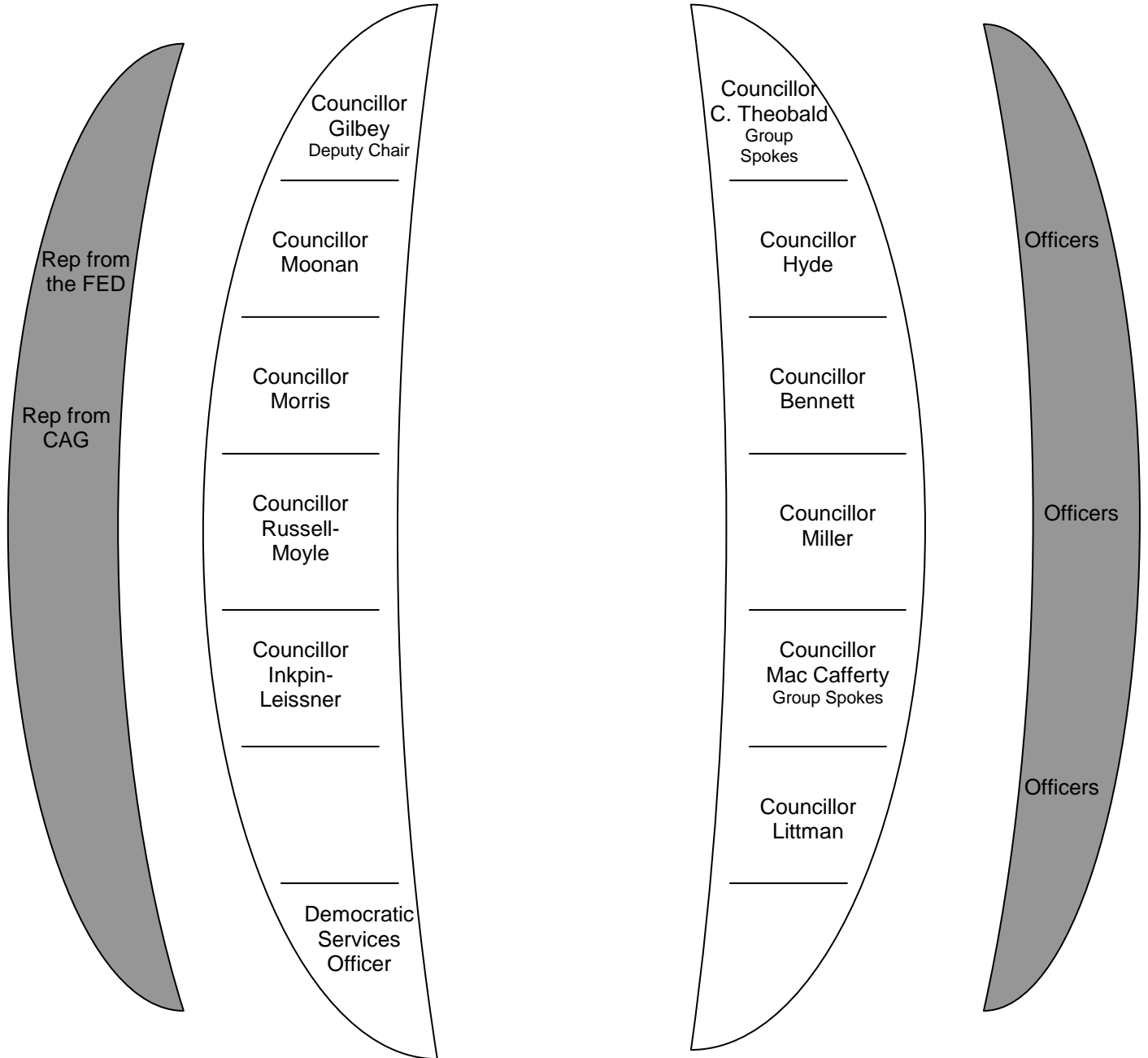
Planning Committee

Title:	Planning Committee
Date:	14 September 2016
Time:	2.00pm
Venue	Council Chamber, Hove Town Hall, Norton Road, Hove, BN3 4AH
Members:	<p>Councillors: Cattell (Chair), Gilbey (Deputy Chair), C Theobald (Group Spokesperson), Mac Cafferty (Group Spokesperson), Bennett, Hyde, Inkpin-Leissner, Littman, Miller, Moonan, Morris and Russell-Moyle</p> <p>Co-opted Members: Jim Gowans (Conservation Advisory Group)</p>
Contact:	<p>Penny Jennings Democratic Services Officer 01273 29-1064/29-1354 planning.committee@brighton-hove.gov.uk</p>

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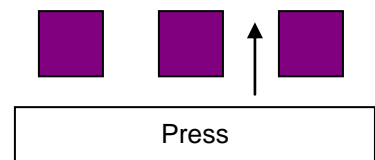
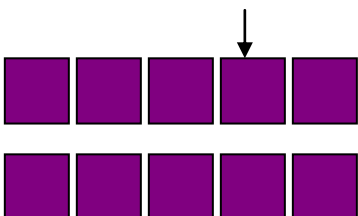
Democratic Services: Planning Committee

Senior Solicitor	Councillor Cattell Chair	Head of Development Control	Presenting Officer
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Public Speaker	Public Speaker
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Public Seating



AGENDA

37 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.

(d) Use of mobile phones and tablets: Would Members please ensure that their mobile phones are switched off. Where Members are using tablets to access agenda papers electronically please ensure that these are switched to 'aeroplane mode'.

PLANNING COMMITTEE

38 MINUTES OF THE PREVIOUS MEETING 1 - 26

Minutes of the meeting held on 3 August 2016 (copy attached).

39 CHAIR'S COMMUNICATIONS

40 PUBLIC QUESTIONS

Written Questions: to receive any questions submitted by the due date of 12 noon on 7 September 2016.

41 TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS

42 WITHDRAWING THE REASON FOR REFUSAL OF PLANNING APPLICATION BH2015/01471, ASTORIA 10-14 GLOUCESTER PLACE, BRIGHTON FOR PURPOSES OF APPEAL 27 - 30

Report of the Executive Director Economy, Environment and Culture (copy attached).

43 REQUEST TO VARY THE HEADS OF TERMS OF SECTION 106 AGREEMENTS IN CONNECTION WITH PLANNING APPLICATIONS BH2015/04577 AND BH2015/04575 FOR MIXED USE REDEVELOPMENT, INCLUDING NEW HOTELS. 31 - 34

Report of the Executive Director Economy, Environment and Culture (copy attached).

44 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS 35 - 38

MAJOR APPLICATIONS

A BH2015/03144 - Site of Former William Moon Lodge, The Linkway, Brighton - Full Planning 39 - 62

Erection of two storey (plus basement) residential care home providing 75 bedrooms and 18 parking spaces and associated works.

RECOMMENDATION – MINDED TO GRANT

Ward Affected - Hollingdean & Stanmer

B BH2016/01877 - The Shelter Hall, 150-154 Kings Road Arches, Brighton - Full Planning 63 - 104

Demolition of existing building and external steps. Erection of two-storey building at lower promenade level incorporating mezzanine floor and a single storey rotunda building on the upper promenade level on raised plinth to provide mixed use development comprising retail/café/restaurant/public toilets (A1/A3/sui generis uses) and new external steps.

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RECOMMENDATION – MINDED TO GRANT

Ward Affected: Regency

C BH2016/01592 - Household Waste Recycling Site, Modbury Way, Hove - Removal or Variation of Condition 105 - 120

Application for variation of condition 3 of application BH2015/00180 to allow the transfer facility to accept street cleansing waste, waste from communal bin operations, cardboard and green garden waste from Brighton & Hove City Council collections, re-usable, recyclable, recoverable and residual waste arising from Household Waste Recycling Sites, commercial recyclable waste and commercial residual waste for energy recovery or landfill. (Retrospective)

RECOMMENDATION – GRANT

Ward Affected: Hove Park

MINOR APPLICATIONS

D BH2016/02329 - 308 Dyke Road, Brighton - Full Planning 121 - 136

Erection of three bedroom residential dwelling with associated parking and landscaping to replace existing garages.

RECOMMENDATION – GRANT

Ward Affected: Withdean

E BH2016/01847 - 51 Plymouth Avenue, Brighton - Full Planning 137 - 148

Change of use from three bedroom single dwelling (C3) to three bedroom small house in multiple occupation (C4).

RECOMMENDATION – GRANT

Ward Affected: Moulsecoomb and Bevendean

F BH2016/02069 - 42 Hawkhurst Road, Brighton - Full Planning 149 - 162

Change of use from three bedroom house (C3) to six bedroom small house in multiple occupation (C4) with hip to gable roof extension with front rooflights and rear dormer.

RECOMMENDATION – GRANT

Ward Affected: Hollingdean and Stanmer

G BH2016/01224 - 11 Boundary Road and land to rear of Harbour Mews, Hove - Full Planning 163 - 182

Conversion of existing ground floor rear office (B1) and demolition of existing warehouse (B8) at rear to create 1no two bedroom flat (C3) incorporating single storey side/rear extension and erection of 1no three bedroom house with associated landscaping and car parking.

RECOMMENDATION – GRANT

Ward Affected: Wish

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- H BH2016/01756 - 18-19 Ship Street, Brighton - Full Planning 183 - 198**

Erection of upper first floor rear extension to create one bedroom flat.

RECOMMENDATION – REFUSE

Ward Affected: Regency

- I BH2016/01757 - 18-19 Ship Street, Brighton - Full Planning 199 - 214**

Creation of additional floor to create 1no three bedroom flat with associated alterations.

RECOMMENDATION – REFUSE

Ward Affected: Regency

- J BH2016/00954 - 3 Hove Street, Hove - Full Planning 215 - 228**

Erection of orangery extension to rear.

RECOMMENDATION – GRANT

Ward Affected: Central

- K BH2016/00752 - 101 Roundhill Crescent, Brighton - Full Planning 229 - 252**

Erection of 1no three bedroom dwelling (C3) incorporating alterations to boundary wall and external alterations to existing building including repair works, alterations to fenestration and associated works.

RECOMMENDATION – GRANT

Ward Affected: St Peter's & North Laine

- L BH2016/00753 - 101 Roundhill Crescent, Brighton - Listed Building Consent 253 - 262**

External alterations including repair works, alterations to boundary wall including installation of a new gate, reinstatement of cast iron window guards to second floor windows, alterations to fenestration and associated works.

RECOMMENDATION – GRANT

Ward Affected: St Peter's & North Laine

- 45 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

- 46 INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS**

(Information to be circulated at the next Planning Committee).

PLANNING COMMITTEE

47 LIST OF APPLICATIONS DETERMINED UNDER DELEGATED POWERS OR IN IMPLEMENTATION OF A PREVIOUS COMMITTEE DECISION (INC. TREES MATTERS) 263 - 272

(Delegated decisions information to be circulated at the next Planning Committee).
(Trees Matters List attached).

48 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

(Information to be circulated at the next Planning Committee).

49 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES 273 - 274

(copy attached).

50 APPEAL DECISIONS 275 - 346

(copy attached).

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.

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PLANNING COMMITTEE

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If you have any queries regarding this, please contact the Head of Democratic Services or the designated Democratic Services Officer listed on the agenda.

For further details and general enquiries about this meeting contact Penny Jennings, (01273 29-1064/29-1354, email planning.committee@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk.

Date of Publication - Tuesday, 6 September 2016

BRIGHTON & HOVE CITY COUNCIL**PLANNING COMMITTEE****2.00pm 3 AUGUST 2016****THE RONUK HALL, PORTSLADE TOWN HALL****MINUTES**

Present: Councillors Cattell (Chair), Gilbey (Deputy Chair), C Theobald (Group Spokesperson), Mac Cafferty (Group Spokesperson), Bennett, Hamilton, Hyde, Inkpin-Leissner, Littman, Miller, Moonan and Morris

Officers in attendance: Paul Vidler (Planning Manager, Major Applications); Nicola Hurley (Planning Manager, Applications); Kate Brocklebank (Principal Planning Officer); Stewart Glassar (Planning Officer); Tim Jefferies (Principal Planning Officer, Heritage and Design); Steven Shaw (Development and Transport Assessment Manager); Hilary Woodward (Senior Solicitor) and Penny Jennings (Democratic Services Officer)

PART ONE**25 PROCEDURAL BUSINESS****25a Declarations of substitutes**

25.1 There were none.

25b Declarations of interests

25.2 The Chair, Councillor Cattell stated in relation to Application F, BH2016/00015, 51 Westbourne Villas, Hove, that she had been advised that she had been approached by one of the objectors in relation to an earlier application. She had no recollection of that conversation and had not expressed a view or undertaken any work as it was understood she had been about to go on holiday. Councillor Cattell confirmed that she remained of a neutral mind and would remain present during the discussion and decision making in respect of this application. Councillor Cattell also explained that Mr Coomber, the applicant's agent in respect of Application I, BH2016/01931, The Hyde, 95 Rowan Avenue, was known to her as a former colleague, for whom she had undertaken work, since leaving the Council's employ. She had not worked with Mr Coomber since 2006 and remained of a neutral mind and would therefore remain present during the debate and decision making in respect of this application.

- 25.3 Councillor's Miller and Moonan declared a non prejudicial interest by in Application D, BH2016/01438, Land Adjacent, Wellsbourne Health Centre, 179 Whitehawk Road by virtue of the fact that they were both Members of the Housing and New Homes Committee and had voted that money be made available for development of this site for housing. Neither had expressed support for any specific scheme, remained of a neutral mind and would therefore remain present during the debate and decision making in respect of the application.
- 25.4 Councillor Inkpin-Leissner referred to Applications A and B, BH2016/01001 and BH2016/01004, East Slope, refectory Road, University of Sussex, Brighton and; Application E, Unit 4 Home Farm Business Centre, Home Farm Road, Brighton stating that the application sites were located within his ward. He remained of a neutral mind and would therefore remain present during the debate and decision making in respect of those applications.

25c Exclusion of the press and public

- 25.5 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.

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

25d Use of mobile phones and tablets

- 25.7 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 'aeroplane mode'.

26 MINUTES OF THE PREVIOUS MEETING

- 26.1 Councillor Mac Cafferty referred to Application BH2015/04577, 78 West Street and 7-8 Middle Street, Brighton stating that had also made reference to the need for robust arrangements to be in place in relation to recycling of on-site waste materials.
- 26.2 **RESOLVED** – That the Chair be authorised to sign the minutes of the meeting held on 13 July 2016 as a correct record subject to the amendment set out above.

27 CHAIR'S COMMUNICATIONS

- 27.1 There were none.

28 PUBLIC QUESTIONS

- 28.1 There were none.

29 TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS

29.1 There were none.

MAJOR APPLICATIONS

30 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

MAJOR APPLICATIONS

A BH2016/01001- East Slope Refectory Road, University of Sussex, Brighton - Full Planning - Demolition of existing buildings and redevelopment to 'East Slope' to create a mixed use six storey building comprising entertainment and assembly venue, bar, meeting space, ancillary office space, flexible retail floorspace (A1, A3, A4) and 249 student bedrooms with associated landscaping and bicycle storage.

- (1) It was noted that this application had been the subject of a site visit prior to the meeting.
- (2) The Principal Planning Officer, Kate Brocklebank detailed the scheme by reference to site plans and elevational drawings, floor plans and photographs showing the existing buildings and proposals in the context of the Master Plan for the site including those in respect of landscaping. Additional and amended conditions were proposed as set out in the "Late Representations List."
- (3) It was noted that ten of the University's original buildings had been listed, all of which are based around Fulton Court (nine at grade II* and Falmer House at grade I). These determined the general character, architectural tone and presence of the campus. Similarly, the landscape, played an equally important role to the buildings in setting the tone and character of the campus. The listed buildings, which essentially formed the core of the campus, had a very high degree of architectural significance. The University's boundary lay predominantly within the local planning area of Brighton & Hove City Council although a small area in the south eastern corner of the site (part of Phase 2/Academic Area) falls within Lewes District Council. The application site occupies a central location on the East Slope of the campus and is formed of large areas of hard standing (car parking) along with portions of existing residential blocks nos. 21-32 and the existing East Slope Bar all of which were to be demolished.
- (4) The main considerations in the determining the application related to the acceptability of the principle of the development and its impact on the outline approval (BH2013/04337), along with design and heritage impact, sustainability amenity and sustainable transport. The verified views submitted with the application demonstrated that the proposed development would not harm the setting of the listed buildings and that there would be negligible impact on the setting of the conservation area or the setting of the registered park and garden at Stanmer. It was considered that the proposed development was of a high standard of design and would integrate well with the overall masterplan and the original Sir Basil Spence design concept without causing harm to the setting of adjacent listed buildings, the Stanmer Park Conservation Area or the South Downs National Park. The development will achieve a BREEAM 'Excellent' rating, will adequately protect amenity and with the imposition of suggested conditions will not have an unacceptable impact on the highway network. Minded to Grant approval was therefore recommended.

Questions of Officers

- (5) Councillor Mac Cafferty referred to this application in the context of the previous applications for this site seeking reassurances that any changes which could impact on the ecology of the site e.g., on the badgers and slow worms would be carefully monitored. The Principal Planning Officer, Kate Brocklebank confirmed that this was the case.
- (6) In relation to the impact of the proposals on the Listed Buildings, particularly the Grade I, Falmer House, The Principal Planning Officer, Heritage and Design, Tim Jefferies, confirmed that the proposals were considered sympathetic to the overall setting of the Listed Buildings.
- (7) Councillor Littman sought confirmation regarding arrangements in relation to the landscaping proposals, with particular regard to tree replacement.
- (8) Councillor C Theobald enquired as to the height of the proposed blocks and whether they would be higher than any of the existing.
- (9) Councillor Morris sought clarification of the location of the lift shaft equipment and whether it would be visible also regarding the materials to be used.
- (10) Councillor Miller sought clarification of the number of parking spaces to be provided across the site. It was confirmed that this would fluctuate during the course of the works. In addition to cycle parking facilities, some parking would be provided for students living on campus and associated with the student union building.
- (11) Councillor Gilbey enquired as to the location of the disabled bays in relation to the accommodation and whether they would be for use by students.

Debate and Decision Making Process

- (12) Councillor Littman stated that whilst he has some concerns in regard to the proposals to relocate the existing Student Union building he recognised that this was not a planning matter. He considered that the application was acceptable overall and supported the officer recommendation.
- (13) Councillor C Theobald considered that some of the blocks were taller than she would have liked but on balance considered the scheme was acceptable. She also considered it appropriate for the Chair, Deputy Chair and Opposition spokesperson's to agree materials in consultation with Planning Manager. Members were in agreement that the word "green" should be removed in relation to the cladding materials to be used.
- (14) The Chair, Councillor Cattell stated that she considered the scheme was acceptable and was happy to support the recommendations.
- (15) A vote was taken and Members voted unanimously that planning permission be granted.

30.1 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendations set out in section 11 of the report and the policies and guidance in section 7 and resolves that it is **MINDED TO GRANT** planning permission subject to a S106 agreement and the Conditions and Informatives set out in section 11 and to the amendments and additional condition(s) set out below:

Additional S106 head of terms – no other building within Phase 3/West Slope of the masterplan area shall exceed 5 storeys in height.

Delete Condition 9

Amend Condition 19 to read:

No development above ground floor slab level of any part of the development hereby permitted shall take place until a sample of the rain screen cladding material to the stair/lift tower, render and concrete used in the external surfaces of the development, including colour, along with details of the following hard landscaping features; hard surfacing/paved areas, handrails to steps, bollards, fixed seating and litter bins have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and to comply with policy CP12 of the Brighton & Hove City Plan Part One.

Additional condition:

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.

Additional Informative:

The details submitted in relation to materials condition no.19 are delegated to the Planning Manager for agreement in consultation with the Chair, the Deputy Chair and the Opposition spokesperson.

B BH2016/01004 -East Slope Refectory Road, University of Sussex, Brighton - Reserved Matters - Reserved matters application for approval of appearance, landscaping and layout in relation to 'Phase 1 - East Slope' development which includes 1,868 student bedrooms and ancillary accommodation, pursuant to outline approval BH2013/04337 (Demolition of existing buildings and construction of new buildings providing new academic facilities (D1) circa 59,571sqm, 4,022no new student accommodation bedrooms (C1) and new mixed use building circa 2,000 sqm, providing (A1, A3, A4, C1 and D1) uses, incorporating new pedestrian, cycle, vehicular and service routes, landscaping, new parking, upgrading of related infrastructure and associated works).

- (1) It was noted that this application had been the subject of a site visit prior to the meeting.
- (2) The Principal Planning Officer, Kate Brocklebank detailed the reserved matters application by reference to plans, elevational drawings and photographs. The application overall related to the first three phases of development on the campus approved under the outline Master Plan and was known as East Slope. East Slope/Phase I was located centrally within the campus on the eastern side of the valley. The site was currently occupied by low level student accommodation and the East Slope Bar.
- (3) The main considerations in the determining the application related to layout, landscaping and appearance only; these matters were reserved in relation to the previously approved outline application (BH2013/04337 allowed at appeal). Impacts on the setting of nearby Listed Buildings, the Stanmer Park Conservation Area and historic park and garden, the downland setting of the South Downs National Park along with amenity had also been considered in relation to these matters. The principle of development, and the associated access, use and scale, had been established as part of outline planning permission BH2013/04337 and did not therefore form part of the consideration of this application.
- (4) The appearance, layout and landscaping of the development, submitted as part of this reserved matters application were considered acceptable in relation to the overall development of Phase 1 of the Master Plan and the wider campus and it was not considered that they would not cause harm to setting of nearby Listed buildings, the Stanmer Park Conservation Area or the downland setting of the South Downs National Park; nor will it cause significant harm to amenity; the application was therefore recommended for grant.

Questions of Officers

- (5) Councillor Mac Cafferty referred to the removal/planting arrangements asking requesting that the applicants be encouraged to replant using native species and to protect and retention of mature trees. Councillor Littman concurred in that view. Reference was also made to the arrangements to be made in respect of site waste management.
- (6) It was confirmed that as this application related solely to reserved matters it was not appropriate to revisit matters which had been dealt with as part of the outline application or covered by the earlier decision of the Planning Inspector.
- (7) Councillor C Theobald sought confirmation of the height of some of the blocks and referred to the comments received from Southern Water regarding additional drainage measures which might be required. It was confirmed that four of the units would be wheelchair accessible.
- (8) Councillor Inkipin-Leissner asked whether it was anticipated that the scheme would generate additional traffic/traffic movements and it was explained robust conditions were proposed to ensure that this was managed effectively and that use of sustainable modes of transport was actively encouraged.

Debate and Decision Making Process

- (9) Councillor Littman stated that he expressed reservations about some elements of the earlier scheme but was content to support this application. Councillor Mac Cafferty concurred.
- (10) Councillor Hyde stated that whilst she was concerned to ensure that render of an appropriate colour and quality was used she supported the application overall and in particular welcomed the additional accommodation which would enable students to live on campus if they wished.
- (11) Councillor C Theobald considered it was important to ensure that suitable replacement trees were provided and welcomed the mix of accommodation to be provided.
- (12) Councillor Inkpin-Leissner welcomed the proposals which he considered would make a positive contribution to the campus.
- (13) Councillor Miller welcomed the improved accommodation and the additional employment which could accrue from the scheme.
- (14) A vote was taken and Members voted unanimously that planning permission be granted.

30.2 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 and the policies and guidance in section 7 and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in section 11 and to the amendment set out below:

Condition 4 to be amended to read as follows:

No development above ground floor slab level of any part of the development hereby permitted shall take place until a sample of the rain screen cladding material to the stair/lift tower, render and concrete used in the external surfaces of the development, including colour, along with details of the following hard landscaping features; hard surfacing/paved areas, handrails to steps, bollards, fixed seating and litter bins have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and to comply with policy CP12 of the Brighton & Hove City Plan Part One.

BH2016/00803 - 1-6 Lions Gardens and the Coach House, Withdean Avenue, Brighton - Full Planning – Demolition of existing dwellings and erection of part two, part three storey building providing 28 residential apartments (C3) with associated landscaping, parking spaces, cycles and mobility scooter store.

- (1) It was noted that this application had been withdrawn at the applicant's request.

30.3 **RESOLVED** – That the position be noted.

D BH2016/01438 -Land Adjacent Wellsbourne Health Centre, 179 Whitehawk Road, Brighton - Council Development - Erection of 1no three storey block and 1no part three part four storey block containing 29no one, two and three bedroom flats (C3) with a separate single storey plant room containing communal boilers. Provision of 12no vehicle parking spaces with cycle racks and associated landscaping.

- (1) The Planning Officer, Stewart Glassar gave a presentation detailing the application by reference to photographs showing the site in the context of the neighbouring development, site plans, illustrations showing the proposed form of the development and elevational drawings. It was explained that the Officer recommendation had been changed and was now “Minded to Grant” subject a S106 agreement and the Conditions and Informatives set out in section 11 of the report. It was noted that notification had been received from Southern Water that that had amended their view and did not now consider that a drainage strategy would be required. This change was reflected in the amended conditions to be attached to any planning permission granted.
- (2) It was explained that the application site was a vacant piece of land located at the northern end of Whitehawk Road on the eastern side of the road between Whitehawk Primary School car park and Wellsbourne Health Centre. Whitehawk Library was to the rear of the site and there were residential properties opposite the site. A public footpath from Whitehawk Road, which provides access to the school and library, separated the site from the school car park. The school, its car park and the library were set at higher ground levels than the application site. The area was a mix of two storey municipal housing and larger institutional buildings which are both traditional and contemporary in their design and appearance.
- (3) The main considerations in the determining this application related to the principle of development, the design and appearance of the proposed blocks, their impact upon the amenity of neighbouring properties and uses, the standard of accommodation created, transport and sustainability issues. The impact of the scheme on the City’s housing supply had also been taken into account. In principle the redevelopment of this unused, previously developed site within the built up area of the City was acceptable for residential purposes. In addition, where residential development is acceptable it will be preferable if the density of development were at least 50 units per hectare in order to use the site as efficiently as possible. At a density of 150 units per hectare the proposed development exceeded the Council’s minimum density requirements although the amenity space provided would be reduced to a single balcony for each flat, it was considered that this was mitigated however, due to the proximity of the site to extensive areas of open space. The proposed buildings were set at a sufficient distance from the nearest houses that they would not have an adverse effect either in terms of overlooking, overshadowing or loss of privacy nor to impact the Health Centre or Primary School, or ecology and would meet the Council’s requirements for sustainable buildings and development; minded to grant approval was therefore recommended.

Questions of Officers

- (4) Councillor Morris sought clarification regarding the colour of the proposed brickwork and it was confirmed that this would be controlled by condition and the materials to be used would require approval.

- (5) Councillor Mac Cafferty sought clarification whether it would be appropriate to make permission subject to a Section 106 in view of the fact that the Council was itself the applicant. He understood that this could not be done where that was the case. The Legal Adviser to the Committee, Hilary Woodward explained that this procedure had been used in relation to some previous applications by the council and was considered to be appropriate in this instance.
- (6) Councillor Hyde enquired whether as the development was being provided by the Council it would remain as 100% rental accommodation. The Legal Adviser to the Committee explained that the development would (as did most council accommodation), fall within the requirements of the “Right to Buy” legislation.
- (7) Councillor C Theobald, sought clarification of the finishes to be used, including in relation to the metal cladding and the location of the disabled parking bays.

Debate and Decision Making Process

- (8) Councillor Moonan stated that this development which would provide some needed affordable housing in the city was welcomed. Whilst the appearance of the blocks could be considered uninspiring they were well designed internally and provided a range accommodation in the form one, two and three bedroom flats.
- (9) Councillor Hamilton concurred in that view stating that the smaller units would provide the opportunity to downsize as well as providing family accommodation.
- (10) Councillor Miller stated that he considered that the development was of a “safe” design and had some reservations about the mix of units, nonetheless he supported the scheme and the officer recommendations; as did Councillor Littman.
- (11) Councillors Littman and Inkipin-Leissner also confirmed their supporter for the scheme.
- (12) Councillor C Theobald stated that she thought that the development was of a rather “boring” design but welcomed the additional housing which would be provided.
- (13) Councillor Cattell, the Chair stated that she also welcomed the scheme considering that the design was of traditional appearance which was in keeping with the neighbouring street scene and would provide much needed housing.
- (14) A vote was taken and Members voted unanimously that minded to grant planning permission be given.

30.4 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 of the report and the policies and guidance in section 7 and resolves that it is **MINDED TO GRANT** planning permission subject a Section 106 and to the Conditions and Informatives set out in section 11 and to the amendments set out below:

Minded to Grant subject a S106 agreement and the Conditions and Informatives set out in section 11 of the report.

S106 Heads of Terms

£14,500 contribution towards the Council's Local Employment Scheme.

Submission of an Employment and Training Strategy, with a commitment to using 20% local labour.

£54,421 education contribution

£87,070 open space contribution

£31,800 sustainable transport contribution towards real time public transport information at Wellsbourne Centre southbound bus stop on Whitehawk Way and pedestrian crossing and footway improvements at the junction of Manor Road and Whitehawk Road (including dropped kerbs and narrowing the junction to improve the crossing).

Delete Conditions 6, 7, 18 and 21

Amend Condition 3 to read:

Prior to first occupation of the development hereby permitted a scheme for the provision of a minimum of 40% affordable housing, as part of the development, shall have been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme which shall include:

Delete Conditions 6, 7, 18 and 21

Amend Condition 3 to read:

Prior to first occupation of the development hereby permitted a scheme for the provision of a minimum of 40% affordable housing, as part of the development, shall have been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme which shall include:

- i) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- ii) the tenure, mix and location of the affordable units, including floor plans;
- iii) the arrangements to ensure that the affordable housing remains as affordable housing for both first and subsequent occupiers of the affordable housing; and
- iv) the occupancy criteria. For the purposes of this condition 'affordable housing' has the meaning ascribed to it by the National Planning Policy Framework.

Reason: To ensure the provision and retention of an appropriate amount of affordable housing in accordance with policy CP20 of the Brighton & Hove City Plan Part One.

Additional condition:

The wheelchair accessible dwelling(s) hereby permitted as detailed on drawing no. HOU010 005 received on 22/04/16 shall be completed in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings) prior to first occupation and shall be retained as such thereafter. All other dwelling(s) hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such 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.

BH2016/01414 - Unit 4 Home Farm Business Centre, Home Farm Road, Brighton - Full Planning - Change of use from light/general industrial (B1c/B2) to offices (B1a).

- (1) The Planning Officer, Stewart Glassar gave a presentation detailing the scheme by reference to site plans, a floor plan and photographs. It was explained that the application was considered to be “major” due the size of the unit rather than the complexity of the proposals. The existing occupier of Unit 3 was intending to refit and use this unit in conjunction with their existing business use.
- (2) It was explained that the main consideration in determining the application was whether the change of use accorded with planning policy and whether the change of use could have a detrimental impact upon amenity. Sustainability and Highways issues had also required consideration.
- (3) The change of use was considered to be acceptable in principle as a Class B1 use would be in accordance with Policy CP3 of the City Plan. The external changes to the building to enable this use to take place had previously been agreed and as the building was already capable of being used for light and general industrial purposes allowing office/research and development/light industrial uses this would not prejudice the amenity of any of the adjoining sites or wider area. The Highway Authority had raised no objection and approval was therefore recommended.

Questions, Debate and Decision Making Process

- (4) Councillor C Theobald referred to another recently approved scheme and enquired whether there were similar issues in relation to vehicle parking at this site. The Development and Transport Assessment Manager confirmed that the Highway Authority had no objection to the principle of the use of the building and that the layout of any associated parking and the provision of a Travel Plan could be controlled by the proposed conditions.
- (5) Councillor Hyde stated that she considered the proposals to be acceptable and was pleased to note that an existing business was flourishing and would be extending their operations into this unit.
- (6) A vote was taken and Members voted unanimously that planning permission be granted.

30.5 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 of the report and the policies and guidance in section 7 and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in section 11.

MINOR APPLICATIONS

F BH2016/00015 - 51 Westbourne Villas, Hove - Householder Planning Consent - Alterations to rear elevation incorporating erection of timber conservatory and new balcony at ground floor level.

- (1) It was noted that this application had been the subject of a site visit prior to the meeting.
- (2) The Planning Manager, Applications, Nicolas Hurley, gave a presentation by reference to site plans, elevational drawings, drawings showing the proposed floor plans and photographs showing views to/from the site showing it in the context of neighbouring street scene and showing the rear elevations. At the request of the Chairman, Councillor Cattell, plans were displayed in respect of the previously approved scheme for comparative purposes.
- (3) It was explained that the application site related to a two storey plus basement detached property, located on the east side of Westbourne Villas and backing directly onto Westbourne Place. The property had recently been converted back into a single dwelling following the part implementation of planning permission BH2010/04001. A rear extension has been recently completed at basement level and the row of garages which had fronted Westbourne Place had been demolished.
- (4) The main considerations in determining the application related to the impact of the proposed extensions and alterations on the appearance of the property, the street scene and wider Sackville Gardens Conservation Area, and the amenities of adjacent occupiers. Planning permission BH2010/04001 had been part-implemented by virtue of the works having been largely completed to convert the main building into a single dwelling. A recent application BH2015/02110 had been approved for a basement rear extension and an annexe to replace the rear garages. At the time of the site visit it was noted that the rear basement extension had been completed. It was not considered that the proposed extension and alterations would not harm the appearance of the site, street scene or Sackville Gardens Conservation Area, nor significantly impact on the amenities of adjacent occupiers and were in accordance with development plan policies; approval was therefore recommended.

Questions of Officers

- (5) Councillor Mac Cafferty referred to the issues that he had raised in connection with the daylight impact assessment asking whether this information had been received and whether in the light of any information contained in it the scheme was still considered to be acceptable. It was explained that no further details had been received and officers had therefore been unable to verify that information. Notwithstanding that element formed part of the overall assessment of the scheme. The scheme was considered to be acceptable and none of the queries raised

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- (6) Councillor Miller stated that in his view the proposals represented an improvement on the previously approved scheme which would be more sympathetic to the host building and would have less impact.
- (7) Councillor Hyde concurred in that view stating that having had the opportunity to visit the site she considered that the form of development proposed was acceptable.
- (8) Councillor Morris considered that the current application would result in a narrower structure which would be less intrusive stating that he supported the officer recommendation.
- (9) A vote was taken and the eleven Members present voted unanimously that planning permission be granted.

30.6 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 of the report and the policies and guidance in section 7 and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in section 11.

G BH2016/01318 - Pembroke Hotel, 2 Third Avenue, Hove - Full Planning

Change of use from nursing home (C2) to 1no eight bedroom house (C3) including erection of orangery to first floor and other associated alterations.

- (1) It was noted that this application had been subject to a site visit prior to the meeting.
- (2) The Planning Manager, Applications, Nicola Hurley, detailed the proposed scheme by reference to site plans, elevational drawings and photographs which included views from the rear of King's Gardens.
- (3) The application related to a Grade II Listed Building in the Avenues Conservation Area. It is a substantial detached yellow brick villa dating from c1880, subsequently used as flats and more recently a care home with a Class use of C2 (currently vacant). The interior had been affected by modern uses with unsympathetic subdivision of spaces, however many original features survived at least in part. The main considerations in determining the application related to the loss of the care home, the impact of the proposed external alterations on the appearance of the listed building and surrounding conservation area, the standard of accommodation to be provided, and the effects on residential amenity, sustainability and traffic impact.
- (4) It was considered that the proposed works would cause less than substantial harm to the listed building. The repair and re-use of the listed building was a material consideration. The proposed development would not result in the loss of a viable care home and would provide a residential unit with a good standard of accommodation. The external alterations would not harm the appearance of the listed building or the surrounding Conservation Area, would not harm the amenities of neighbouring properties or create a harmful demand for travel. The proposal was considered to be in accordance with development plan policies and approval was therefore recommended.

Questions of Officers

- (5) Councillor Littman queried why the letter submitted by Councillor Nemeth had been referred to, given that it was not located in his ward. The Planning Manager, Applications explained that all representations made were referred to. However, Members were only afforded the opportunity to speak in respect of applications made within their ward.

Debate and Decision Making Process

- (6) Councillor Morris stated that whilst supporting the application and the improvements which it would effect to the host building he was anxious that any brickwork would match the original as closely as practicably possible. The Planning Manager, Applications, Nicola Hurley that proposed condition 5 dealt with materials and would need to be met as a condition of grant of planning permission.
- (7) Councillor C Theobald welcomed the scheme stating that she welcomed the significant improvements that would be effected to the building as a result.
- (8) Councillor Hyde concurred and sought clarification as to the configuration of the orangery and the location of the obscurely glazed windows. Councillor Hyde stated that she did not consider that overlooking would occur from that direction and the proposed condition was therefore unnecessary. Councillor Miller supported that view.
- (9) Councillor Hyde then proposed removal of condition 9 relating to the provision of obscure glazing. The proposal was seconded by Councillor Miller. The recommendations were then voted on to include the removal of condition 9.
- (10) A vote was taken and Members voted 6 to 5 that planning permission be granted to include removal of condition 9.

30.7 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 (to include removal of condition 9) and the policies and guidance in section 7 and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in section 11.

H BH2016/01319 - Pembroke Hotel, 2 Third Avenue, Hove - Listed Building Consent
Change of use from nursing home (C2) to 1no eight bedroom house (C3) including erection of orangery to first floor and other associated internal and external alterations.

- (1) It was noted that this application had been subject to a site visit prior to the meeting.
- (2) A vote was taken and the eleven Members present voted unanimously that listed building consent be granted.

30.8 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 of the report and the policies and guidance in section 7 and resolves to **GRANT** Listed Building Consent subject to the Conditions and Informatives set out in section 11.

I BH2016/01931- The Hyde,95 Rowan Avenue, Hove - Full Planning - Erection of 4no four bedroom houses and access road leading to Rowan Avenue.

- (1) It was noted that this application was subject to a site visit prior to the meeting. Letters received in support of the scheme signed jointly by all three Local Ward Councillors had been circulated to the Members of the Committee for their information.
- (2) The Planning Officer, Stewart Glassar, gave a presentation detailing the scheme by reference to site plans, elevational drawings and photographs detailing the proposals and showing the adjacent dwelling houses which were nearing completion. The application related to part of the area of grassed land to the rear of Nos. 17-21 Maytree Walk and to the east of the five new dwellings currently under construction to the rear of Nos. 57-81 Rowan Avenue. To the north of the application site was a two/three storey block of flats (Lions Gate), and to the east, beyond the remaining area of grassed land were the dwellings in Elm Drive; the overall character of the area was residential.
- (3) The application site was rectangular in shape and measured approximately 15 metres in width and 76 metres in length. The land is generally flat although it does have a gentle north to south slope. The application proposed the erection of four new dwellings which would be laid out as two pairs of semi-detached dwellings, facing each other and separated by a central access road. This application was a resubmission following the recent refusal of an identical proposal (BH2016/00361). The main considerations in the determination of this application relate to the loss of the open space, the impact of the development upon the amenity of neighbours and the character and appearance of the area. The issue of housing supply is also addressed.
- (4) The application site was currently part of a larger area of grassed land which had previously been playing fields belonging to a private members club that occupied the site. As part of the agreement to develop the Lions Gate flats, this land had been leased to the Council for use as “an open space for leisure and recreation purposes with ancillary changing facilities”. An agreement had been reached subsequently between the landowners and the Council to vary the terms of the agreement so that all this land could be used for allotments or other informal open recreational use excluding formal football pitches but including tennis courts. The land leased to the Council specifically excluded the area which had been developed for 5 houses. This site had obtained a lawful development certificate as a builders yard in 2010 and was eventually granted planning permission for residential redevelopment in 2015.
- (5) The application would result in the loss of land which had been identified in the City Plan as being for open space. Policy CP16 seeks to prevent the loss of open space. The applicant’s had indicated that in their view the site had little value, would not prejudice the delivery of the allotments and therefore notwithstanding Policy CP16 should be seen as an exception to the wider objectives of retaining open space. Pursuant to the varied legal agreement, the site had been leased to the Council for allotment or informal recreational uses and there is no indication that the Council did not wish to use all the land for these purposes little weight could be attached to the applicant’s contentions. It was therefore considered that the development of this land for residential purposes would result in the loss of open space and was contrary to City Plan Policy CP16. The smaller curtilages of the proposed houses would mean that that the elevation to elevation distances would rely on the size of the neighbour’s amenity space rather than there being more equal distribution and separation. It was considered that this would have a knock on effect on the amenity enjoyed by existing residents and would diminish their sense of privacy and amenity, would not respect the character of the area and would harm amenity.

- (6) Whilst it was acknowledged that the development would make a positive contribution towards the city's housing supply figures the loss of the open space and the impact on the amenity of neighbouring residents needed to be weighed against this. It was considered that in assessing the severity of these factors, the adverse impacts of the development would outweigh the provision of four houses. On that basis the application was recommended for refusal.
- (7) **Reason for Refusal 2** had been amended to better accord with the report which accepts the form and density of the development:

The proposal by virtue of its proximity to, and overlooking of, neighbours in Lions Gate and Maytree Walk, represents an unacceptable development which will cause a loss of amenity to these adjacent residents. In addition, the proximity of the proposed dwellings to the open space would prejudice the level of amenity future adjoining occupiers should reasonably expect to enjoy. Accordingly, the proposal is considered to be contrary to Policy QD27 of the Brighton & Hove Local Plan.

Public Speakers

- (8) Councillor Barnett spoke in support of the application in her capacity as a Local Ward Councillor and on behalf of her fellow ward councillors who also supported the scheme. Councillor Barnett explained that the situation in respect of the of parcel of land in question which remained as unused scrubland had dragged on for some time; they as Ward Councillors and local residents wanted it resolved. There was a demand for family homes in the city and these proposals would provide four houses which were in keeping with those nearing completion on the adjacent parcel of land.
- (9) Mr Coomber spoke on behalf of the applicant in support of their application. He stated that the history of the site had been complex and lengthy in terms of the legal agreements which had been varied and the laying down of the allotment spaces. This piece of land was scrub which could be built on without detriment to the neighbouring allotment space or existing development, these proposals were modest and were in keeping with the site as a whole. In the absence of concrete proposals this space would remain as under developed scrub.

Questions of Officers

- (10) Councillor Bennett enquired regarding the parking spaces and access to the allotment area and it was confirmed that this was considered to be sufficient.
- (11) Councillor Miller sought clarification of the situation in respect of the allotment, responsibility for their maintenance and the status of any proposals in respect of the application site. The Legal Adviser to the Committee confirmed that the applicants had been required to lay out the area as allotments which were leased to the Council as a requirement of the Section 106 Agreement. This remaining area was designated as recreation space which would be retained as a buffer between the allotments and the housing development. It was understood that its use as a community orchard for in conjunction with a local food partnership was under discussion.

- (12) Councillor Moonan asked for confirmation of the arrangements in respect of the responsibility for the proposed community orchard and clarification as to whether the existing legal agreements would require further variation in the event of that option being pursued. Also, what would happen to that area of land should the orchard or another recreational use not materialise. She presumed it would then remain as a piece of unkempt scrubland.
- (13) Councillor Mac Cafferty requested further clarification regarding how the situation had arisen whereby this “lozenge” of land for which no one appeared to have direct responsibility had occurred. This, notwithstanding the various legal agreements which had been entered into.
- (14) Councillor Theobald expressed surprise that had taken so long for the allotments to be laid out, asking whether that use had been agreed following consultation with local residents and whether that constituted recreational use.
- (15) Councillor Gilbey asked at what point the suggestion had been put forward that this “buffer” area be used as an orchard.
- (16) Councillor Hamilton queried why a greater number of allotments had not been laid out in order to use the allocated space in totality, or failing that larger plots had not been designated to the same end.
- (17) The Legal Adviser to the Committee, Hilary Woodward advised that following consultation it had been agreed that the developer would provide 28 allotment plots which on completion would be leased to the Council. Responsibility for setting them out lay with the developer. This parcel of land remained once the plots had been delineated and remained set aside for recreational purposes. One purpose suggested for its use was as a community orchard which would retain it as a buffer strip between the allotments and the neighbouring dwellings. Arrangements for that use and responsibilities for it had yet to be determined.

Debate and Decision Making Process

- (18) Councillor Miller stated that he was somewhat perplexed by the recommendations that the application be refused. He considered that as all that it had been agreed needed to be provided (28 allotment spaces), had been that would be difficult to sustain grounds for refusal. Given that there was extensive screening between the site and Maytree Walk and Lion’s gate he did not agree that there would be overlooking, likewise in respect of the distances between the houses nearing completion and the proposed scheme.
- (19) Councillor Hyde agreed stating that the suggestion in relation to the orchard use seemed to be of very recent date. In the absence of worked up proposals there was a probability it would not materialise. She did not consider that overlooking would result from the proposed development which would provide a continuation of the existing development and would provide a modest number of family homes, for which there was an identified need.

- (20) Councillor Mac Cafferty stated that he did not consider the proposals would be out of keeping or overly dominant. He did not consider that the proposed reasons for refusal were sustainable. In the absence of concrete proposals the existing scrub could remain indefinitely.
- (21) Councillor Littman concurred stating that whilst recreational use of the whole area was desirable, there was no certainty that would happen and he did consider that the proposed development could be provided without detriment to the neighbouring dwellings.
- (22) Having heard all that had been said, Councillor Morris stated that he was also of the view that the application should be granted and regrettably did not feel able to support the officer recommendation.
- (23) Councillor Moonan agreed stating that by providing housing this “difficult” lozenge of land would be put to good use without detriment to the neighbouring developments. Future community use seemed at best distant/uncertain and on that basis she supported the proposed use for housing.
- (24) Councillor Gilbey stated that she had been “torn” in terms of the recommendation to refuse but did not ultimately consider that the proposed development would result in loss of outlook and amenity.
- (25) Councillor Cattell, the Chair stated that having read the papers thoroughly and having heard all that had been said, regrettably she did not feel able to support the officer recommendation on this occasion, considering that it would be very difficult to defend the reasons for refusal at appeal and against the backdrop of a suggested orchard which might not materialise.
- (26) Note 1: A vote was taken and of the eleven members present when the vote was taken and on a vote of 9 with 2 abstentions planning permission was granted for the reasons set out below.

Note 2: Councillor Hyde proposed that planning permission be granted. Councillor Miller seconded the proposal. A recorded vote was then taken. Councillors Cattell, (the Chair) Gilbey, Hyde, Littman, Mac Cafferty, Miller, Moonan, Morris and C Theobald voted that planning permission be granted. Councillors Bennett and Hamilton abstained. Councillor Inkipin-Leissner was not present at the meeting during the debate or decision making process in respect of this application.

- 30.9 **RESOLVED** – That the Committee has take into consideration the recommendations set out in section 11 of the report and the policies and guidance in section 7 but resolves to **MINDED TO GRANT** planning permission subject to a S106 Obligation to secure £6,000 sustainable transport contribution

Reason for granting:

The proposed development is not detrimental to the amenity of neighbours and is of an acceptable density. The benefits of four additional residential units go some way to assist reaching the City’s targets for new homes. Conditions and Informatives to be

approved by the Planning Manager in consultation with the Chair, Deputy Chair and two opposition spokespersons.

J BH2016/01151 - Albion Court, 44-47 George Street, Brighton - Full Planning

Creation of additional floor to create 2no one bedroom flats, 1no two bedroom flat and 1 no three bedroom flat with associated works.

- (1) the Planning Manager, Applications, Nicola Hurley, by reference to site plans, elevational drawings, floorplans and photographs showing the frontage of building and views along George Street.
- (2) It was considered that the proposal would make an effective and efficient use of the site by providing the city with additional dwellings without significantly compromising the quality of the local environment. Subject to compliance with the attached conditions no significant harm to neighbouring amenity would result and the scheme is acceptable with regard to traffic and sustainability issues; approval was therefore recommended.

Questions, Debate and Decision Making Process

- (3) Councillor C Theobald asked whether the proposals would make the building taller in height than its neighbours and it was explained that although it would be marginally higher this would not be apparent from George Street itself or from the properties to the rear.
- (4) Councillor Morris considered that as George Street was narrow and the dormers would be visible obliquely, that the scale and form of the roof would be visible and could therefore have an impact on the neighbouring street scene.
- (5) Councillor Mac Cafferty asked to see photographs showing the wider area and having seen them, considered that the proposals were acceptable.
- (6) A vote was taken and of the eleven members present when the vote was taken planning permission was granted on a vote of 7 to 2 with 2 abstentions.

30.10 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 of the report and the policies and guidance in section 7 and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in section 11.

K BH2015/04408 - 332 Kingsway, Hove - Full Planning

Erection of additional two full floors and one half floor to create 9no residential units (C3) over existing office building and alterations to existing fenestration (part retrospective).

- (1) The Planning Manager, Applications, Nicola Hurley introduced the application by reference to site plans, photographs and elevational drawings and floor plans which also highlighted the differences between the previously approved and current schemes. It was noted that the design of the current scheme was significantly different from that for which approval had previously been given.

- (2) The application related to an office building occupied by an Architects company (Use Class B1). The existing building was arranged as two floors of office space over a floor of garage parking, due to ground level differences between Kingsway and Basin Road North, the building has a single storey frontage onto Kingsway with two further floors fronting Basin Road North. A public house abuts the site to the east and a small business unit abutted the site to the west.
- (3) It was noted that the merits of the scheme had been substantially discussed as part of the preceding applications. The principle of development, impact on the amenities of adjacent occupiers, standard of accommodation, transport and sustainability issues had been found to be acceptable as part of the previous planning applications. The quantum, siting and scale of the development had not altered significantly and the assessment of this application related therefore to those aspects of the current scheme that differed from the previous application. The main considerations in the determining the application related to the design changes and any material changes to the site, or change in local and national policy.
- (4) It was considered that the proposal would make an effective and efficient use of the site by providing the city with additional dwellings without significantly compromising the quality of the local environment. No significant harm to neighbouring amenity would result and the scheme is acceptable with regard to traffic and sustainability issues. Minded to Grant approval was therefore recommended.

Questions of Officers

- (5) Councillor Cattell, the Chair stated that aside from any complexities associated with the Deed of Variation the Committee were being asked to agree the scheme before them on its planning merits.
- (6) In answer to questions of Councillor Gilbey it was explained that the applicants could implement the extant scheme should they wish to do so.
- (7) Councillor Littman asked for clarification as to whether the current and previous schemes were of a comparable height and it was confirmed that they were.

Debate and Decision Making Process

- (8) Having sought clarification of the materials to be used, Councillor Mac Cafferty confirmed that he considered that the sample provided was in his view of the wrong colour and was of a texture and quality which would “hold” pollution and grime which would result in the building having a dilapidated appearance very quickly. In his view the finishes used should be of a higher specification.
- (9) Councillor Hyde concurred in that view. Councillor Hyde stated that in her view although the scheme was acceptable her preference would be for a finish other than a monocouche render to be used and for materials to be agreed in consultation with the Chair, Deputy Chair and Opposition spokespersons following further negotiation by the officers.
- (10) Councillor C Theobald was in agreement with all that had been said referring to the external appearance of the Vega building situated opposite. Councillor Theobald also

enquired which building had received permission first considering that this development could impact on the Vega building.

(11) A vote was taken and of the eleven Members present at the meeting minded to grant planning permission was granted on a vote of 10 to 1.

30.11 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 of the report and the policies and guidance in section 7 and resolves to be **MINDED TO GRANT** planning permission subject to a Deed of Variation to the Section 106 Agreement dated 8 August 2012 and the Conditions and Informatives set out in Section 11 and the amendments set out below:

Condition 4 to be amended to read:

Notwithstanding the samples submitted, no further works 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) samples 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 policies QD14 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

Additional Informative:

The details submitted in relation to materials condition no.4 are delegated to the Planning Manager for agreement in consultation with the Chair, the Deputy Chair and the Opposition spokespersons.

L BH2016/01000 - 238 Elm Grove, Brighton - Full Planning

Conversion of existing house to form 2 No. one bedroom and 2 No two bedroom flats (C3) with associated alterations including erection of a part one part two storey rear extension and installation of rooflights.

- (1) The Senior Planning Officer, Stewart Glassar presented the report by reference to elevational drawings and photographs showing the application site in the context of Elm Grove and its boundary with Hallett Road. It was noted that both letters submitted in support of the scheme by Councillor Page, one of the local Ward Councillors had been circulated to all Members of the Committee.
- (2) Reference was made to the previous scheme which had been dismissed on appeal and the differences between the two were illustrated. Although the current scheme had been amended in order to overcome the previous reasons for refusal. It was considered however, that the proposed extension was unacceptable in its own right

and would result in a flank wall which would result in an excessively long building which would be out of keeping with the character of the area and would dominate the host building. That this was supported by the previous appeal decision and the observations of the Inspector that a similar lengthy extension had an unacceptable in terms of its visual impact.

- (3) Whilst there was no objection in principle to conversion of the property into flats, or to it being extended, the scale of works proposed was considered to be unacceptable. The size and visual impact of the two-storey extension house and on the wider area. An extension which was more proportionate would be improve the accommodation and amenity space provided. Whilst four flats would provide a contribution to the city's housing supply this was not considered to be sufficient to outweigh the harm which would be caused to the character and appearance of the area by the proposed form of development. As the proposed extension would, by virtue of its length, bulk and overall scale of development relative to the size of the plot represented overdevelopment and was therefore recommended for refusal.

Public Speakers

- (4) Mr Nash the applicant spoke in support of his application. He explained that discussions had taken place with the planning department and that further work had been undertaken to overcome the previous reasons for refusal. The proposals would improve the appearance of the building especially to the rear by removing the existing ugly flat roof extensions. It should be noted that the extension would be hidden behind the existing boundary wall and would replace the existing shallow poorly proportioned (especially when viewed from the side). The application site occupied a substantial corner plot which was wider and larger than that of the neighbouring dwellings.

Questions of Officers

- (5) It was confirmed in answer to questions that pre-application advice was not given in relation this type of application.
- (6) In answer to questions by Councillors Hyde and Morris it was explained that it was proposed that materials would be matching brickwork with some render.
- (7) Councillor Hyde sought clarification regarding whether the proposed units were considered to be of an acceptable size, especially in the case of any units proposed in the roof space. It was confirmed that there was no objection in principle to units being placed in the roof space.
- (8) Councillor Cattell, the Chair, asked to see floor plans of the proposed development including those relating to the ground floor extension.

Debate and Decision Making Process

- (9) Councillor Morris stated he considered the development was acceptable and would not in be overly dominant in the street scene and did not feel able to support the recommendation that the application be refused.

- (10) Councillor Miller concurred in that view considering that the proposed works would improve the appearance of the building by removing the existing ugly flat roof extensions. He considered that the Inspector's reasons for refusal had now been overcome.
- (11) Councillor Mac Cafferty stated that given the corner location of the site he considered he considered that there was the capacity to undertake the proposed works without detriment to the neighbouring street scene.
- (12) Councillor Moonan suggested that it might be appropriate to defer consideration of the application pending a site visit in order to better understand the building within the context of the surrounding street scene. That proposal was not supported however.
- (13) The Chairman, Councillor Cattell stated that she considered that the creation of extensions in order to create additional units in the manner proposed represented bad planning practice and she therefore supported the officer recommendation.
- (14) Councillor Littman noted that as the application had been recommended for refusal the applicant had not entered into a travel plan. He requested that if planning permission was granted this be addressed.
- (15) Note 1: A vote was taken and of the eleven Members present when the vote was taken planning permission was granted on a vote of 7 to 2 with 2 abstentions. Councillor Mac Cafferty proposed that planning permission be granted for the reasons set out. Councillor Morris seconded the proposal.

Note 2: A recorded vote was then taken. Councillors Bennett, Hamilton, Hyde, Littman, Mac Cafferty Miller and Morris voted that planning permission be granted. Councillor Cattell (the Chair) and Councillor Gilbey voted that the application be refused. Councillors C Theobald and Moonan abstained. Councillor Inkipin-Leissner was not present during consideration of this application or when the vote was taken.

30.12 **RESOLVED** – That the Committee has taken into consideration the reasons for the recommendation set out in section 11 of the report but has decided to **GRANT** planning permission for the reasons set out below:

- 1a) 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) samples 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 policies QD14 of the Brighton & Hove Local Plan and CP12 of the City Plan Part One.

- 4) The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made

available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development at all times.

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

5) Within three months of the date of first occupation, a Travel Plan for the development shall have been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall thereafter be fully implemented in accordance with the approved details.

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

31.1 There were none.

32 INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS

32.1 The Committee noted the position regarding pre application presentations and requests as set out in the agenda.

33 LIST OF APPLICATIONS DETERMINED UNDER DELEGATED POWERS OR IN IMPLEMENTATION OF A PREVIOUS COMMITTEE DECISION (INC. TREES MATTERS)

33.1 That the Committee noted the details of applications determined by the Executive Director Economy, Environment & Culture under delegated powers. It was also noted that on this occasion the information provided related solely to arboricultural matters.

[Note 1: All decisions recorded in this list are subject to certain conditions and reasons recorded in the planning register maintained by the Executive Director Economy, Environment & Culture. The register complies with legislative requirements.]

[Note 2: A list of representations received by the Council after the Plans List reports had been submitted for printing was circulated to Members on the Friday preceding the meeting. Where representations are received after that time they should be reported to the Chair and Deputy Chair and it would be at their discretion whether they should in exceptional circumstances be reported to the Committee. This is in accordance with Resolution 147.2 of the then Sub Committee on 23 February 2006.]

34 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

34.1 The Committee noted the new appeals that had been lodged as set out in the planning agenda.

35 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

35.1 The Committee noted the information regarding informal hearings and public inquiries as set out in the planning agenda.

36 APPEAL DECISIONS

- 36.1 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 6.20pm

Signed

Chair

Dated this

day of

Subject:	Withdrawing the reason for refusal of Planning Application BH2015/01471, Astoria 10-14 Gloucester Place, Brighton for purposes of Appeal		
Date of Meeting:	14 September 2016		
Report of:	Executive Director Economy, Environment and Culture		
Officer:	Adrian Smith	Tel:	(01273) 290478
Wards Affected:	St Peters & North Laine		

1. PURPOSE OF THE REPORT

- 1.1 To seek the Committee's agreement to withdraw the reason for refusal of the planning application prior to the forthcoming public inquiry appeal due to commence on 13 December 2016 in the circumstance that the Planning Inspectorate accept the amended plans referred to in paragraph 3.2 below and to authorise the Planning Manager - Applications, in consultation with the Chair of Planning Committee, to determine the amount of the affordable housing contribution which should be payable in the event that the appeal is successful together with any other s106 terms.

2. RECOMMENDATION

- 2.1 That provided the Planning Inspectorate accept the amended plans referred to in paragraph 3.2 below as part of the appeal scheme the Planning Committee agrees to withdraw the reason for refusal as set out in paragraph 3.5 below;
- 2.2 That the Planning Committee authorises the Planning Manager – Applications, in consultation with the Chair of Planning Committee, to determine the affordable housing contribution which would be required by the local planning authority should the appeal be upheld together with any other s106 terms and the Committee further agrees that the s106 shall be completed on those terms as so determined; and
- 2.3 In the event that the Planning Manager – Applications is unable to agree a policy compliant affordable housing contribution with the appellant the Committee agrees that the Council's case in response to the appeal should be that the application should be refused for the reason set out in paragraph 3.12 below

3. INFORMATION/BACKGROUND

- 3.1 A planning application for major development at the Astoria was submitted in May 2015 (ref: BH2015/01471). The application sought the demolition of the Astoria and its replacement with a part 3/part 7 storey building comprising 70 residential flats, ground floor commercial A1/A2/B1 units and a community room (D1). The application was considered by the Council at the Planning Committee meeting on 27 January 2016 and was refused in line with officer recommendation. The applicant has now submitted an appeal in respect of the

council's decision to refuse the planning application and a public inquiry has been scheduled to commence on 13 December 2016.

3.2 As part of the Appeal submission, the appellants have submitted amended plans and a full Daylight/Sunlight Assessment. These materially alter the balance of considerations for this application. The Planning Inspectorate has not confirmed that they will be accepted for consideration by the Inspector.

3.3 In addition to the above, the appellants have expressed a wish to re-negotiate the agreed affordable housing contribution of £2.4m in light of market changes since the previous viability appraisals were carried out and the re-introduction of the Vacant Building Credit as a national policy tool.

3.4 These matters are considered in turn below.

3.5 **Reason for Refusal**

The proposed development includes a significant number of single aspect dwellings that would provide for a sub-standard form of accommodation by reason of insufficient access to natural light, an unduly enclosed outlook, potential noise disturbance from use of the inner courtyard, and lack of suitable privacy. The proposal therefore results in an unacceptable standard of residential accommodation for future occupiers, contrary to policy QD27 of the Brighton & Hove Local Plan.

3.6 The amended plans reduce the depth of the units to the lower ground floor and increase the size of windows to the inner courtyard elevations and main south elevation. These amendments have enabled a new full Daylight/Sunlight Assessment to be produced which demonstrates that nearly all rooms (194 of 208) to every flat within the proposed development would meet or exceed the recommended minimum set out in the BRE guidance. Of those that fail the daylight test, 8 are south facing rooms constrained by the scale of the adjacent office building across Blenheim Place. The remaining 6 rooms are kitchens to the rear of open plan living rooms with acceptable natural light levels.

3.7 In addition, the appellants have clarified that the inner courtyard will not be fully communal as originally proposed. Instead the courtyard would only be used to provide access to the ground floor flats and to provide only the minimum necessary walkways to the communal gym and TV room. This is of benefit as it would limit the potential for noise disturbance and overlooking into the flats that face into this space that full communal use would otherwise afford.

3.8 These amendments, the above clarification, and the new Daylight/Sunlight Assessment are considered to represent appreciable improvements to the quality of residential accommodation being provided. Whilst concerns remain that some of the lower units would have a poor outlook, officers are of the view that with these changes the overall benefits of the development outweigh the remaining harm such that the reason for refusal should now be withdrawn.

3.9 It is therefore recommended that provided PINS accept the amended plans as part of the appeal scheme the committee agree to withdraw this reason for refusal.

3.10 **Affordable Housing Contribution**

An affordable housing contribution of £2.4m was agreed with the appellants following independent viability appraisal by the District Valuation Service in November/December 2015. The appellants have stated in their appeal that they wish to re-negotiate this contribution in light of market changes and the re-introduction of the Vacant Building Credit as a national policy tool.

3.11 This matter remains under negotiation between officers and the appellants. In the event a policy compliant revised contribution is agreed, authorisation is sought for this to be agreed by the Planning Manager – Applications in consultation with the Chair of Planning Committee, and to be secured within the other s106 Heads of Terms.

3.12 In the event negotiations fail to reach a policy compliant agreed sum the Council's case in response to the appeal should be that the application should be refused for the following reason:

The applicant has failed to provide an acceptable contribution towards affordable housing within the city as required by policy CP20 of the Brighton & Hove City Plan Part One.

Background Document:

Planning Application BH2015/01471

Subject:	78 West Street & 7-8 Middle Street, and 8-12A South Street & 79-81 West Street Brighton Request to vary the Heads of Terms of Section 106 Agreements in connection with planning applications BH2015/04577 and BH2015/04575 for mixed use redevelopment, including new hotels.
Date of Meeting:	14 September 2016
Report of:	Executive Director Economy, Environment and Culture
Contact Officer:	Name: Maria Seale Tel: 292175
	E-mail: mariaseale@brighton-hove.gov.uk
Wards Affected:	Regency

1. PURPOSE OF THE REPORT

- 1.1 To consider a request to vary the Heads of Terms of two proposed Section 106 Agreements in connection with planning applications BH2015/04577 and BH2015/04575 which were 'Minded to Grant' by Members at the Planning Committee meeting of 13/7/16, in order to reduce the level of financial contribution towards the Brighton and Hove Local Employment Scheme (BHLES).

2. RECOMMENDATION

- 2.1 That the proposed variations to the Head of Terms be agreed as follows:
- a) BH2015/04577 (78 West Street & 7-8 Middle Street Brighton): financial contribution of £62,050 towards the Brighton and Hove Employment Scheme be reduced to £13,300;
 - b) BH2015/04575 (8-12A South Street & 79-81 West Street Brighton): financial contribution of £30,040 towards the Brighton and Hove Local Employment Scheme be reduced to £11,400.

3. BACKGROUND INFORMATION

- 3.1 Members were minded to grant full planning permission at Planning Committee on 13th July 2016 for the following two separate planning applications on adjacent sites:
- a) BH2015/04577 (78 West Street & 7-8 Middle Street Brighton) Demolition of existing nightclub buildings (Sui Generis use). Construction of part 5, 6 and 7 storey building plus basement to provide 'A' uses (A1 retail, A2 financial & professional services, A3 restaurant/café, A4 drinking establishment) on part of

basement and ground floor fronting West Street and hotel use (C1) on all floors with reception fronting Middle Street to provide a total of 133no hotel rooms.

- b) BH2015/04575 (8-12A South Street & 79-81 West Street Brighton) Demolition of garage / storage buildings at 8 - 12a South Street and two storey rear wing at 81 West Street. Construction of part 3, 4, 5 and 6 storey plus basement buildings to provide 91 hotel rooms (C1 use comprising 69 standard rooms, and 22 micro rooms), new ground floor kitchen and refuse store to 81 West Street and provision of 3no two bedroom flats and 1no one bedroom flat (C3 use) fronting South Street. Demolition and extension of roof level structure at 79 West Street to provide 11no additional backpacker hostel rooms (Sui Generis). Enclosure of external stairs. Reinstatement of public footpath in South Street.

3.2 Members were minded to grant the applications subject to completion of a S106 containing the following Heads of Terms as set out in the original Committee reports:

- a) BH2015/04577 (78 West Street & 7-8 Middle Street Brighton)

- Submission of a Construction Environmental Management Plan
- **A financial contribution of £62,050 towards the council's Local Employment Scheme**
- Submission of an Employment and Training Strategy, with a commitment to using at least 20% local labour.
- Incorporation of an artistic element within the site itself or as artistic public realm 'influence' in its immediate vicinity to the value of £49,500
- A financial contribution of £12,000 towards sustainable transport enhancement in the form of pedestrian improvement in the following locations: a) Vehicle crossover 9-12 Middle Street make flush and fully accessible, b) Vehicle crossover 38-39 Middle Street make flush and fully accessible and realign kerb line, c) Prince Albert Street/Black Lion Street make pedestrian crossing flush, d) South Street/Middle Street dropped kerbs and tactile paving

- b) BH2015/04575 (8-12A South Street & 79-81 West Street Brighton)

- Submission of a landscaping scheme to enhance the safety and appearance of South Street. This shall include as a minimum, reinstatement of missing footway on northern part of South Street adjacent to site, resurfacing of all of north and south pavements in red brick (or similar), provision of raised road surface to form elongated table between Middle Street along South Street to boundary of new residential and hotel, assessment of and upgrade/addition to heritage mounted street lighting where necessary, provision of tactile paving in Middle Street on both sides of entrance to South Street. This would require an associated Section 278 agreement. The developer will meet the cost of any associated TRO.
- A financial contribution of £71,360 towards sustainable transport enhancement covering pedestrian, cycle, public transport and public realm improvements in the immediate area of the site including routes between the development and amenities and attractions in the Old Town, the wider city centre and key transport hubs.

- Incorporation of an artistic element within the site itself or as artistic public realm 'influence' in its immediate vicinity to the value of £26,000
 - **A financial contribution of £30,040 towards the council's Local Employment Scheme**
 - Submission of an Employment and Training Strategy, with a commitment to using at least 20% local labour.
 - Submission of a Construction Environmental Management Plan
- 3.3 Planning Permission for both schemes is yet to be issued as both S106 Agreements are currently in the process of being drafted following the committee resolution.
- 3.4 In the period between both committee reports being written, and the subsequent Planning Committee meeting, the council's Developer Contribution Technical Guidance was formally adopted at Economic Development & Culture Committee on 16th June 2016. This document sets out a policy overview on areas for developer contributions, enabling the granting of planning permission. It follows an interim document which had been previously applied to development proposals since 2011. It sets out the relevant thresholds for type and scale of development and how the level of contribution sought is calculated for various planning requirements, including the BHLES.
- 3.5 The Guidance states financial contributions will be required towards a local employment training off-site programme and its running costs, including the provision of an appropriately qualified tutor. The contributions will support capital and revenue costs on the 'Futures' programme for residents and small businesses.
- 3.5 Such contributions are part of the objectives of policy CP2 of the City Plan Part One (and SA6 Sustainable Neighbourhoods), which states apprenticeships, training and job opportunities for local residents will be sought from developers on major development schemes. City Plan Policy CP7 Infrastructure and Developer Contributions states that adequate infrastructure including appropriate social infrastructure through provision of employment, regeneration and training initiatives on major development sites at demolition and construction phases will be sought in accordance with the BHLES.

4. PROPOSAL

- 4.1 The developer has written to the Council to request that payment of the financial contributions towards the Brighton and Hove Local Employment Scheme be reduced in accordance with the latest Developer Contribution Technical Guidance, which has a different methodology for calculating contributions.

5. COMMENT

- 5.1 The Local Planning Authority is satisfied that there has been a relevant change in circumstances since the committee report was finalised. The updated Guidance is

a material planning consideration. In this context the applicant's request is considered reasonable.

- 5.2 The updated Guidance provides a clearer methodology and introduces different thresholds for payment. There are now wider categories for types of development that require contributions which mean that overall more financial contributions will be received, however, in certain circumstances a different methodology has meant there may be a reduction. Calculations for the BHLES are now based on 'net gains' in terms of scale of development, to be consistent with other requirements set out in the Guidance. This means that where there is an existing building on site (as is the case here) the scale of that existing development is discounted from the figure requested, as opposed to being based on the whole of the new build regardless of what was on site as previously. This has meant required contributions towards the BHLES are likely to be lower on such sites. In this particular case the nightclub site contains a substantial existing building which has reduced the required contribution accordingly.
- 5.3 The Council's Economic Development Team have been consulted and confirm they are agreeable to the reduced figures, which accord with the updated Guidance.

Background Documents:

Planning Applications BH2015/04577 and BH2015/04575

**BRIGHTON & HOVE CITY COUNCIL
ENVIRONMENT, DEVELOPMENT & HOUSING**

APPLICATIONS FOR PLANNING COMMITTEE

Date: 14 September 2016

TREES - Recommendations

TREES

Delegated Powers or implementation of a previous Committee Decision

Page 1

MAJOR APPLICATIONS

	Application Number	Ward	Address	Proposal	Recommendation
A	BH2015/03144 Full planning	Hollingdean & Stanmer	Site of Former William Moon Lodge, The Linkway, Brighton	Erection of two storey (plus basement) residential care home providing 75 bedrooms and 18 parking spaces and associated works.	Minded to Grant
B	BH2016/01877 Full planning	Regency	The Shelter Hall, 150-154 Kings Road Arches, Brighton	Demolition of existing building and external steps. Erection of two-storey building at lower promenade level incorporating mezzanine floor and a single storey rotunda building on the upper promenade level on raised plinth to provide mixed use development comprising retail/café/restaurant/public toilets (A1/A3/sui generis uses) and new external steps.	Minded to Grant
C	BH2016/01592 Removal or variation of condition	Hove Park	Household Waste Recycling Site, Modbury Way, Hove	Application for variation of condition 3 of application BH2015/00180 to allow the transfer facility to accept street cleansing waste, waste from communal bin operations,	Grant

				cardboard and green garden waste from Brighton & Hove City Council collections, re-usable, recyclable, recoverable and residual waste arising from Household Waste Recycling Sites, commercial recyclable waste and commercial residual waste for energy recovery or landfill. (Retrospective)	
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MINOR APPLICATIONS

	Application Number	Ward	Address	Proposal	Recommendation
D	BH2016/02329 Full planning	Withdean	308 Dyke Road, Brighton	Erection of three bedroom residential dwelling with associated parking and landscaping to replace existing garages.	Grant
E	BH2016/01847 Full planning	Moulsecoomb and Bevendean	51 Plymouth Avenue, Brighton	Change of use from three bedroom single dwelling (C3) to three bedroom small house in multiple occupation (C4).	Grant
F	BH2016/02069 Full planning	Hollingdean and Stanmer	42 Hawkhurst Road, Brighton	Change of use from three bedroom house (C3) to six bedroom small house in multiple occupation (C4) with hip to gable roof extension with front rooflights and rear dormer.	Grant
G	BH2016/01224 Full planning	Wish	11 Boundary Road and land to rear of Harbour Mews, Hove	Conversion of existing ground floor rear office (B1) and demolition of existing warehouse (B8) at rear to create 1no two bedroom flat (C3) incorporating single storey side/rear extension and erection of 1no three bedroom house with associated landscaping and car parking.	Grant

H	BH2016/01756 Full planning	Regency	18-19 Ship Street, Brighton	Erection of upper first floor rear extension to create one bedroom flat.	Refuse
I	BH2016/01757 Full planning	Regency	18-19 Ship Street, Brighton	Creation of additional floor to create 1 no three bedroom flat with associated alterations.	Refuse
J	BH2016/00954 Full planning	Central Hove	3 Hove Street, Hove	Erection of orangery extension to rear.	Grant
K	BH2016/00752 Full planning	St Peter's & North Laine	101 Roundhill Crescent, Brighton	Erection of 1 no three bedroom dwelling (C3) incorporating alterations to boundary wall and external alterations to existing building including repair works, alterations to fenestration and associated works.	Grant
L	BH2016/00753 Listed Building consent	St Peter's & North Laine	101 Roundhill Crescent, Brighton	External alterations including repair works, alterations to boundary wall including installation of a new gate, reinstatement of cast iron window guards to second floor windows, alterations to fenestration and associated works.	Grant

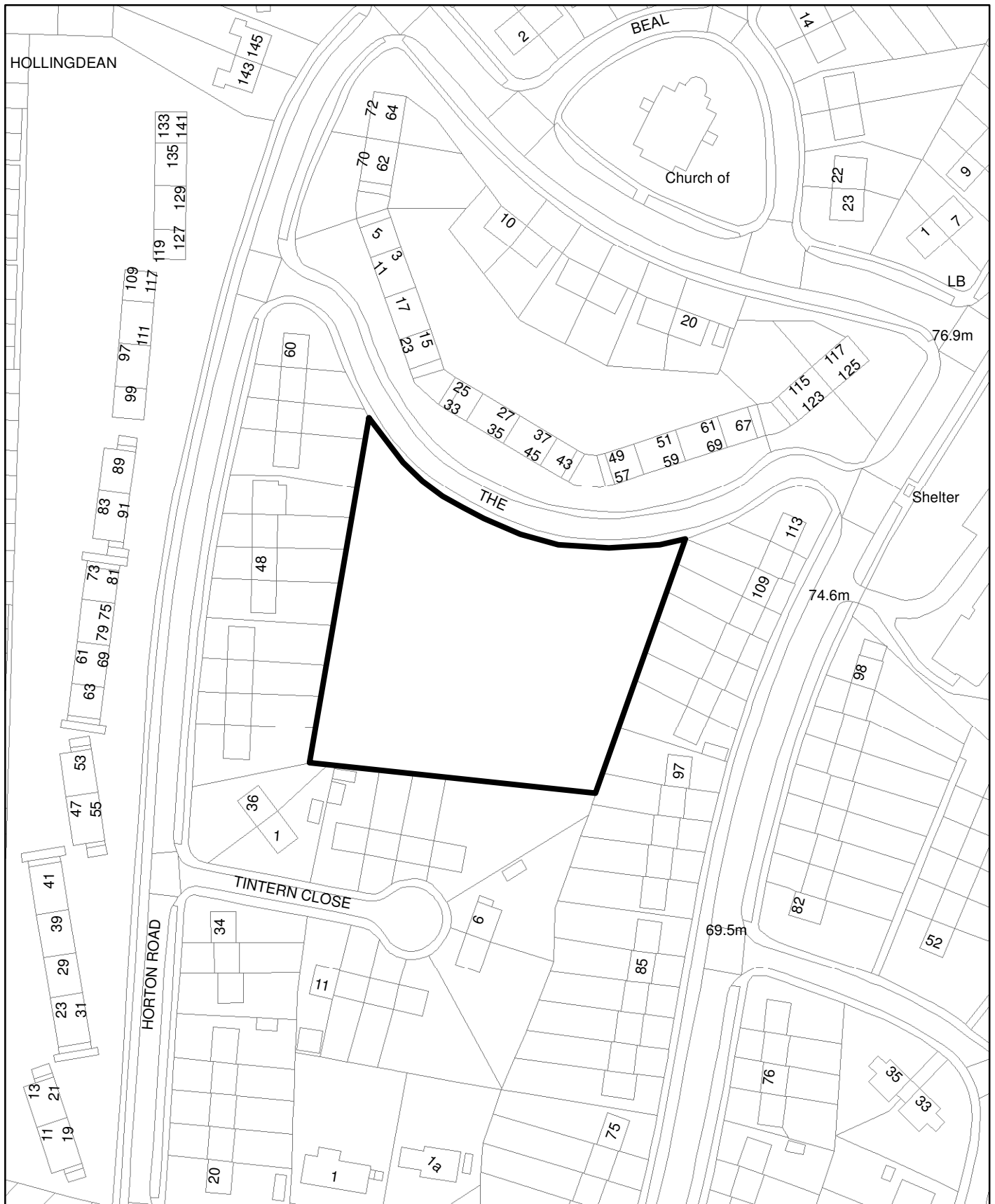
ITEM A

**Site of Former William Moon Lodge, The
Linkway, Brighton**

**BH2015/03144
Full planning**

14th SEPTEMBER 2016

BH2015/031444 Site of Former William Moon Lodge, The Linkway, Brighton



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2015/03144	<u>Ward:</u>	HOLLINGDEAN & STANMER
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Site of Former William Moon Lodge The Linkway Brighton		
<u>Proposal:</u>	Erection of two storey (plus basement) residential care home providing 75 bedrooms and 18 parking spaces and associated works.		
<u>Officer:</u>	Liz Arnold Tel 291709	<u>Valid Date:</u>	18/09/2015
<u>Con Area:</u>	N/A	<u>EOT:</u>	28 th October 2016
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	Lewis and Co Planning South East Ltd, 2 Port Hall Road Brighton BN1 5PD		
<u>Applicant:</u>	Mr Lindsay Shookhye, 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 in section 11 and the policies and guidance in section 7 and resolves to be **MINDED TO GRANT** planning permission subject to a S106 agreement and the Conditions and Informatives set out in section 11.

2 SITE LOCATION & DESCRIPTION

- 2.1 This application relates to a site located on the southern side of The Linkway. The site is currently vacant having been formerly used by the Sussex Lantern Trust comprising a large detached single storey building (D1 community use). The former building on the site has been demolished and the site cleared.
- 2.2 In a wider context this site lies in a predominantly residential area. The properties on the northern side of the Linkway, directly opposite the site comprise 3 storey terraced flats, properties to the east, west and south comprise 2 storey terraced dwellings.

3 RELEVANT HISTORY

BH2011/03745 Non Material Amendment to BH2007/02692 to change material as previously approved. Change East & West boundary treatments to 1.8m high close board timber fence. Changes to internal courtyard elevations.
Approved 04/04/2012

BH2010/02015: Application to extend time limit for implementation of previous approval BH2007/02692 for the demolition of existing building and redevelopment of the site to provide new two storey nursing home with 100 bedrooms, together with ancillary day care centre. Provision of 16 car parking

spaces to include 5 disabled spaces and one ambulance bay. Approved 21/08/2012.

BH2007/02692/FP: Demolition of existing building and redevelopment of the site to provide new nursing home (2 storeys) for the frail and elderly (100 bedrooms), together with ancillary day care centre. Provision of 16 car parking spaces to include 5 disabled spaces and one ambulance bay. The application was approved 17 October 2007 subject to conditions and a Section 106 Obligation to secure public art works to the value of £20,000, a contribution of £40,000 towards the Sustainable Transport Strategy and the ancillary day-care community facility indicated on the approved plans (drawing no. 2296/01 Rev F) to be provided at the time of first occupation of the nursing home. The ancillary community facility approved to be retained solely for such use (use class D1) and not used for an alternative use. Approved 17/10/2007.

4 THE APPLICATION

- 4.1 Planning permission is sought for the erection of a two storey, plus basement, residential care home providing 75 bedrooms and 18 parking spaces and associated works. All bedrooms would have en-suite bathroom facilities and the proposal would provide communal lounges/ dining rooms along with central services areas including kitchen, administrative facilities and staff room. The proposed building would be of a traditional design in the form of a two storey rectangular building with pitched roof, arranged around a central internal courtyard. The main entrance and reception area for the building would be on the northern elevation. The proposed materials are brickwork, render and tile hanging for the walls, with a tiled roof and uPVC windows and doors.
- 4.2 The proposal includes cycle parking and of the 18 car parking spaces, 4 of which are stated to be for disabled parking spaces, along with one ambulance bay.

5 PUBLICITY & CONSULTATIONS

External

Neighbours: Four (4) letters of representation have been received from **101,107 Davey Drive, 42 Horton Road and 14 Widdicombe Way (Owner of 101 Davey Drive)** objecting to the application for the following reasons:

- Concerned for the mature trees on the border between William Moon Lodge and the back gardens of houses on Horton Road. Understood there is a Tree Preservation Order on the site,
- Building is too large for the site. Previous building was single storey and the trees hid/obscured the building,
- Proposal is too big for enclosed neighbourhood,
- Loss of privacy for properties on Davey Drive and other houses immediately surrounding the new building,
- Increased pressure on parking in the area due to overspill parking. Already congestion from parents taking/collecting children from St Joseph's Catholic School on Davey Drive,

PLANNING COMMITTEE LIST – 14TH SEPTEMBER 2016

- Concerned for the safety of pedestrians, especially children as the road has two blind spots and is very narrow, additional traffic will make driving impossible causing traffic jams,
- Pollution from traffic,
- Overshadowing particularly as the site higher than properties on Davey Drive,
- A single storey building should be considered and no windows allowed to look into houses in the street,
- Increase in noise during the night with staff comings and goings and potential for ambulances to be called to the site,
- Noise from deliveries and visitors,
- Noise and disturbance will prevent neighbours from using their gardens, and
- Question the demand for a new nursing home.

One (1) letter of representation has been received from **47 The Linkway**, supporting the application for the following reasons:

- Wonderful opportunity for locals as there will be a lot of employment available.

5.1 **County Archaeologist:** Comment: Recommend a programme of archaeological works.

5.2 **County Ecologist:**
(Comments 19th October 2015) Further information about use of the site by protected species required. Insufficient information has been provided to assess the potential impacts of the proposed development on protected species, most notably, but not restricted to, reptiles and great crested newts.

(Additional comments 27/01/2016 following receipt of Ecology Report) The planning application cannot be determined without further surveys to ascertain use of the site by protected species and to inform appropriate mitigation.

(Additional comments 21/07/2016 following receipt of an additional Reptile Report) Provided the recommendations set out in the submitted reports are carried out, the development is considered unlikely to have a significant impact on ecology and can be supported from an ecological perspective.

5.3 **East Sussex Fire and Rescue:** Comment: No comments to make.

5.4 **Environment Agency:** Comment: The site is located in Flood Zone 1, defined by the National Planning Policy Framework (NPPF) as having a low probability of flooding. In this instance, we have taken a risk based approach and will not be providing bespoke comments or reviewing the technical documents in relation to this proposal.

5.5 **UK Power Networks:** Comment: No objection to the proposed works.

5.6 **Southern Gas Networks:** Comment: A plan showing pipes owned by SGN is included for information.

5.7 **Sussex Police:** Comment: Disappointed that the Design and Access Statement does not mention any crime prevention measures. Note that controlled entry is included to all external doors. Reception has been positioned so as to give good surveillance.

Internal:

5.8 **Arboriculturist:** No objection subject to suitable conditions being attached to any planning consent granted.

5.9 **Adult Social Care Commissioning Manger:** Support: Strongly support care home development of those facilities that provide beds/facilities that the Council or Health are able to purchase using their set rates. Nursing homes and all care homes for people with dementia are particularly needed in the city.

5.10 **City Clean:** Comment. As this application is for commercial premises, City Clean would not be collecting waste and recycling from this development. Would therefore request that the development provide suitable storage for the separation of recycling ensuring the waste generated by its operations is in a sustainable manner.

5.11 **Flood Risk Management Officer:** Comment: Further information required via conditions regarding sustainable drainage system.

5.12 **Planning Policy:** Support: The principle of a residential care home development on this site has already been established through prior planning consents one of which is believed to be extant (BH2010/02015).

Policy HO11 in the 2005 adopted Local Plan supports the provision of new residential and care homes provided that certain criteria set out in the policy are met. The proposed scheme is very similar (in terms of its design and layout) to that gaining consent in 2010 but is at a reduced scale (75 bedrooms rather than 100). It is considered that the criteria in HO11 are met.

Further information on sustainable waste management should be required by condition to satisfy the requirements of Waste & Minerals Plan Policy WMP3d.

5.13 **Public Art Officer:** Comment: Due to the reduction in the size of this new proposal, in the event of the application being approved a sum for Public Art would not be sought in this instance.

5.14 **Sustainable Transport:** Support. Recommend approval as the Highway Authority has no objection to the application subject to the inclusion of conditions regarding disabled parking, cycle parking, a travel plan, boundary treatments and doors and gates in addition to the provision of a sustainable transport contribution of £31,350 in accordance with the council's standard contributions methodology.

6 MATERIAL CONSIDERATIONS

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that “If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”
- 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 and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only – site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.
- 6.3 The National Planning Policy Framework (NPPF) is a material consideration.
- 6.4 Due weight should be given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.
- 6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7 RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP5	Culture and Tourism
CP7	Infrastructure and Developer Contributions
CP8	Sustainable Buildings
CP9	Sustainable Transport
CP10	Biodiversity
CP11	Managing Flood Risk
CP12	Urban Design
CP14	Housing Density
CP18	Healthy City
CP19	Housing Mix
CP12	Urban Design
SA6	Sustainable Neighbourhoods

Brighton & Hove Local Plan (Saved Policies):

TR4	Travel plans
TR7	Safe development
TR14	Cycle access and parking
TR18	Parking for people with a mobility related disability
SU3	Water resources and their quality
SU5	Surface water and foul sewerage disposal infrastructure

SU9	Pollution and nuisance control
SU10	Noise nuisance
QD5	Street frontages
QD15	Landscape design
QD16	Trees and hedgerows
QD27	Protection of amenity
HO11	Residential care and nursing homes
HE12	Scheduled ancient monuments and other important archaeological sites

Supplementary Planning Guidance:

SPGBH4 Parking Standards

Supplementary Planning Documents:

SPD03 Construction & Demolition Waste

SPD06 Trees & Development Sites

SPD11 Nature Conservation & Development

8 CONSIDERATIONS & ASSESSMENT

8.1 The main considerations in the determination of this application relate to the suitability of the site to accommodate the proposed care home and the impact of the development upon the character and amenity of the area. Regard will also be had to the traffic and travel implications of the development, neighbouring amenity and to sustainability.

Background:

8.2 The site previously contained a single storey building which was used as a day centre by the Sussex Lantern Trust, providing services for visually impaired people. The Trust moved into premises in Hassocks (the Trust's clientele reside across the whole of Sussex, so a more central location was required). The site's use as a day centre would have fallen within Class D1 of the Town and Country Planning (Use Classes) Order 1987.

8.3 As set out above the construction of a care home on the site has previously been approved. The current application is similar to the previously approved scheme, the permission for which expired on the 21st August 2015 . The main differences between the previously approved scheme and that now proposed, are;

- Number of bed spaces has been reduced from 100 to 75 spaces,
- Although the current proposal has the same width as the approved scheme, the depth has been reduced front to back, with the building sited a further 7m into the site, so that there is more space at the front of the site,
- A small basement area is now proposed at the rear of the site containing the laundry and linen store,
- Car parking spaces are now located at the front of the site with the exception of two at the east side of the building, and
- The previous consent also included a small day care centre.

Principle of Development:

- 8.4 In policy terms the loss of the day centre facility has been accepted through the grant of the earlier planning consents (BH2007/02692 and BH2010/02015). Furthermore the former day care centre for the visually impaired has been demolished and established case law found that where a use relies on a building to operate it does not survive demolition of the building. As such there is no established lawful use on the site at present.
- 8.5 The planning permission for redevelopment of the site into a 100 bed care home has also been commenced through the demolition of the building that was previously located on the site. Consequently this has started a new chapter in the site's planning history. The site currently has no planning use until the new development is completed and the care home use begins. The proposed care home use is a Class C2 use.
- 8.6 Policy HO11 in the adopted 2005 Local Plan supports the provision of new residential care and nursing home provided criteria a) to d) within the policy are met;
- a) requires that the development will not adversely affect the locality or neighbouring properties by way of noise or disturbance; or by way of size, bulk or overlooking,
 - b) requires that adequate amenity space is provided. This is stated as a minimum depth of 10m and not less than 25sqm per resident although a lower standard may apply where residents are less mobile. The case for a lower standard of provision has already been accepted through prior consents,
 - c) requires accessibility to people with disabilities; and
 - d) requires adequate parking in accordance with the council's standards.
- 8.7 Given that the proposed scheme is very similar to that already approved, albeit at a reduced scale and provision, the policy criteria with respect to residential amenity, amenity space and accessibility are considered to be adequately satisfied.
- 8.8 Planning Policy have commented that the Council's preference in terms of the development of new accommodation for older people with support needs is for Extra Care housing for older people (C3) which offers more independent living facilities but onsite support. However, it is also acknowledged that the adopted development plan policy HO11 is supportive of suitable new residential care and nursing homes. Adult Social Care are strongly in support of the application.

Design:

- 8.9 Policy CP12 of the City Plan Part One requires all new development to meet criteria such as raise the standard of architecture and design in the City, establish a strong sense of place, achieve excellence in sustainable building design and construction and ensure that design of the external spaces is an integral element of the overall design approach of schemes. Retained policy QD5 of the Brighton

& Hove Local Plan requires development to provide an interesting and attractive street frontage.

- 8.10 This application proposes the erection of a two storey rectangular building with a central courtyard. Due to the topography of the site the building would be set down below the street level of The Linkway. The footprint of the building would be in the form of a courtyard formation which allows all bedrooms to have a reasonable outlook onto areas of open space and access to natural light. In design terms it is proposed to use a simple palette of materials. Namely, traditional Sussex stock brickwork with the use of tile hanging and render at first floor level to add interest to the facades of the building. It is considered that the building would have a simple design and materials and would sit well within its context in accordance with policy CP12. The traditional design approach is considered acceptable and appropriate in this location. Furthermore the proposed design has already been accepted when approval was granted for the 2007 application and subsequent renewal in 2010.
- 8.11 Overall the proposal is considered to be acceptable in design terms. It is considered that the development would have no significant adverse impact upon the character and appearance of this site or the surrounding area.

Impact on Amenity:

- 8.12 Policy QD27 states that planning permission for any development 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 site is bounded predominantly by residential properties of two storeys in height. The proposed building would be two storeys, in keeping with surrounding development and will be set down within the site. To the west of the site is located the garden and rear elevations of residential properties in Horton Road, the closest western sited property is some 22m from the development. To the east is the rear of residential properties located on Davey Drive, with the closest eastern property some 23m from the development. To the south are the gardens and rear elevations of residential properties on Tintern Close, with the closest property some 23m from the development. Given the distances that would be retained between the proposed building and the existing neighbouring properties it is considered that there would not be an unacceptable impact upon neighbouring occupiers by way of overshadowing, loss of light, or overbearing impact so as to justify refusal of this application. Furthermore there are a number of mature trees on the eastern, southern and western boundaries of the site which would provide a high level of screening of the new building during the summer months in addition to a close boarded fence.
- 8.14 It is recognised that some overlooking of the neighbouring residential properties and gardens may occur. However, there is already a significant level of overlooking between properties in this densely populated area as result of the fact that properties surrounding this site are of two and three storeys. Some overlooking between properties in a residential area is to be anticipated and

considering the nature of the proposed use it is not felt that any increase in overlooking or loss of privacy that may occur would result in an unacceptable level of harm to existing neighbouring properties. Again the relationship between the proposed development and neighbouring properties was considered acceptable when the previous application was approved.

- 8.15 Finally subject to conditions to protect amenity with issues such as noise and odour pollution it is considered that the level of noise and activity likely to be generated from the proposed development, in this location, would not be likely to result in unacceptable harm to neighbouring occupiers.

Amenity for residential occupiers

- 8.16 The proposal has been designed with 75 bedrooms (with en-suite facilities), communal lounge and day areas and central service areas including kitchen and administrative facilities and staff room. Conditions are recommended requiring soundproofing and odour control equipment to be installed to minimise any adverse impact by way of noise or smell pollution resulting from the communal kitchen and laundry.

Sustainable Transport:

- 8.17 Policy CP9 stipulates that all new development should provide for the travel demand that it creates with a particular emphasis upon promoting sustainable modes of transport.

Cycle Parking

- 8.18 Within the submission it is indicated that the proposal would provide 14 cycle parking spaces, 12 more than the minimum required as set out in SPG04. Full details of the proposed cycle parking have not been provided as part of the submission however it is considered that such details could be obtained via a condition.

Disabled Parking

- 8.19 The proposal includes the provision of 4 disabled parking bays. The proposed disabled bays do not appear to be designed to guidance standards and as such a revised design should be required via a condition on any permission granted.
- 8.20 If the proposed disabled bays cannot be altered to comply with the guidance a solution would be to relocate 2 of the bays from the front to the eastern side of the building. Another alternative is in the form of free on-street disabled parking bays in the vicinity of the site for disabled residents and visitors to park when visiting the site by car. Therefore in this instance the Highway Authority would not consider the lack of on-site disabled car parking to be a reason for refusal.

Servicing & Deliveries

- 8.21 The applicant is not proposing any alteration to their previous off-street servicing and delivery arrangements to and from the site and for this replacement residential care home and ancillary day care centre is deemed acceptable in this case.

Vehicular Access

- 8.22 The proposal would not result in any change to the sites separate vehicle access and egress arrangements off and onto the public highway (The Linkway) and for the proposed residential care home this is deemed acceptable in this case.

Vehicle Parking

- 8.23 14 parking spaces are proposed additional to the disabled parking discussed above. As a result of the design alterations to the previous application to create the current proposal there would now be surplus hard standing including to the west of the site. The Highway Authority would recommend that this area is closed off to normal vehicle use by bollards that are secured by padlocks that can be easily cropped by the Fire and Rescue Service in the event of an emergency, if not landscaped.

Trip Generation/Highway Impact

- 8.24 The Highway Authority does not forecast a significant increase in vehicle trip generation as a result of the proposed replacement residential care home and ancillary day care centre proposal therefore any highway impact would be minimal so the application is deemed acceptable in this case.

Developer Contribution

- 8.25 A financial contribution of £31,350 is required towards pedestrian improvements in the form of dropped kerbs and tactile paving and/or bus stop improvements.

Travel Plan

- 8.26 The proposed plans submitted show the provision of a staff room with a staff changing room and a shower. Prior to first occupation of the development it is requested that such facilities should be installed within the building, especially for cyclists. In addition it is requested by the Highway Authority that public transport information should be displayed within the building and that an information pack regarding sustainable transport modes be prepared for employees. Such requirements could be ensured via a condition.

Boundary Treatments

- 8.27 As what was formerly on the site has been demolished and there are now hoardings in place obscuring visibility of the site a condition regarding boundary treatments, including any proposed gates, is requested for any approved permission to ensure highway safety has been taken into account for example regarding visibility.

Sustainability:

- 8.28 Policy CP8 indicates that the proposed development should meet BREEAM 'Excellent'. It is noted that the sustainability checklist submitted with the application states that the scheme would meet BREEAM 'very good'. The planning statement submitted with the application states that the scheme would incorporate many sustainable measures such as double glazing and high levels of insulation. It is also noted that the previous planning permission for a care home required a BREEAM 'Very Good' to be achieved and this was for a larger development however this earlier consent has now lapsed and as such it is considered that the current proposal should meet the requirements of policy

CP8 of the recently adopted City Plan Part One and therefore a condition requiring BREEAM 'Excellent' is recommended.

Other Considerations:

Arboriculture:

- 8.29 The Tree Survey submitted with the application is generic and not site-specific. No trees have been surveyed as part of this application.
- 8.30 There is an Area Order Tree Preservation Order covering various trees (TPO (No 3) 2008). This means that any tree that was present in 2008 of any species will be covered by this TPO.
- 8.31 The majority, if not all of the trees on this site are around the perimeter. Plans submitted show that the proposed development would be in the middle of the site and would be at a sufficient distance from the vast majority of trees on the site. They should not therefore be affected by the development.
- 8.32 The Arboricultural Section would recommend that a tree survey to BS 5837 (2012) is carried out and any trees that are deemed to be a Health and Safety issue should be removed from site prior to development commencing.
- 8.33 All remaining trees should be protected to BS 5837 (2012) as far as is practicable. Any construction activity within their Root Protection Zones (such as parking spaces, bin areas etc) should be carried out in such a way as to allow for the retention of any roots in the vicinity.

Ecology

- 8.34 As part of the application two ecology reports have been submitted, which the County Ecologist has confirmed have been carried out in accordance with best practice and are sufficient to inform appropriate mitigation, compensation and enhancement.
- 8.35 The site supports a low population of slow worms which can be accommodated on site. The proposed mitigation strategy outlined in the submitted Reptile Survey is considered appropriate and acceptable.
- 8.36 The risk of great crested newts being present on the site and affected by the proposed development is considered to be negligible and as such no specific mitigation as part of the proposal is required for this species.
- 8.37 With regards to bats the trees located around the boundaries of the site have low potential to support roosts. From the information submitted it is understood that all of the trees are to be retained and would be protected during the construction of the proposal in accordance with British Standards and as such no further bat surveys are required. Any external lighting should take account of best practice guidelines with respect to minimising impacts on nocturnal species.
- 8.38 The site is considered to have the potential to support breeding birds. To avoid disturbance to nesting birds, any removal of scrub/trees that could provide

nesting habitat should be carried out side the breeding season (generally March to August) otherwise a nesting bird check should be carried out prior to any clearance work, an issue which can be controlled via a condition.

- 8.39 The site has the potential to support hedgehogs. As set out in the submitted ecology report site boundaries and fences should be made permeable to wildlife.
- 8.40 The submitted ecology reports set out ways in which the ecology of the site could be enhanced as part of the proposal.
- 8.41 Overall provided the mitigation, compensation and enhancement measures as set out in the submitted ecology report and reptile report are carried out overall it is consider that the proposal is unlikely to have a significant impact on ecology.

Waste Management:

- 8.42 New developments are required to identify the location and provision of facilities intended to allow for the efficient management of waste, e.g. location of bin stores and recycling facilities. These are indicated in the plans submitted and such provision can be ensured via a condition.

Flooding

- 8.43 A change to planning policy in April 2015 requires sustainable drainage systems to be provided in new development wherever this is appropriate. The Lead Local Flood Authority Officer requests that a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods is submitted, which can be dealt with via a condition.

Archaeology

- 8.44 The site does not fall within an Archaeological Notification Area, however the County Archaeologist has commented that the site is a prime location for prehistoric settlement, being on the south facing spur of the South Downs. Finds of Iron Age and roman coins in the vicinity hint at this past activity and raise the potential for archaeological remains to exist on this site. A condition requiring a programme of archaeological works therefore forms part of the recommendation.

Public Art

- 8.45 The original planning consent for a 100 bed care home and subsequent renewal both secured a sum of £20,000 for Public Art under the s106 agreement. However the Public Art Officer has commented that the current application seeks a lower overall size in terms of gross internal floor area than that approved under the 2010 consent and that due to the reduction in the size of this new proposal a sum for Public Art would not be sought in this instance.

9 CONCLUSION

- 9.1 The proposed development would provide much needed residential accommodation for the elderly. The proposed building is considered to be of acceptable design and there would be no significant adverse impact upon the character of appearance of this site or the surrounding area. The development would provide a good standard of accommodation for future occupants and would not result in significant harm to neighbouring amenity or highway safety.

10 EQUALITIES

- 10.1 The proposal would be fully accessible to the disabled. Lift access is proposed to upper floors. Disabled parking spaces are proposed.

11 PLANNING OBLIGATION / CONDITIONS / INFORMATIVES

S106 Heads of Terms

- Sustainable Transport contribution of £31,350,
- Construction Training and Employment Strategy including a commitment to using 20% local employment during the demolition and construction phases of the development

Regulatory Conditions:

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

Plan Type	Reference	Version	Date Received
Site Plan	14/171/08	C	30/06/2016
Location and Block Plan	14-171/skLOC	A	11/09/2015
Site Survey	R1239		11/09/2015
Ground and Basement Floor Plans	14/171/01	A	11/09/2015
First Floor Plan	14/171/02	A	11/09/2015
Roof Plan	14/171/03	A	11/09/2015
Front and Rear Elevations	14/171/04	A	11/09/2015
East and West Elevations	14/171/05	A	11/09/2015
North and South Courtyard	14/171/06	A	11/09/2015
East and West Courtyard	14/171/07	A	11/09/2015

3. 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, assessing the risk and proposing remediation measures, together with a programme, shall be submitted to and approved in writing by the Local Planning Authority. 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.

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 hereby approved shall be carried out in strict accordance with the ecological mitigation, compensation and enhancement measures as set out in the Ecological Scoping Survey by The Ecology Consultancy received on 8th June 2016 and the Reptile Survey by The Ecology Consultancy received on 30th June 2016.

Reason: To safeguard protected species from the impact of the development and ensure appropriate integration of new nature conservation and enhancement features in accordance with policies QD18 of the Brighton & Hove Local Plan and CP10 of the Brighton & Hove City Plan Part One.

6. No hedgerow, tree or shrub shall be removed from the site between 1st March and 31st August inclusive without the prior submission of a report to the Local Planning Authority which sets out the results of a survey undertaken by a qualified ecologist, to assess the nesting bird activity on the site and describes a method of working to protect any nesting bird interest. The report must be agreed in writing by the Local Planning Authority prior to the removal of any hedgerow, tree or shrub and shall then be carried out in strict accordance with the approved details.

Reason: To ensure that wild birds building or using their nests are protected, in accordance with QD18 of the Brighton & Hove Local Plan.

Pre-Commencement Conditions:

7. No development or other operations shall commence on site in connection with the development hereby approved, until a detailed Construction Specification/Method Statement for construction of the bin areas, cycle storage and car parking space etc within the Root Protection Zones of trees has been submitted to and approved in writing by the Local Planning Authority. This shall provide for the long-term retention of the trees.

Reason: As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to comply with policy CP12 of the Brighton & Hove City Plan Part One and policy QD16 of the Brighton & Hove Local Plan.

8. No development or other operations shall commence on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed Arboricultural Method Statement regarding protection of all trees to remain on site has been

submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved Method Statement.

Reason: As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to comply with policy CP12 of the Brighton & Hove City Plan Part One and policy QD16 of the Brighton & Hove Local Plan.

9.
 - i) No development shall take place until a programme of archaeological work has been secured in accordance with a Written Scheme of Archaeological Investigation which has been submitted to and approved in writing by the Local Planning Authority.
 - ii) The development hereby permitted shall not be brought into use until the archaeological site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under part i) and that provision for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: This pre-commencement condition is imposed because it is necessary 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.
10. No development shall commence until full details of existing and proposed ground levels (referenced as Ordnance Datum) within the site and on land and buildings adjoining the site by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures, have been submitted to and approved by the Local Planning Authority. The development shall then be implemented in accordance with the approved level details.

Reason: As this matter is fundamental to the acceptable delivery of the permission to safeguard the amenities of nearby properties and to safeguard the character and appearance of the area, in addition to comply with policies CP12 of the Brighton & Hove City Plan Part One and policy QD27 of the Brighton and Hove Local Plan.
11. 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) samples 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 CP12 of the Brighton & Hove City Plan Part One and policy QD14 of the Brighton & Hove Local Plan.

12. No development above ground floor slab level of any part of the development hereby permitted shall take place until 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 to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

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, 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 the use of the building commencing.

Reason: As this matter is fundamental to the acceptable delivery of the permission to prevent the increased risk of flooding and to prevent pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal and to comply with policy SU3 of the Brighton & Hove Local Plan.

14. Prior to commencement of development a scheme for the proposed means of foul and surface water sewerage disposal shall have been submitted to and approved in writing by the Local Planning Authority in consultation with Southern Water.

Reason: As this matter is fundamental to prevent pollution of the water environment and to comply with policy SU3 of the Brighton & Hove Local Plan.

Pre-Occupation Conditions:

15. Prior to first occupation of the development hereby permitted a scheme for the storage of refuse and recycling shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in full as approved 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.

16. 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.

17. Prior to first occupation of the development hereby permitted, a scheme for landscaping shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:
- a. details of all hard surfacing;
 - b. details of all proposed planting, including numbers and species of plant, and details of size and planting method of any trees.
 - c. details of landscaping or bollards to prevent parking to the west of the building.

All hard landscaping and means of enclosure shall be completed in accordance with the approved scheme prior to first occupation of the development. All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the building or the completion of the development, whichever is the sooner; and 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, unless the Local Planning Authority gives written consent to any variation.

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area, to ensure over-spill parking does not occur to the west of the building and to comply with policies CP12 and CP9 of the Brighton & Hove City Plan Part One and policies QD15 and QD27 of the Brighton & Hove Local Plan.

18. Prior to first occupation of the development hereby permitted a scheme for the fitting of odour control equipment to the building shall have 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 to comply with policy QD27 of the Brighton & Hove Local Plan.

19. Prior to first occupation of the development hereby permitted a scheme for the sound insulation of the odour control equipment referred to in the condition 16 shall have 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 to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

20. Unless otherwise agreed in writing by the Local Planning Authority, the non-residential development hereby approved shall not be occupied until a BREEAM Building Research Establishment issued Post Construction Review Certificate confirming that the non-residential development built has achieved a minimum BREEAM rating of 'Excellent' 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.

21. Prior to first occupation of the development hereby permitted, revised details of disabled car parking provision 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 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 SPG4 guidance.
22. The development hereby permitted shall not be brought into first occupation until the vehicle parking areas shown on the submitted plans and as agreed in condition 21 have been laid out and surfaced in accordance with details that have been submitted to and agreed in writing by the Local Planning Authority. The parking areas shall not be used otherwise than for the parking of vehicles of residents, staff and visitors associated with the development.
Reason: To ensure that adequate parking provision is retained and to comply with policy CP9 of the City Plan Part One.
23. Prior to first occupation of the development hereby approved the staff changing facilities and showers, as shown on the approved plans, shall be fully implemented and made available for use and public transport information shall be displayed within the building, and shall thereafter be retained for use at all times.
Reason: To seek to reduce traffic generation and encourage sustainable modes of transport in accordance with policy TR4 of the Brighton & Hove Local Plan.
24. Prior to first occupation of the development hereby permitted an information sustainable transport modes pack for employees shall be submitted to and approved in writing by the Local Planning Authority and retained thereafter.
Reason: To seek to reduce traffic generation and encourage sustainable modes of transport in accordance with policy TR4 of the Brighton & Hove Local Plan.
25. Prior to first occupation of the development hereby permitted a plan detailing the positions, height, design, materials and type of all existing and proposed boundary treatments, including any proposed gates into the highway, shall have been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be provided in accordance with the approved details prior to first occupation of the development and shall thereafter be retained at all times.
Reason: In the interest of highway safety and to enhance the appearance of the development in the interest of the visual and residential amenities of the area and to comply with policies TR7, QD15 and QD27 of the Brighton & Hove Local Plan and policies CP9, CP12 and CP18 of the City Plan Part One.

Informatives:

PLANNING COMMITTEE LIST – 14TH SEPTEMBER 2016

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 to grant Planning Permission has been taken:
 - (i) having regard to the policies and proposals in the National Planning Policy Framework and the Development Plan, including Supplementary Planning Guidance and Supplementary Planning Documents:
(Please see section 7 of the report for the full list); and
 - (ii) for the following reasons:-

The proposed development would provide much needed residential accommodation for the elderly. The proposed building is considered to be of acceptable design and there would be no significant adverse impact upon the character of appearance of this site or the surrounding area. The development would provide a good standard of accommodation for future occupants and would not result in significant harm to neighbouring amenity or highway safety.
3. 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 9.
4. The applicant is advised of the presence of Low/Medium/Intermediate Pressure gas mains in the proximity to the site. There should be no mechanical excavations taking place above or within 0.5m of the low pressure system, 0.5m of the medium pressure system and 3m of the intermediate pressure system. Where required the position of the main should be confirmed using hand dug trial holes.
5. The applicant is advised that with regards to condition 13 the following details should be submitted as part of a Flood and Drainage Risk Assessment;
 - Details of the developments existing drainage and surface water run-off rates,
 - Details of the existing flood risk to the site, i.e. surface water, sewer, groundwater and coastal,
 - Proposed mitigation measures to reduce any identified flood risk,
 - Details of the proposed drainage. The applicant must provide this data in accordance with the non-statutory technical standards for the design, maintenance and operation of sustainable drainage systems and Brighton & Hove City Council Strategic Flood Risk Assessment (Section 6.2.2),
 - Demonstration that any proposed drainage system can cope with up to the 1 in 100 year plus climate change event (=30%). Any calculations must look at both winter and summer storms.

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- If soakaways are proposed as drainage for the site, appropriate tests in accordance with BRE Digest 365 Soakaway design must be completed and any results should be shown in the Flood and Drainage Assessment.
- 6. The applicant is advised that formal applications for connection to the public sewerage system and to the water supply are required in order to service this development. Please contact Southern Water, Southern House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (tel. 0330 303 0119), or www.southernwater.co.uk.
- 7. Southern Water advises that detailed design of the proposed drainage system should take into account the possibility of surcharging within the public sewerage system in order to protect the development from potential flooding.
- 8. 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).
- 9. 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).
- 10. The applicant is advised that under Part 1 of the Wildlife and Countryside Act 1981 disturbance to nesting birds, their nests and eggs is a criminal offence. The nesting season is normally taken as being from 1st March – 30th September. The developer should take appropriate steps to ensure nesting birds, their nests and eggs are not disturbed and are protected until such time as they have left the nest.
- 11. The applicant is advised of the possible presence of bats on the development site. All species of bat are protected by law. It is a criminal offence to kill bats, to intentionally or recklessly disturb bats, damage or destroy a bat roosting place and intentionally or recklessly obstruct access to a bat roost. If bats are seen during construction, work should stop immediately and Natural England should be contacted on 0300 060 0300.
- 12. The applicant is advised that any external lighting should take account of best practice guidelines with respect to minimising impacts on nocturnal species.
- 13. The applicant is advised that the Councils Arboricultural Section would recommend that a tree survey to BS 5837 (2012) is carried out and any trees that are deemed to be a Health and Safety issue should be removed from site prior to development commencing.

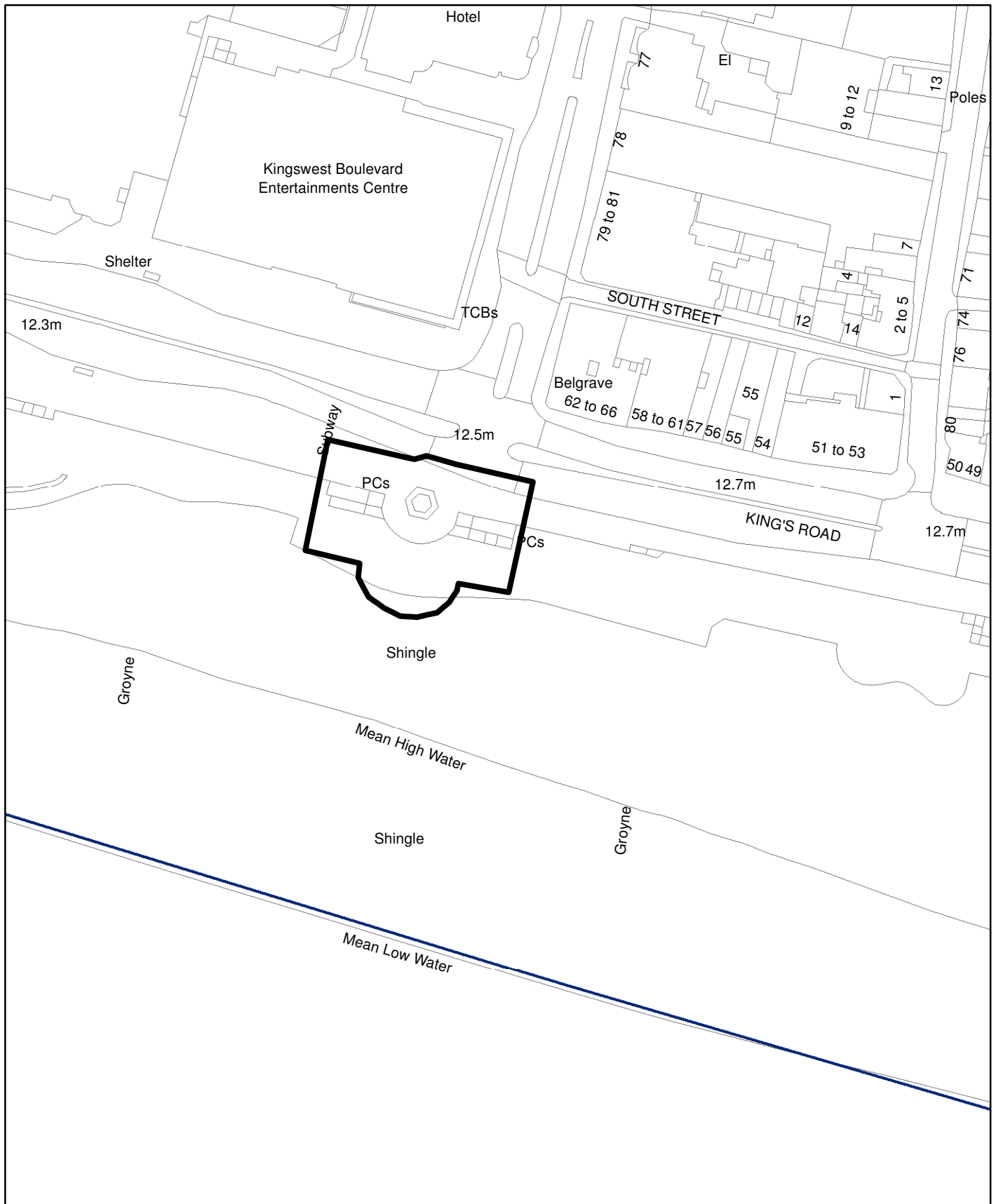
ITEM B

**The Shelter Hall, 150-154 Kings Road
Arches, Brighton**

**BH2016/01877
Full planning**

14th SEPTEMBER 2016

BH2016/01877 The Shelter Hall, 150-154 Kings Road Arches, Brighton



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2016/01877	<u>Ward:</u>	REGENCY
<u>App Type:</u>	Full Planning		
<u>Address:</u>	The Shelter Hall 150-154 Kings Road Arches Brighton		
<u>Proposal:</u>	Demolition of existing building and external steps. Erection of two-storey building at lower promenade level incorporating mezzanine floor and a single storey rotunda building on the upper promenade level on raised plinth to provide mixed use development comprising retail/café/restaurant/public toilets (A1/A3/sui generis uses) and new external steps.		
<u>Officer:</u>	Maria Seale Tel 292175	<u>Valid Date:</u>	14/06/2016
<u>Con Area:</u>	Regency Square/Old Town	<u>E.O.T:</u>	19/9/16
<u>Listed Building Grade:</u>	Previous kiosk on upper promenade Grade II and railings Grade II		
<u>Agent:</u>	Solar Architecture Ltd, 2 Hobs Acre, Upper Beeding, Steyning BN44 3TZ		
<u>Applicant:</u>	Mr Mark Prior, Director of Transport, Brighton & Hove City Council, Transport Strategy & Projects Transport Group Room 400 Kings House Grand Avenue Hove BN3 3BQ		

1 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 and the policies and guidance in section 7 and resolves to be **MINDED TO GRANT** planning permission subject to a S106 agreement and the Conditions and Informatives set out in section 11.

2 SITE LOCATION & DESCRIPTION

- 2.1 The site is located at the bottom of West Street and involves the upper and lower seafront promenade. The Shelter Hall is an unlisted historic building with decorative features which straddles the boundaries of the Regency and Old Town Conservation Areas. The railings which edge the Kings Road esplanade are listed grade II.
- 2.2 The Shelter Hall is the focal point of this section of the Victorian arch development fronting the beach, which was built as a structural element of the Kings Road thoroughfare and also to provide a recreational facility for the seafront promenaders. It had close association with the listed kiosk formerly at road level, now removed for reconstruction in a new position.
- 2.3 The Shelter Hall has been unusable and supported by temporary props for a number of years. Its deteriorated condition is so poor as to be considered dangerous. The last occupier was a D2 use, the Riptide Gym.

3 RELEVANT HISTORY

- 3.1 **BH2015/04609** Listed Building Consent for removal of kiosk to facilitate its repair, restoration and relocation to East Street Bastion and removal of a section of seafront railings and lamppost (part-retrospective). Granted 31/3/16
- 3.2 **75/320** Change of use from storage to family pleasure centre. Granted 3/4/75.
- 3.3 Pre-Application Consultation: Extensive discussions have taken place with officers, the Heritage Team and Historic England. The scheme was presented at the pre-application stage to both CAG and Councillors at a briefing earlier this year.

4 THE APPLICATION

- 4.1 Planning permission is sought to demolish the existing Shelter Hall building and external public steps from the upper to the lower promenade. The current building partially holds up the A259 seafront road and is structurally unsound. Note: Listed Building Consent has previously been granted for removal of the listed railings in this section.
- 4.2 It is proposed to erect a new two-storey building at the lower promenade level incorporating partial mezzanine floor for an A3 restaurant use (approx. 695 sqm floor area), plus an individual A1 retail use (approx. 42sqm floor area) on the ground floor plus public toilets to serve the seafront. The retail unit would house an existing tenant who had to move out of an adjacent arch due to structural issues and is being temporarily located on the beach. This new replacement building would be significantly larger than the previous Shelter Hall buildings (approx 1530 sqm floor area in total compared with 718sqm original) and it would project further southwards towards the sea. It would have a similar geometric design incorporating some traditional elements, although it would be a contemporary design.
- 4.3 A single storey rotunda building for use as an A3 café/restaurant (of approx. 105m²) is proposed on the upper promenade level to replace the previous listed hot food take away kiosk that was recently removed for re-erection elsewhere on the seafront. The new building would be significantly larger than the previous kiosk (which was approx. 18sqm) and would be located on a raised podium of 670mm in height above the existing upper promenade level, reached by a set of open steps and ramps. The new podium would have traditional railings to match existing around it. The building would partly incorporate the extract ventilation plant for the kitchens of the building below.
- 4.4 New external public steps are proposed from the upper to lower promenade of a different orientation to the promenade than previously and they would have traditional railings to match the existing listed railings along the seafront.
- 4.5 The scheme has amended since first submitted, the main changes being:
 - Reduction in height (originally the plans showed a podium height of 900mm and this has been reduced to 670mm)
 - Slight relocation of podium southwards so in line with main seafront railings

- Removal of some railings and new open design of gradual steps and ramps
 - Introduction of vents at upper podium level projecting out of café building
 - Reduction in scale and height of balconies
 - Provision of further explanation and justification for the form and layout of scheme and why alternatives were discounted
 - Provision of further supporting information regarding viability and other constraints
 - Provision of further information relating to sustainability
- 4.6 As landowner, the council is the applicant for this scheme. As it involves a partial highways structure, this scheme is primarily funded by the Department for Transport from the government's Highways Maintenance Challenge Fund (£9 million). The council is also contributing via the Local Transport Plan (£1.7 million).
- 4.7 Note: Works to provide a new flood defence wall, seafront walkway and external lighting have recently been completed by the Highways Team separate to this application under Permitted Development rights.

5 PUBLICITY & CONSULTATIONS

External:

- 5.1 **Neighbours: One (1)** letter of representation has been received from **Two Kats and a Cow Gallery 167 Kings Road Arches** commenting that they would like to have reassurance that all rubbish and recycling produced by the property will be kept adequately within the building and not on the seafront as they already struggle with the amount of bins.
- 5.2 **Brighton & Hove Archaeological Society:** The development is unlikely to affect any archaeological deposits.
- 5.3 **The Brighton Society:** Comment that the various Victorian architectural embellishments that adorn the soon to be rebuilt Shelter Hall, in particular the masonry 'masks' that crown the window arches and corners of the frontage, as well potentially other features of aesthetic/historic interest inside the building, are worthy of saving. Preferably, they suggest those items which are still in good condition should be incorporated in the decorative scheme of the new building but, failing that should be transferred for preservation/display to Brighton Museum.
- 5.4 **Conservation Advisory Group (CAG):** Welcome the proposal in principle but recommend refusal on grounds the information provided is either inadequate or inconsistent.
- 5.5 Concerns expressed regarding the lack of information on external works, paving layouts and landscaping elements including the flood wall, promenade paving and external lighting proposals – which should not be left to condition. Concern expressed regarding lack of information on materials, colours and profiles proposed for upper café. Inconsistency/lack of information regarding the relationship and means of support to screens located between the paired

columns and external wall of podium café. Inadequate details of dividing balustrade to external stairs. The sculptural masks on Shelter Hall should be incorporated into the new replacement building.

- 5.6 **East Sussex County Council Archaeologist:** Comment. Historic mapping from the mid-19th century records the site comprising an underground coastguard station before its subsequent uses for shelter. The application has been submitted with a heritage statement describing the built heritage and an archaeological desk-based assessment, which focuses primarily on the below-ground archaeological potential.
- 5.7 Due to the beach location of the site and the post-medieval and modern development of the site there is unlikely to be any significant below-ground archaeological interest for earlier periods. The development of the site over the last two hundred years is of interest, however, and it is probable that the present re-development of the site will allow a greater understanding of this recent history. To capture this information during the re-development of the site it is recommended that works are subject to a 'buildings archaeology' watching brief. This should focus in particular on any evidence to inform our understanding of the use of the site as an underground coastguard station and its subsequent use as a shelter. This information would also aid in the restoration of the kiosk on the new site.
- 5.8 Therefore, in the light of the potential for impacts to heritage assets with archaeological, historical and architectural interest at this site the area affected by the proposals should be the subject of a programme of archaeological works – secured by condition. This will enable any archaeological features that would be disturbed by the proposed works to be identified and either preserved in situ or where this is demonstrably not possible, adequately recorded in advance of their loss or removal and restoration. These recommendations are in line with the requirements given in the National Planning Policy Framework (NPPF).
- 5.9 **Historic England:** (comments on original scheme pre-amendments) Comment that HE have provided pre-application comments on this and the previous scheme to remove the listed kiosk.
- 5.10 The Shelter Hall is an attractive and characterful building that was part of the Victorian civic and recreational improvements to the seafront. It is an undesignated heritage asset that makes a positive contribution to the conservation areas and to Brighton's seafront.
- 5.11 The demolition and replacement with a new larger structure is largely justified. This is based on its poor condition and that significant public benefits would be delivered by securing a new usable building together with the highway safety improvements, in line with the NPPF para 134.
- 5.12 There are however details of the scheme, in particular the raising of the level of the Upper Esplanade and associated clutter arising from associated railings to steps and ramps, and the introduction of solid panels for ventilation in the upper kiosk, that are considered cause harm to the conservation areas and seafront.

These harmful elements have not been clearly or convincingly justified, as required by para 128 of the NPPF. The need for a mezzanine and thus raising the height and the need for solid vent panels need to be rigorously tested and alternatives explored. The proposed re-orientation of the external stairs (as all others run parallel to seafront) needs to be justified. HE recommend that these aspects of the scheme are reconsidered.

- 5.13 The keystone silver heads and shields should be salvaged and re-used in the new building and the internal columns re-used, if possible.
- 5.14 **Southern Water:** Comment. There is a public combined trunk sewer and water distribution main crossing the site and no development should take place within certain distances of it. Conditions to secure submission of a drainage strategy and means for foul and surface water sewage disposal are recommended.
- 5.15 **Sussex Police:** Do not support the application. They state it is disappointing to note that no timings were given within the application for the opening hours of any of the proposed uses. Additionally the application gave no mention to any crime prevention measures to be incorporated into the design and layout. The National Planning Policy Framework demonstrates the government's commitment to creating safe and accessible environments where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. Design and Access Statements for applications should therefore demonstrate how crime prevention measures have been considered in the design and layout of the development.
- 5.16 The development lies within the parameter of the late night economy of the City centre and as such it experiences large amounts of footfall, noise, litter and acts of anti-social behaviour, in fact the level of crime and anti-social behaviour here is high when compared to the rest of England and Wales. To introduce an additional large restaurant / café facility would be likely to exacerbate the existing problems already experienced by the neighbouring community and the Local Police resources. Sussex Police fully support Brighton & Hove policies SU10 & QD27. Whilst the Force has no concerns over this type of restaurant in isolation, they do have concerns over the cumulative impact that multiple cafes and restaurants will have on the amenity of the local area and Police resources. These being; persons, often who are intoxicated, remaining on the streets into the early hours of the morning. This would directly impact on the provision of policing resources, particularly on Friday and Saturday nights, when demand on policing is often at a peak.
- 5.17 It is asked that any consent for this (A3) application or any future application for the premises is conditional that alcohol is ancillary to food prepared on the premises and served at table by waiters / waitresses. The applicant is directed to the www.securedbydesign.com website where the Secured by Design (SBD) Commercial Development 2015 document can be found. This document will be able to provide the applicant with in-depth pertinent crime prevention advice specific to the design and layout. This document will assist the applicant in creating a safe and secure environment in which partake in leisure and retail activities.

Internal:

- 5.18 **City Regeneration:** Support the proposal as the redevelopment will enhance the immediate area of the seafront, which is included the council's Seafront Strategy. The location has an extremely high local and visitor footfall which contributes to both day and night-time economies.
- 5.19 If approved, City Regeneration requests a contribution through a S106 agreement for the payment of £8,120 towards the council's Local Employment Scheme in accordance with the Developer Contributions Technical Guidance. In addition, an Employment and Training Strategy is required, to be submitted at least one month in advance of site commencement, including demolition phase. The developer will be required to commit to using at least 20% local employment during the demolition phase (where possible) and construction phase (mandatory).
- 5.20 **Coast Protection Engineer:** Support the application as it would have no negative impacts on coast protection or coastal processes. The project's flood risk assessment takes some of its data from the recent Brighton Marina to River Adur coastal management strategy. This is a substantial assessment of the coast and how to manage coastal change over the next 100 years and was approved by the Environment Agency in 2014.
- 5.21 **Ecology:** Support. The site currently comprises building and hardstanding and is likely to be of minimal ecological value. There are no sites designated for their nature conservation interest that are likely to be impacted by the proposed development. It is considered unlikely that the site supports any protected species.
- 5.22 The proposed development is unlikely to have any significant impacts on biodiversity and can be supported from an ecological perspective. The site offers opportunities for enhancement that will help the Council address its duties and responsibilities under the NPPF and the Natural Environment and Rural Communities (NERC) Act.
- 5.23 **Environmental Health:** Approve subject to conditions to deal with noise and odour. The foreseeable issues which will likely require input are that of noise and odour as the kitchens/café will likely require ventilation and exhausting and a scheme to ensure that odour does not disadvantage either patrons sat on top of the scheme or adjacent units. Information is not apparent within the application as to how this will be achieved. However, it can be dealt with through conditions to ensure that its uses do not disadvantage others.
- 5.24 **Heritage:** Comment (comments on original scheme pre-amendments):
- 5.25 Summary:
Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in exercising its powers under the planning Acts in respect of buildings or other land within a conservation area, the local authority shall pay special attention to the desirability of preserving or enhancing the character or

appearance of the conservation area. 'Preserving' means doing no harm. There is therefore a statutory presumption, and a strong one, against granting permission for any development which would cause harm to a conservation area. This presumption can be outweighed by material considerations powerful enough to do so. Where the identified harm is limited or less than substantial, the local planning authority must nevertheless give considerable importance and weight to the preservation or enhancement of the conservation area.

5.26 There are sound reasons to justify the loss of the historic Shelter Hall and significant public benefits will mitigate some of the harmful impact the replacement development is considered to have on the conservation areas, however there are elements of the scheme that are lacking in detail and/or justification, without which the Heritage Team is concerned that the harm may not be outweighed by public benefit.

5.27 Statement of Significance:

The Shelter Hall is an unlisted historic building straddling the boundaries of the Regency and Old Town Conservation Areas, the railings which edge the Kings Road esplanade are listed grade II.

5.28 The Shelter Hall is the focal point of this section of the Victorian arch development fronting the beach, which was built as a structural element of the Kings Road thoroughfare and also to provide a recreational facility for the seafront promenaders. It had close association with the kiosk formerly at road level, now removed for reconstruction in a new position. The seamless area of upper promenade extends over the Shelter Hall, previously wrapping around the kiosk. The robust brick built arches, steps and protruding decagonal Shelter Hall are distinctive features of the lower esplanade and Brighton beach. The Shelter Hall is more decorative than the flanking arches and is embellished with masonry details around the edge of the promenade above, and arched openings, including masks and shields at the corners of the structure and heads of the windows. The overall composition makes a very positive impact on the character of the conservation areas.

5.29 The building has been unusable and supported by temporary props for a number of years. Its deteriorated condition is so poor as to be considered dangerous.

5.30 Principles of re-development:

The proposal to demolish the arches and Shelter Hall (and remove the Kiosk) is driven by both the poor condition of the structures that provide essential support to the busy A259 above, and the desire to improve road safety at the congested junction. The application includes evidence of the irreversible condition of the structure. The loss of the historic Shelter Hall is considered to cause harm to the character of the conservation areas, however its dangerous condition means that it cannot be repaired.

5.31 The NPPF states that where harm will be caused it should be measured against the public benefits that would result from the scheme. The identified public benefits of the proposed development are firstly that it will provide a usable

building bringing the site back in to public use, with more than double the floor space of the original Shelter Hall and Kiosk, providing a cafe/restaurant, new public toilet facilities, and retail space. Secondly the highway improvements will reduce congestion and conflict between pedestrians, cyclists and motorists thereby reducing the risk of accidents, and have attracted funding from the Department for Transport. It is however noted that comparative road/pavement/cycle lane/crossing layouts to demonstrate the improvements to the circulation space are not provided. The new constraint to pedestrian movement created by the raised plinth on which the kiosk will sit would appear to have potential to interfere with this aim and reassurance is required that this will not be the case.

5.32 Overall form of development:

Subject to satisfactory demonstration (from comparative plans) that the revised alignment of structures will improve circulation and thereby public safety, this is seen as a necessary public benefit that will mitigate against the harm caused by the loss of the historic structure. However, the new Shelter Hall will have a considerably greater projection into the lower prom/ beach area than the original building and consequently affect the linear nature of the seafront by blocking views beyond to a greater extent than previously. The larger footprint of the replacement kiosk will make it the largest individual single storey structure on the upper prom by a significant margin, and a dominant feature in contrast with the established collection of historic shelters, bandstand and pier toll booths dotted along the western seafront. This increased scale is regrettable.

5.33 Detailed design:

Setting the overall scale of the proposed building aside, the general lightweight approach now adopted for the kiosk is welcome, and the appearance acceptable, however clarification is required regarding the North West and North East facets affected by the air handling plant. There is concern that the plan form indicates a build-out of these bays which would distort the regular decahedron footprint of the kiosk which would be unwelcome.

5.34 Reference to the historic Shelter Hall structure is made in the new design at the lower level without the appearance of pastiche and this is considered appropriate. However the single height arches which characterised the original Shelter Hall and which run consistently along the western seafront are altered by the mezzanine. There is concern that the elevational treatment should not emphasise this, and it is therefore suggested that the mezzanine balconies and ground level window arches be restricted to the width between the columns to help give a better impression of single arch spaces. It is also considered that the balcony projection should be reduced to the outer edge of the columns to remove this further increase in bulk of the Shelter Hall.

5.35 The salvage and re-use of the decorative masks and shields from the existing Shelter Hall is likely to be difficult due to their condition and it is not considered important that this is achieved, rather that the new decorative features should be executed with care in good quality materials and appropriate conditions can be drafted to secure this.

- 5.36 The raised promenade height and associated steps, ramps and barriers running both parallel with the road and beach, and (uncharacteristically) at right-angles to this linear form will dramatically change the simple open nature of the upper prom to a far more cluttered and confused space. The change in levels and physical barriers will give the feel of a very separate space rather than part of a cohesive promenade. The length and visual effect of additional barriers necessary is disproportionate in relation to the gain in height (6 steps) achieved. This is not considered to be an enhancement to the public realm and would conflict with CP13 and HE6 and the Heritage Team objects to this element of the scheme. The added podium also increases the height of the railings as viewed from the beach and affects the continuous line of listed railings running the length of the promenade.
- 5.37 It is considered that the reorientation of the stairs from the upper prom to the beach will contrast with the historic alignment consistent along the seafront and this is regrettable.
- 5.38 Images indicate the introduction of a new wall with light columns on the beach, however no details are provided and it is not clear whether this is part of a more extensive board walk protection/lighting scheme. The appearance is quite formal and in contrast to the more natural materials and forms of the beach its self. There also appears to be the introduction of new paving. Further information is required for consideration.
- 5.39 (summary of comments made on amended scheme)
- 5.40 It remains that the loss of the historic Shelter Hall and removal of the listed kiosk is considered to cause harm to the character of the conservation areas. The scale of the replacement structures is effectively unaltered since the original submission and concerns to this on Heritage grounds therefore remain, as do concerns over some elements of form and detailing of the upper promenade and Kiosk.
- 5.41 Alterations to the plinth at Kings Road level are considered a significant improvement however there are still concerns regarding the change in levels and inevitable addition of new materials that will interrupt the seamless area of upper promenade. There is still concern regarding the design and location of the vents on the most visible elevation of the new kiosk. The slightly reduced balconies are welcome.
- 5.42 The public benefits from this proposal are acknowledged, as set out previously, and the limitations resulting from site constraints and commercial requirements for the development have been clearly explained and the scope for further change is understood to be limited. The harm identified needs to be carefully balanced against the public benefits of the scheme as per the NPPF.
- 5.43 **Seafront Team:** Support The rebuilt Shelter Hall will accommodate new and much needed public toilets which will serve what is currently the busiest section of Brighton & Hove seafront.

- 5.44 Due to its position at the bottom of West Street and the significant footfall the Shelter Hall will be a prime location for new and relocated businesses. We understand that the new building will have an increased footprint compared with the original premises as a result of structural and highways requirements linked to the road junction and pavement layout about. This larger premises and location therefore provides an ideal opportunity for a restaurant/café within the Shelter Hall itself and the Rotunda above. These premises will have valuable indoor as well as outdoor space which offers businesses the opportunity to operate all year round. This enables a sustainable business model and provides an offer which encourages visitors to this area of the seafront beyond the peak summer months.
- 5.45 In addition to the catering uses, the Shelter Hall will also provide a new fit for purpose premises for a business which, due to structural issues, has had to vacate the arch adjacent to the original building. The new unit, which will be located on the south west corner of the Shelter Hall, will enable the relocation of this tenant. As well as the commercial elements to the building, the retention of the public staircases within the design will ensure that access routes down to the seafront from the upper promenade are maintained once the build is complete.
- 5.46 **Planning Policy: Comment**
City Plan policy DA1 Brighton Centre and Churchill Square Area - The Shelter Hall is located within the DA1 development area positioned on the seafront promenade at the bottom of West Street. It is considered that the proposal does not conflict with the aims of this strategic policy.
- 5.47 City Plan policy SA1 The Seafront sets out a number of priorities for the seafront. The application is considered to help deliver priority one of the policy... “enhance the public realm and create a seafront for all; to ensure the seafront has adequate facilities for resident and visitors (including public toilets, waste disposal facilities, seating, signage, lighting and opportunities for shelter and shade) ...”
- 5.48 City Plan policy CP4 Proposed Town Centre Uses in an Edge of Centre Location - states that applications for all new edge and out of centre retail development will be required to address the tests set out in national policy. The NPPF (para 24) requires local planning authorities to apply a sequential test to planning applications for main town centre uses such that are not in an existing centre and are not in accordance with an up to date local plan. The application proposes the construction of two Class A3 restaurant/café units - one with a seating area of 695m² and a second with a floor area of 105m², plus a small retail unit of 42m. Whilst the site is an edge of centre location, it is accessible and well connected to the town centre. This seafront area is a well-established area with a number of existing retail and restaurant uses operating to support the seafront as a tourist destination. In terms of this site, a small A1 use has historically operated from this location. As a consequence the proposed A3 seated restaurant and A1 shop are considered to be of a scale which would complement the existing uses on this part of the seafront. It is therefore not considered necessary in this instance to require a sequential site assessment.

- 5.49 Local Plan policy SR12 Large A3 and A4 uses - As one of the proposed A3 units is above 150sqm a condition should be put in place to ensure that the unit is restricted to serving alcohol to seated customers only to safeguard the amenity of the area.
- 5.50 City Plan policy CP5 Tourism - The proposal is considered to comply with the aims of CP5 section one.
- 5.51 **Sustainability Team:** Comment (made prior to submission of revised BREEM Pre-Assessment)
The floor area of the scheme is over 100sqm therefore this takes the development into the threshold of a major development. As such the expected standard through City Plan Policy CP8 is for a BREEAM New Construction standard of 'excellent'.
- 5.52 It is welcomed that a BREEAM pre-assessment and an Energy & Sustainability Report has been undertaken and submitted. This will help to ensure that sustainability considerations are considered early enough that they can inform design and help to make delivering sustainable development most cost effective. The standard proposed for the scheme is however BREEAM 'very good' and this is below the expected standard. In instances when the standards recommended in CP8 cannot be met, applicants are expected to provide robust sufficient justification for a reduced level on the basis of site restrictions, financial viability, technical limitations and added benefits arising from the development.
- 5.53 Whilst the site can be described as constrained and has specific technical restrictions, the submitted information does not specify how these impact on the potential BREEAM standard that can be achieved. Consequently it is difficult to come to an informed conclusion on reasons given for a lower standard. At pre application stage, comments were provided to the applicant on areas of the scheme that could be further investigated in order to achieve a potentially higher standard. In particular, the energy modelling had been undertaken after the BREEAM pre-assessment was produced which could be updated to become more accurate.
- 5.54 Because the need for a lower standard has not been adequately demonstrated, it is suggested that the applicant undertake some further work on their BREEAM assessment with the aim of raising the overall standard. If this cannot be undertaken due to time constraints, it is recommended that the BREEAM standard is secured as 'excellent' by condition and that the applicant continue to investigate an improved standard if permission is granted. It is recommended also that there be conditions applied to secure submission of a Design Stage certificate pre commencement (or soon after), in addition to a Final Certificate pre occupation, in order to ensure that BREEAM assessments and sustainability measures are considered at a time where they can have highest benefit at least cost.

- 5.55 The scheme is delivered on the boundary of Policy SA2 Central Brighton of City Plan Part One. This area has been identified as an area with significant potential for heat networks and sets a priority for development in this area. The scheme proposes use of a gas boiler for space and water heating. As specified in the SA2 policy on decentralised energy/heat networks, this should have provision for future connection to a heat network that may be developed in the area and can be secured by condition.
- 5.56 **Sustainable Transport:** No objection subject to the inclusion of necessary conditions relating to cycle parking, deliveries/loading and CEMP.
- 5.57 **Pedestrian Access:**
Pedestrian access to the development is possible from both the Upper and Lower Promenade. Access is directly from the Upper Promenade via steps or ramps. Access to the restaurant and retail units is directly from the Lower Promenade. There are internal lifts and stairs which provide access from ground floor to mezzanine level. It would have been beneficial if lift access could have been provided from ground floor level to the Upper Promenade. However, there are existing level access means of getting from the Lower Promenade to Upper Promenade; so the Highway Authority would not insist on this. The existing staircases either side of the Shelter Hall providing stepped access from between the Lower and Upper Promenade are retained but slightly re-aligned.
- 5.58 **Cycle Parking:**
The applicant does not appear to be providing any on-site cycle parking for the proposed development. SPG04 requires a minimum of 1 cycle parking space plus additional parking at a ratio of 1 space per 300m² for all A3 uses. In order to be in line with Policy TR14 of the Brighton & Hove Local Plan 2005 cycle parking must be secure, convenient, well lit, well signed, near entrances and wherever practical, sheltered. The Highway Authority preference is for 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. There appears to be little scope to provide cycle parking internal to the building and therefore this could be provided on-street. Further details of policy compliant cycle parking should be secured via condition.
- 5.59 **Disabled Parking:**
SPG04 states that the minimum standard for disabled parking for an A3 land use is 1 disabled space per 60m² of public area. Unfortunately due to site constraints and the nature and location of the development it is not possible to provide any level of disabled car parking on-site. There are opportunities in the form of free on-street disabled parking bays and charged off-street car parks in the vicinity of the site for disabled visitors to park when visiting the site by car. Blue Badge holders are also able to park, where it is safe to do so, on double yellow lines for up to 3 hours in the vicinity of the site. Therefore in this instance the Highway Authority would not consider the lack of onsite disabled car parking to be a reason for refusal.
- 5.60 **Servicing & Deliveries:**

As per the existing adjacent buildings all deliveries and servicing to the proposed retail/café and restaurants shall be off highway; from the Lower Promenade. Access to the Lower Promenade is controlled by existing access restrictions which apply for all the commercial premises at this location. Due to the nature of the development and the likely increase in deliveries and servicing associated with the new development the Highway Authority would look for the applicant to produce a Delivery & Servicing Management Plan. The securing of such a plan is to ensure that the delivery and servicing movements from the development do not have a negative impact upon the highway network. The Delivery & Servicing Management Plan must include details of:

- the nature of vehicles being used:
- where deliveries will take place from:
- measures to ensure deliveries do not take place at times of the day when it is not permitted:
- provide delivery companies with appropriate access routes and details of legal
- loading/un-loading locations:
- create a vehicle booking system to co-ordinate deliveries and assess where
- deliveries could be minimised or consolidated:
- measures to consolidate or reduce the number of delivery vehicle trips.

5.61 Vehicular Access:

The site does not have a dedicated vehicular access point and given its location it would not be appropriate to have one. As per the existing development it is proposed that vehicular access is from the lower promenade as with all the adjacent buildings.

5.62 Car Parking:

The applicant is not proposing any on-site car parking to be associated with this development. Given the sites location and constrained nature it would not be possible to provide on-site car parking.

5.63 Given the central and sustainable location the site benefits from the Highway Authority deems the proposed level of car parking acceptable. Should people wish to choose to travel to the site by car there are a number of city centre car parks within a short walking distance of the site.

5.64 Trip Generation/Highway Impact:

The proposed development has a total gross internal floor area of 1530m² and proposes a mixed use development including restaurant/cafes, retail units and public toilets. The existing building had a total gross floor area of 718m². In light of the increase in floor space the development is considered to be an intensification upon the existing land use and could therefore increase the total number of daily person trips to and from the site. However, given the sites nature and city centre location a large proportion of trips are considered to be linked trips which are already on the network and will be linked with other attractions/destinations within the city centre. People are not likely to make a specific journey to this site but are going to be travelling to the city centre anyway and would visit this site as part of their trip to the city centre. Also given

the central and sustainable location a large proportion of these trips could be via sustainable modes of transport.

5.65 S106 Developer Contribution:

Given that a £9 million investment award has been successfully won from the Department for Transport through the Highways Maintenance Challenge Fund for this development and that significant highway improvements will be provided at the Kings Road/West Street junction it is not felt that in this instance that a specific S106 contribution to transport is required to make the development acceptable in transport terms or justifiable.

5.66 Construction:

Due to the nature and scale of the development a Construction and Environmental Management Plan (CEMP) is required. The Highway Authority would look for the need to produce a plan prior to commencement of development. The CEMP must include measures to mitigate the highway impact the construction will have. The plan shall include a clear construction plan with a construction timeline, likely delivery numbers and measures should include but not be limited to reducing deliveries and vehicle movements such as consolidating deliveries and advising deliveries of suitable routes to and from the site.

5.67 Highway Works – The highway works associated with the Shelter Hall redevelopment are not subject to this planning application and are being delivered by the Highway Authority through permitted development rights. The works were subject to a successful application through the Department for Transport Local Maintenance Challenge Fund. These works are separate to those that require planning permission and are programmed for completion in 2018.

6 MATERIAL CONSIDERATIONS

6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that “If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

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 and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only – site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.

6.3 The National Planning Policy Framework (NPPF) is a material consideration.

6.4 Due weight should be given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

- 6.5 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7 RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

- SS1 Presumption in Favour of Sustainable Development
- CP2 Sustainable economic development
- CP4 Retail provision
- CP5 Culture and tourism
- CP7 Infrastructure and 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 space
- DA1 Brighton Centre and Churchill Square Area
- SA1 Seafront
- SA2 Central Brighton

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

- TR4 Travel plans
- TR7 Safe Development
- TR14 Cycle access and parking
- TR15 Cycle network
- TR18 Parking for people with a mobility related disability
- SU3 Water resources and their quality
- SU5 Surface water and foul sewage disposal infrastructure
- SU6 Coastal defences
- SU9 Pollution and nuisance control
- SU10 Noise Nuisance
- SU11 Polluted land and buildings
- QD5 Design - street frontages
- QD15 Landscape design
- QD16 Trees and hedgerows
- QD18 Species protection
- QD25 External lighting
- QD27 Protection of amenity
- HO5 Provision of private amenity space in residential development
- HO9 Residential conversions and the retention of smaller dwellings
- HO13 Accessible housing and lifetime homes
- HO20 Retention of community facilities
- SR4 Regional shopping centre
- SR12 Large Use Class A3 (food & Drink) venues and Use Class A4 (pubs)
- HE1 Listed buildings

- HE2 Demolition of listed buildings
- HE3 Development affecting the setting of a listed building
- HE6 Development within or affecting the setting of conservation areas
- HE8 Demolition in conservation areas
- HE10 Buildings of local interest
- HE12 Scheduled ancient monuments and other important archaeological sites

Supplementary Planning Guidance:

- SPGBH4 Parking Standards
- Guidance on Developer Contributions

Supplementary Planning Documents:

- SPD01 Brighton Centre: Area Planning and Urban Design Framework
- SPD03 Construction & Demolition Waste
- SPD09 Architectural Features
- SPD11 Nature Conservation & Development

8 CONSIDERATIONS & ASSESSMENT

8.1 The main considerations in the determination of this application relate to:

- Principle of demolishing an unlisted building which contributes positively to the Conservation Areas
- Principle of providing a substantially larger replacement building and impact to the visual amenities of the locality including the Regency and Old Town Conservation Areas and setting of the wider seafront
- Impact in terms of archaeology
- Principle of introducing A3 restaurant/cafe, A1 retail and sui generis public toilet uses in this location
- Impact on tourism and the economy
- Impact on the main city centre shopping area
- Impact on amenity of existing occupiers of nearby properties and general users of the seafront
- Crime prevention
- Transport demand and sustainable transport accessibility
- Sustainability and biodiversity
- Accessibility

8.2 **Planning Policy Context:**

8.3 Policy SA1 'The Seafront' of City Plan Part One states that the council will encourage regeneration of the seafront and that proposals should support the year round sport, leisure and cultural role of the seafront for residents and visitors whilst complementing its outstanding historic setting and natural landscape value. Proposals should ensure a good marine environment, enhance biodiversity and consider options for small scale renewable energy provision.

8.4 The policy sets out priorities for the whole seafront which include enhancement of public realm, provision of adequate facilities for residents and visitors (including public toilets) and improvements to beach access. The priority is also to secure high quality architecture which complements the natural heritage of

the seafront and historic built environment. Securing improvements to sustainable transport infrastructure along the A259 including pedestrian and cycle routes and crossing opportunities is a priority.

- 8.5 The specific priorities for the central area of the seafront (Medina Terrace to Palace Pier) include securing on going improvements to and maintenance of the upper and lower promenade and securing improvements to traffic flow, air quality and pedestrian and cycle routes and crossing opportunities related to the Brighton Centre development.
- 8.6 The site is located on the edge of the Central Brighton area as defined in policy SA2. The main aim of this policy is to reinforce central Brighton's role as the city's vibrant thriving regional centre for shopping leisure tourism cultural office and commercial uses. The policy goes on state that the focus for new retail development is the regional shopping centre and it seeks to promote a balanced range of complementary evening and night time economy uses, avoid a spreads of large bars/pubs and seeks to address public safety concerns. The policy seeks to secure urban realm improvements to reduce congestion and it encourages improved pedestrian and cycling movements within the city centre.
- 8.7 The site is also located within the Brighton Centre and Churchill Square development area as defined in City Plan policy DA1. The main aim of this policy is to secure a new state of the art conference centre in a landmark building to benefit the city and the region and to sustain the tourism and service economy. The redevelopment of the Brighton Centre will form part of a comprehensive scheme including an extension to Churchill Square and new leisure facilities. Part 6 of the policy seeks improved pedestrian and cycle access through the area and reduction in the severance between the northern side of the A259 and the seafront. It states that mixed use developments will be promoted which retain active ground floor uses and accord with a range of appropriate city centre uses.
- 8.8 City Plan policy CP4 is relevant as town centre 'A' uses (retail and restaurant) are proposed and the site is located close to the defined Regional Shopping Centre. It states that Brighton & Hove's hierarchy of shopping centres will be maintained and enhanced by encouraging a range of facilities and uses, consistent with the scale and function of the centre, to meet people's day-to-day needs, whilst preserving the predominance of A1 use classes. It states that applications for all new edge and out of centre retail development will be required to address the tests set out in the NPPF. Applications will be required to complete an impact assessment at a locally set threshold of 1,000 sqm (net) floorspace or more.
- 8.9 Policy SR12 of the Brighton and Hove Local Plan is relevant as the proposal involves a 'large' A3 use of more than 150 sqm floor area (480 sqm) and it is located within 400 metres of other A3/A4 establishments over 150sqm (in West Street and along the seafront). This policy seeks to reduce noise, disturbance and crime that may be associated by congregation of such uses.

- 8.10 With regard to design, heritage and amenity, policies CP12, CP13 and CP15 of the City Plan Part One and policies HE3, HE6, HE8, HE12, QD5 and QD27 of the Brighton & Hove Local Plan are relevant.
- 8.11 City Plan policy CP12 expects all new development to be built to a high quality standard and seek to ensure places that are created are safe, and incorporate design features which deter crime and the fear of crime. CP15 states that the city's historic environment will be conserved and enhanced in accordance with its identified significance, giving the greatest weight to designated assets. Local Plan policies HE3 and HE6, seek to conserve or enhance the setting of Conservation Areas and Listed Buildings. Policy HE12 seeks to preserve and enhance sites of known and potential archaeological interest and their settings. Local Plan policy QD5 states that all new development should present an interesting and attractive frontage at street level for pedestrians.
- 8.12 Local Plan policy HE8 seeks to retain buildings, structures and features that make a positive contribution to the character or appearance of a conservation area. The demolition of a building and its surroundings, which make such a contribution, will only be permitted where all of the following apply:
- supporting evidence is submitted with the application which demonstrates that the building is beyond economic repair (through no fault of the owner / applicant);
 - viable alternative uses cannot be found; and
 - the redevelopment both preserves the area's character and would produce substantial benefits that would outweigh the building's loss.
- Demolition will not be considered without acceptable detailed plans for the site's development. Conditions will be imposed in order to ensure a contract exists for the construction of the replacement building(s) and / or the landscaping of the site prior to the commencement of demolition.
- 8.13 The Council has statutory duties under the Planning (Listed Buildings and Conservation Areas) Act 1990 in relation to development affecting listed buildings and conservation areas:
- S66 (1) "In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall 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";
- S72(1) "In the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of any of the provisions mentioned in subsection (2) [N.B. these include the Town and Country Planning Act 1990], special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area".
- 8.14 The National Planning Policy Framework (NPPF) states that in determining planning applications, local planning authorities should take account of: the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation assets can make to sustainable communities

including their economic vitality and the desirability of new development making a positive contribution to local character and distinctiveness (para 131).

- 8.15 Para 132 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.
- 8.16 Paras 133 & 134 of the NPPF state that where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 8.17 Para 136 of the NPPF states that local planning authorities should not permit loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.
- 8.18 Para 137 of the NPPF states that local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.
- 8.19 Local Plan Policies QD27, SU9 and SU10 are relevant to this development and they seek to protect the general amenity of the locality and that of neighbouring occupiers/users from undue noise, odour and general disturbance. Policy QD27 states that planning permission for any development 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 With regard to transport, City Plan Policy CP9 (Sustainable Transport) and retained Local Plan Policies TR4 (Travel Plans), TR7 (Safe Development), TR14 (Cycle access and parking), TR15 (Cycle network), TR18 (Parking for people with a mobility related disability) are relevant. These seek to ensure development is safe, meets the demand for travel it creates and maximises use of sustainable modes. TR15 states that development that affects proposed or existing cycle routes should protect and enhance their alignment, and identifies the A259 National Cycle Route 2 as a key route. SPG4 sets out maximum parking standards for development and minimum standards for disabled parking.

- 8.21 With regard to sustainability, City Plan Policy CP8 is relevant. It requires all development to incorporate sustainable design features and major commercial developments are required to achieve a minimum standard of BREEAM 'Excellent'. City Plan Policy CP10 relating to biodiversity is relevant and this states all schemes should conserve existing biodiversity and provide net gains wherever possible. City Plan policy CP11 seeks to manage and reduce flood risk.
- 8.22 **Principle of development and uses proposed:**
- 8.23 As can be seen from the Planning Policy context set out above, there is a general presumption against the demolition of a building in a Conservation Area where it is identified as making a positive contribution to the special character or appearance of the area. This, together with the principle of introducing a larger replacement building, is discussed further in the section on Design below.
- 8.24 The introduction of new commercial uses is supported in principle. The previous Shelter Hall and kiosk were in commercial D2 and A5 use respectively and the proposed A1/A3/public toilet uses are considered appropriate at the seafront. This part of the seafront is a well-established area with a number of existing retail and restaurant uses operating. The proposed uses would generate footfall, add vibrancy to the area and would support the seafront as a tourist destination, and are therefore welcomed in accordance with policy SA1. Both buildings were in a poor state of repair, and the Shelter Hall has been vacant for some years, therefore re-introduction of new operative uses is particularly welcomed. The proposal would complement the aims of policies DA1 and SA2 relating to the DA1 Brighton Centre and Central Brighton. The proposed introduction of modern permanent toilets is considered a significant improvement upon the exiting temporary provision.
- 8.25 Whilst the site is described as an edge of centre location in terms of policy CP4, it is accessible and well connected to the city centre and main shopping area. The Planning Policy team confirm that the A1 and A3 uses proposed would complement the existing uses on this part of the seafront and therefore do not consider it necessary to require a 'sequential site assessment'. Given there are permitted rights to go from A3 to A1 (and vice versa) the development could potentially be all in A1 retail use, therefore a condition is recommended to control/assess any future changes of use in the interests of preserving the vitality and viability of the main city centre shopping area.
- 8.26 The larger main A3 restaurant at the lower promenade level is welcomed in principle, however, given the proximity to other large (150+sqm) existing restaurants and drinking establishments in West Street and on the seafront, the police have raised concerns about the potential for anti-social behaviour. The concerns regarding the cumulative impact zone for drinking establishments is noted and shared, as are the aims of Local Plan policy SR12, however, it is considered that there are insufficient planning grounds to restrict a large A3 restaurant use in principle. Provided opening hours are restricted and the floor area of any ancillary bar is restricted to less than 150sqm, it is considered that any potential adverse impact would be limited. In any event, the consumption of alcohol is a matter controlled by the Licencing Authority outside of the planning

regime. To ensure all appropriate crime prevention measures are taken at this busy central site, a condition requiring Secure By Design certification is recommended.

- 8.27 The site is located directly on the seafront and there are no immediate residential neighbours. The site is located close to other commercial establishments and a hotel is located to the northeast of the site. The site is located in a busy central area used by residents and tourists and at a busy road junction, and therefore experiences relatively high levels of background noise. The proposal is not considered to cause any adverse impacts in terms of amenity on nearby occupiers or users of the seafront generally, provided opening hours and noise and odour levels are satisfactorily controlled by condition. The proposal would therefore accord with policies SU9, SU10 and QD27.
- 8.28 The enhancement of pedestrian and cycle routes as part of the scheme meets the requirements of relevant planning policies and is welcomed in principle, and is discussed under the sections below.
- 8.29 **Design and the impact to the character and appearance of the locality and heritage assets:**
- 8.30 Demolition of a building which contributes positively to a conservation area is not normally considered acceptable given the planning policy context outlined above. In this particular case, however, an independent structural survey and an inspection report carried out by the council have been submitted with the application, and these clearly demonstrate the very poor condition of the Shelter Hall and A259 road structure including Upper Promenade, which is close to the limits of its capacity. It is recognised that the building is dangerous and repair is not possible, therefore total demolition is required. This is not disputed by the Council's Heritage Team or Historic England. Whilst identifying that the loss of the building will cause harm, they consider its poor condition and vacant state, together with the significant public benefits of delivering a new usable building and highways improvements, largely mitigate this harmful impact, in line with para 134 of the NPPF.
- 8.31 The Heritage Team and HE raise no objection to a contemporary design approach in principle which incorporates references from the original building, however, they do raise some concerns regarding the scale and detail of the replacement building and the harm these would cause to the historic seafront setting as set out below. They request that amendments be sought to minimise the harm.
- 8.32 They raise concerns that the new Shelter Hall will have a considerably greater projection into the lower prom/beach area than the original building and will thus impact the linear nature of the seafront and views beyond to a greater extent than previously. The larger footprint of the replacement kiosk will make it the largest individual single storey structure on the upper prom, which means it will be quite a dominant feature in contrast with the established collection of smaller historic structures dotted along the western seafront. There is concern that the orientation of the steps is not parallel to the promenade, as is characteristic

elsewhere. The raised level of the upper promenade as a result of accommodating a mezzanine floor below and the consequent introduction of steps, ramps and several lines of railings which introduce clutter to the open promenade and create a semi-private space is a concern. As is the introduction of solid panels in the podium building to house vents/extracts to serve the restaurants as these contrast with lightweight structures that are characteristic of the seafront, and a build-out of these bays would distort the regular decahedron footprint. The vents are on most visible elevation of the new kiosk and this building will be the focal point of the vista down West Street, the main approach of many visitors arriving at Brighton's seafront. The prominence of the balconies has also been raised as an issue. HE and the Heritage Team have stated that clear and convincing justification for these harmful aspects of the scheme is needed, as required by the NPPF.

- 8.33 The applicant has sought to respond to these concerns, and alternative designs have been explored. The scheme has consequently been amended and further supporting information has been provided.
- 8.34 The applicant states the building is the scale it is to provide necessary highways improvements and as it provides an ideal opportunity to maximise floorspace for commercial use and make effective use of the site. A condition of the Department for Transport funding is that schemes should have a robust business case and deliver public benefits. The Seafront Team state that the premises will have valuable indoor as well as outdoor space which offers businesses the opportunity to operate all year round. This enables a sustainable business model and provides an offer which encourages visitors to this area of the seafront beyond the peak summer months.
- 8.35 The amendments therefore put forward by the applicant are within the context of no reduction in floorspace. The main changes proposed are: reduction in height of raised plinth on upper promenade from 900mm to 670mm, removal of railings and provision of open steps and ramps over a more gradual area on upper promenade, reduction of scale of balconies, and matching of architectural detailing of podium building in external vent panels.
- 8.36 The applicant has provided justification as to why the height of the scheme cannot be reduced any further. Namely, the internal floor height needs to meet modern building regulation/flood risk standards and for reasons of viability. An independent report by Cluttons states that internal head room is already compromised and is lower than is generally sought in the market and that the loss of the mezzanine would severely restrict marketability. They state that the mezzanine floor would help attract more users all year round and help secure a good calibre of tenant and maximise return for the council. It is also pointed out that the internal floor area of the previous kiosk was 300mm higher than the level of the promenade. They state the reduction in height in the scheme as amended means the plinth is now quite minimal and would have limited impact, particularly now the railings have been removed and the site is more open.
- 8.37 With regard to the issue of the orientation of the stairs, the applicant states that if they were to run east-west then the western end steps will cross over the

front of the access to the pedestrian tunnel under the Kings Road and the Eastern end steps will cross over the front of Arch 155 which isn't allowed as permanent access will be required to the sub-station located inside that arch. They state the existing staircases on each side of the building connecting the upper promenade with the lower promenade are currently arranged in an east/west alignment and run parallel to the sea, which means that pedestrians currently using the eastern staircase come into direct conflict with other pedestrians entering and exiting the subway. On busy days this can cause considerable congestion. The western staircase is located within a close proximity to the commercial business in the arches close to Shelter Hall. With limited space for pedestrians this area also suffers from congestion. It is stated the staircase no longer complies with current standards, as it is too steep making it potentially difficult for vulnerable users to access. This area is the main entrance point to the beach for people coming from West Street, the main pedestrian link from Brighton Station making it the busiest part of the seafront. These access staircases need to be improved to reduce congestion, make them viable for all pedestrians by bringing them to current standards yet the design will be empathetic and consistent to their heritage roots. The proposed north/south alignment and be consistent with the symmetry of the building. The new alignment will also provide a better opportunity for future designs to improve the pedestrian crossing points across the seafront road linking to West Street which will be implemented. This proposal replicates what is currently at the i360 site. The applicant concludes that there is no other available orientation for the external steps.

- 8.38 With regard to the air handling vents, the applicant states that both the architect and their M&E consultant, Arup, are experienced in designing commercial buildings and have put forward the best solution as is realistically possible. They state they cannot design every possible alternative as the cost to the client would be prohibitive. They state it may be possible to re-locate the units within the volume of the rotunda but this will lead to a significant loss of lettable floor area within that element which will significantly harm the commercial viability of that space. They state the louvred areas have already been designed down to the minimum anticipated requirement and that they have to maintain an operational safety margin above that as an incoming tenant's requirement is not known.
- 8.39 The amended drawings submitted show the balconies within the scheme of a reduced scale – both height and width.
- 8.40 The changes and justification outlined above do not completely overcome the harm to heritage setting identified and therefore the merits of the scheme need to be carefully balanced. This is a challenging site, being in a very prominent and sensitive location involving different levels. It is challenging to achieve a viable large scale A3 restaurant and other uses on a site that effectively has no rear elevation and other constraints. These constraints and any harm caused need to be balanced against the significant public benefits of the scheme. Key benefits include the provision of a usable building bringing the site back in to public use, with more than double the floor space of the original Shelter Hall and Kiosk, providing a cafe/restaurant, new much needed permanent public toilet

facilities, and retail space. This makes effective use of the site and helps ensure viable uses, and has the added benefit of producing income for the council. In addition, the highway improvements (replacement of dangerous structure, removal of pinch point and creation of more public space, realigned routes) are significant, and will reduce congestion and conflict between pedestrians, cyclists and motorists and reduce the risk of accidents. It is considered that the changes to the application are an improvement, and together with the further justification, largely represent an acceptable compromise.

- 8.41 It is considered the reduction in height of the upper promenade plinth together with removal of railings and more gradual increase in height mean the site is much more open and inviting and lessens the impact of the change in levels. These features certainly introduce new elements that are not characteristic of the historic seafront but they represent a considerable improvement on the original proposal and will clearly be viewed in context of a contemporary scheme. The change in level is relatively limited. There are examples of sites south of the main upper promenade level which have a different character and/or height, such as Alfrescos, the i360 and the bandstand. The benefits of having a mezzanine floor and the need to maximise floorspace in terms of the business case are recognised. The materials for this new part of the seafront will be very carefully considered to ensure they are sympathetic. On balance, therefore, this aspect of the scheme is considered acceptable.
- 8.42 The single height arches which characterised the original Shelter Hall and which run consistently along the western seafront are altered by the mezzanine however now the balconies have been reduced in scale they would not emphasise this. Also their impact in terms of contributing to the overall bulk of the building is reduced.
- 8.43 The retention of the staircases within the design to ensure access routes down to the seafront from the upper promenade are maintained is welcomed and considered essential in this location. Sufficient justification is considered to have been provided to demonstrate the new alignment would help ease congestion and improve pedestrian safety. Whilst they do not run parallel as other do, they would be clearly viewed in the context of a new part of the seafront. The traditional design and matching railings would help tie them in the wider seafront. There are other examples of this alignment such as the i360. On balance, given the justification and wider benefits of the overall scheme, the proposed re-orientation of the staircases is considered acceptable.
- 8.44 The extract vent design has evolved positively over the course of pre-application discussions from two unsympathetic tall freestanding structures to incorporation of plant within the main building itself at both the lower and upper levels of the building. The latest revised design for the vents at upper promenade level, whilst an improvement, are however considered a minimal change. Concerns have been raised regarding both their location and solid appearance and this has not altered. These vents are located in very a prominent position and will be the first part of seafront people see from West Street, therefore it is essential the building is of the highest quality. Historic England and the Heritage Team have requested that alternatives be rigorously

explored however, at the time of writing, it is considered that insufficient evidence has been provided to demonstrate this. It is not clear that a comprehensive appraisal of alternative options has been undertaken, for example it appears that even a small reduction of commercial floorspace has been discounted. It is appreciated the site is very challenging, however the constraints have not been set out clearly and there may still be alternatives to locate the vents elsewhere in the wider scheme. It is therefore considered that further work is still needed to explore alternatives and clear and convincing information is needed. This can be secured by condition. Given the importance of this issue, a compromise may be needed and it may be that the lettable space needs to be reduced as a result and/or that operators have to use a more costly extract system as a condition of their tenancy.

8.45 Conditions will ensure the architectural detail and materials of the building are of the highest quality and will ensure the original decorative masks and columns are re-used/displayed within the new scheme, and the applicant's commitment to this is a welcomed heritage benefit. Conditions will also adequately address any potential archaeological impact. A condition is recommended to ensure any new landscaping created by this scheme ties in sympathetically with the existing. The scheme will be delivered by the same team who have rebuilt the seafront arches either side of the i360, which have won a heritage award and this same level of quality and detailing is expected in this scheme.

8.46 Sustainable Transport:

8.47 The proposal will deliver significant highway improvements, which is welcomed. The development itself is a highways funded scheme and partially involves a structure to hold up the seafront road and promenade, which is essential. The scheme allows for greater space to be provided at the upper promenade level by pushing the site seawards thus removing the previous pinch point where safety of pedestrians and cyclists was compromised. The wider highway improvement scheme will deliver additional safety improvements to the West Street junctions for road users and pedestrians.

8.48 Given the comments received from the Highway Authority it is considered that the demand for travel created by the development can be adequately met. The new uses would not have a significantly different impact than the previous uses and the site is centrally located to take advantage of sustainable transport and public car parks. Cycle provision can be satisfactorily conditioned as can deliveries/loading management and a Construction Environmental Management Plan.

8.49 The proposal is therefore considered to accord with sustainable transport policy and meets key priorities of the seafront and central Brighton policies SA1, SA2 and DA1.

8.50 Sustainability, biodiversity & flood risk:

8.51 As a 'major' scheme, the development should meet a BREEAM 'excellent' sustainability standard in order to comply with policy CP8. The applicant originally stated this standard was not possible, only 'very good', given the practical constraints of the site, however, the information provided was very

limited, and did not constitute a robust case as required by policy CP8. This policy states that the council will consider site constraints, technical restrictions, financial viability and the delivery of additional benefits as reasons to accept a reduced sustainability standard, provided a robust case is made.

- 8.52 Further supporting information was therefore sought and the applicant was encouraged to strive for the excellent target if possible. A revised BREEAM Pre-Assessment report has since been received, although it was received at the time of writing this report and is yet to be assessed by the council's Sustainability Officer. It does, however, estimate that the scheme would reach the upper levels of a 'very good' target and that a route to achieve 'excellent' is possible, which would appear to be very positive. A condition requiring a target of BREEAM 'excellent' is therefore recommended to ensure compliance with CP8, and the council is committed to on-going discussions with the applicant to make this achievable. Should any further information on this issue be received prior to the committee meeting, this will be duly reported.
- 8.53 Adequate space is shown within the scheme for refuse and recycling and its provision will be conditioned.
- 8.54 The site has no current biodiversity interest however enhancements are required in line with policy CP10. The scheme does not address this, therefore a condition requiring details of enhancement, for example through the provision of bird or bat boxes, is recommended to satisfactorily address this policy.
- 8.55 The development is not considered to be at undue risk from flooding. A new flood defence wall has recently been constructed to the south of the site. The council's Coastal Engineer has assessed the project's flood risk assessment and considers it robust and confirms that the scheme would have no negative impacts on coast protection or coastal processes.

9 CONCLUSION

- 9.1 The site is within a very prominent seafront location, and is sensitively located within a conservation area. The loss of the (non-listed) historic Shelter Hall building is considered to cause harm to the conservation area as it contributes positively to it, however it is dangerous and beyond repair. The replacement building is needed to partially hold up the seafront road and the scheme would deliver significant highways improvements and benefits, and new usable commercial spaces that would contribute to the tourism offer of the seafront. The scheme would deliver much needed permanent public toilets.
- 9.2 The proposed uses are considered to be appropriate for the seafront and would enhance year round tourism and would not harm the vitality and viability of any established shopping centres or result in undue anti-social behaviour or loss of amenity. The transport impacts would be acceptable.
- 9.3 The scheme is considered to provide an attractive contemporary building which takes sympathetic references from the previous building.

- 9.4 Heritage consultees have raised some concerns regarding the overall scale and detailed design of the scheme, however it is considered that this has been largely justified and the revisions to the scheme have mostly mitigated this harm (and further revisions may be sought by condition). In addition, any remaining harm is largely outweighed by the significant public benefits of the scheme and the delivery of an optimum viable use of the site. This is a challenging site where it is difficult to achieve an appropriate ventilation/extraction scheme. The proposed vent system is considered to cause some visual harm both in terms of location and appearance, therefore further exploration of alternatives, or more robust justification, is sought by condition.
- 9.5 The development would be sustainable and is on course to meet a BREEAM target of 'excellent', which is welcomed.
- 9.6 This scheme would deliver welcome regeneration of this site and would reinforce the role of the seafront as a vibrant, thriving tourist and recreational destination. The scheme would meet key priorities for the area as set out on City Plan policies SA1 and DA1, and approval is therefore recommended.

10 EQUALITIES

- 10.1 There would be ramp access to the upper podium café. There would be level access and a lift within the lower promenade building. Disabled toilets and baby changing facilities would be provided, the latter secured by condition.

11 PLANNING OBLIGATION / CONDITIONS / INFORMATIVES

11.1 S106 Heads of Terms

- A financial contribution of £8,120 towards the council's Local Employment Scheme
- Submission of an Employment and Training Strategy, with a commitment to using at least 20% local labour.

11.2 Conditions:

- 1) 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.

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

Plan Type	Reference	Version	Date Received
Site and locations plans (existing)	21501/P/30		31/08/16
Site and Location Plans 1:1250 & 1:500	21501/P/01	C	24/08/16
Existing elevations	21501/P/02		24/08/16
Existing floor plans	21501/P/03		24/08/16
Proposed floor plans	21501/P/05	E	24/08/16

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Ground floor level GA	21501/P/06	B	24/08/16
Mezzanine Floor Level GA	21501/P/07	B	24/08/16
Podium Floor Level GA	21501/P/08	E	24/08/16
North-south section	21501/P/09	A	24/08/16
Podium floor level GA showing original kiosk position	21501/P/10		24/08/16
Proposed elevations north & south 1:100	21501/P/11		24/08/16
Proposed elevations east & west 1:100	21501/P/12		24/08/16
Proposed elevations north & south 1:100	21501/P/13		24/08/16
Proposed elevations east & west 1:100	21501/P/14		24/08/16
Comparative floor plans	21501/P/15		24/08/16
Comparative floor plans on survey	21501/P/16		24/08/16
Comparative elevations	21501/P/17		24/08/16
Proposed elevations south & east 1:50	21501/P/25		24/08/16
Proposed elevations north & west 1:50	21501/P/26		24/08/16

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 complaints from 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

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 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.

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4. No development including demolition shall take place until the developer has secured the implementation of a programme of archaeological work, in accordance with a Written Scheme of Archaeological Investigation which has been submitted to and approved in writing by 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 and Hove Local Plan.
5. The development hereby permitted shall not be first brought into use until the archaeological site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under the above condition and that provision for analysis, publication and dissemination of results and archive deposition has been secured, 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 to comply with policy HE12 of the Brighton and Hove Local Plan.
6. No development (excluding demolition) shall commence until a scheme for the provision of a Drainage Strategy for foul and surface water sewage disposal has been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be completed in accordance with the details and timetable agreed.

Reason: To prevent the increased risk of flooding and to prevent pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal and to comply with policy SU3 of the Brighton & Hove Local Plan.
7. Notwithstanding the submitted details of the location and appearance of the proposed extract/vent/air handling structures on the north elevation of the rotunda building at upper promenade level, no development above ground floor slab level of the lower promenade hereby permitted shall take place until a revised scheme for the provision of ventilation/extraction to serve the development has been submitted to and approved in writing by the Local Planning Authority, or further detailed information is provided to justify the current scheme as shown. The scheme should seek to reduce the visual impact of such plant and should explore an alternative appearance and location within scheme as a whole, and shall explore reduction of lettable commercial floorspace if necessary. The approved scheme shall be implemented before the development is first brought into use.

Reason: The solid appearance of the vents, their protrusion beyond the main walls of the rotunda building and their siting in a prominent location mean they detract from the appearance of the building and the wider character and appearance of the locality, a conservation area, therefore either a revised scheme should be explored to reduce their visual impact or robust detailed information provided to justify their current design, in order to comply with policies HE6 of the Brighton and Hove Local Plan and CP12 and CP15 of the Brighton and Hove City Plan Part One.

8. The two-storey replacement Shelter Hall building hereby approved on the lower promenade shall be used as a café/restaurant use (Use Classes A3) only (save for those areas indicated on the drawings for A1 retail use and sui generis public toilets use) and for no other purpose. Notwithstanding the provisions 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), no change of use from the A3 use shall occur without planning permission obtained from the Local Planning Authority. Furthermore, any bar/seating area for the consumption of alcohol associated with the A3 use hereby approved shall be ancillary only and shall not exceed 150sqm in area.
Reason: The Local Planning Authority would wish to retain control over any subsequent change of use of these premises in the interests of safeguarding the amenities of the area and in the interests of safeguarding the vitality and viability of the main city centre shopping area and for reasons of crime and noise prevention, to comply with policies SU9, SU10, SR12 and QD27 of the Brighton & Hove Local Plan and SA1, SA2, CP4, CP12 and CP13 of the Brighton & Hove City Plan Part One.
9. The A1 and A3 uses hereby permitted shall not be open to customers except between the hours of 08.00 hours and 00.00 hours on Mondays to Saturdays and between 08.30 hours and 23.30 hours on Sundays, Bank or Public Holidays. No other activity within the site including setting up/down shall take place between the hours of 00.30 and 07.30 daily.
Reason: To safeguard the amenities of the locality and in the interests of crime prevention to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton and Hove City Plan Part One.
10. No development (excluding demolition) shall commence until full details of existing and proposed ground levels (referenced as Ordnance Datum) within the site and on land and buildings adjoining the site by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures, have been submitted to and approved by the Local Planning Authority. The development shall then be implemented in accordance with the approved level details.
Reason: As this matter is fundamental to the acceptable delivery of the permission to safeguard the character and appearance of the area, to comply with policy HE6 of the Brighton and Hove Local Plan and CP12 and CP15 of the City Plan Part One.
11. 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, assessing the risk and proposing remediation measures, together with a programme, shall be submitted to and approved in writing by the Local Planning Authority. 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.

12. No development above ground floor slab level of the lower promenade hereby permitted shall take place until a scheme for hard landscaping and enhancement of the appearance of site and immediate vicinity has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:
- a) details of all hard surfacing including steps and ramps;
 - b) details of all boundary treatments including replacement railings including their design and materials and how they adjoin and attach to existing seafront railings. The existing listed railings shall be re-used unless evidence is submitted to prove that they are beyond all reasonable repair or pose a safety risk and details of any replication shall be submitted to and approved in writing by the Local Planning Authority before any restoration/replication works commence;
 - c) details of the external materials and appearance of Arch 155 adjacent to the site which is to contain the substation;
 - d) details of how the existing internal columns and external decorative masks/shields shall be re-used and displayed within the development;
- All hard landscaping, means of enclosure and other enhancement measures shall be completed in accordance with the approved scheme prior to first occupation of the development.

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies HE6 and QD15 of the Brighton & Hove Local Plan and CP12, CP13 and CP15 of the Brighton and Hove City Plan Part One.

13. No development above ground floor slab level of the lower promenade hereby permitted shall take place until details of architectural features, including large scale drawings of 1:20 scale, or 1:1 where appropriate, shall be submitted to and agreed in writing by the Local Planning Authority. These details shall include any signage, external lighting, guttering/rainwater goods, windows (and their reveals), doors and shutters. The agreed features shall be implemented before first occupation of the development.

Reason: To ensure the development is of sufficient quality given its sensitive location in heritage terms to comply with policies HE6 of the Brighton and Hove Local Plan and CP15 of the Brighton and Hove City Plan Part One.

14. No cables, wires, aerials, pipework (except rainwater downpipes shown on the approved plans) meter boxes, ventilation grilles or flues shall be fixed to or penetrate any external elevation, other than those shown on the approved drawings, without the prior consent in writing of the Local Planning Authority.

Reason: To ensure the satisfactory preservation of this listed building and to comply with policy HE6 of the Brighton & Hove Local Plan and CP15 of the City Plan Part One.

15. No development above ground floor slab level of the lower promenade 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, stone, concrete, and roofing material (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) samples 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 HE6 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton & Hove City Plan Part One.

16. (i) Unless otherwise agreed in writing by the Local Planning Authority, no development above ground floor slab level of the lower promenade hereby permitted shall take place until a BREEAM Building Research Establishment issued Design Stage Certificate confirming that the development is on target to achieve a minimum BREEAM New Construction rating of 'Excellent' has been submitted to, and approved in writing by, the Local Planning Authority.

(ii) The development hereby approved shall not be occupied until a BREEAM Building Research Establishment issued Post Construction Review Certificate confirming that the development built has achieved a minimum BREEAM New Construction rating of 'Excellent' 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 City Plan Part One.

17. Within 6 months of commencement of development evidence should be submitted to demonstrate that the energy plant/room serving the development has capacity to connect to a future district heat network in the area. Evidence should demonstrate the following:

a) Energy centre size and location with facility for expansion for connection to a future district heat network: for example physical space to be allotted for installation of heat exchangers and any other equipment required to allow connection;

b) A route onto and through site: space on site for the pipework connecting the point at which primary piping comes onsite with the on-site heat exchanger/ plant room/ energy centre. Proposals must demonstrate a plausible route for heat piping and demonstrate how suitable access could be gained to the piping and that the route is protected throughout all planned phases of development.

c) Metering: installed to record flow volumes and energy delivered on the primary circuit.

Reason: In the interests of sustainability, to comply with Policies CP8, SA1, SA2 and DA1 of the Brighton & Hove City Plan Part One.

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18. Prior to first occupation of the A3 uses hereby permitted a scheme for the fitting of odour control equipment to the building shall be 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 occupation of the development and shall thereafter be retained as such.
Reason: To safeguard the amenities of the occupiers of adjoining properties and the general locality and to comply with policies QD27, SU9 and SU10 of the Brighton & Hove Local Plan.
19. Prior to first occupation of the A3 uses hereby permitted a scheme for the sound insulation of the odour control equipment referred to in the condition set out above shall have 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 general locality to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
20. Noise associated with plant and machinery incorporated within the development shall be controlled such that the Rating Level, measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed a level 5dB below the existing LA90 background noise level. Rating Level and existing background noise levels to be determined as per the guidance provided in BS 4142:2014. In addition, there should be no significant low frequency tones present.
Reason: To safeguard the amenities of the occupiers of adjoining properties and the general locality and to comply with policies QD27, SU9 and SU10 of the Brighton & Hove Local Plan.
21. Prior to first occupation of the development hereby permitted, details of external lighting shall have been submitted to and approved in writing by the Local Planning Authority. The external lighting shall be installed in accordance with the approved details and thereby retained as such unless a variation is subsequently submitted to and approved in writing by the Local Planning Authority.
Reason: To safeguard the amenities of the occupiers of adjoining properties and the character and appearance of the general locality and to comply with policies QD25, QD27 and HE6 of the Brighton & Hove Local Plan.
22. The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.
Reason: To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policy QD27 of the Brighton & Hove Local Plan.

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23. Baby changing facilities within both the male and female public toilets and male and female toilets serving the A3 businesses hereby approved shall be provided before the public toilets and A3 uses respectively are first brought into use. Reason: To ensure the toilets are accessible to all members of the public, to comply with policy HO20 of the Brighton and Hove Local Plan.
24. 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 and Hove Local Plan.
25. Prior to the first occupation of the development hereby approved a Delivery & Service Management Plan, which includes details of the types of vehicles, how deliveries will take place and the frequency and likely timing of deliveries shall be submitted to and approved in writing by the Local Planning Authority. All deliveries shall thereafter be carried out in accordance with the approved plan.
Reason: In order to ensure that the safe operation of the development and to protection of the amenities of nearby residents and users of the seafront, in accordance with policies SU10, QD27 and TR7 of the Brighton & Hove Local Plan.
26. No development above ground floor slab level of the lower promenade hereby permitted shall take place until details of crime prevention measures have been submitted to and approved in writing by the Local Planning Authority to demonstrate that the scheme would meet Secure By Design standard. Within 3 months of first occupation a Secure By Design certificate shall be submitted for written approval.
Reason: In the interests of crime prevention in this busy central location, to comply with policies CP12 and CP13 of the Brighton & Hove City Plan Part One.
27. No development above ground floor slab level of the lower promenade hereby permitted shall take place 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 incorporate provision of bird and bat nesting boxes where appropriate and shall be implemented in full prior to the first occupation of the development hereby approved.
Reason: To increase the biodiversity of the site and ensure appropriate integration of new nature conservation and enhancement features in accordance with Policy CP10 of the City Plan Part One and

Supplementary Planning Document SPD11 Nature Conservation and Development.

28. 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.

11.3 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 to grant Planning Permission has been taken:
 - (i) having regard to the policies and proposals in the National Planning Policy Framework and the Development Plan, including Supplementary Planning Guidance and Supplementary Planning Documents:
(Please see section 7 of the report for the full list); and
 - (ii) for the following reasons:-

The loss of the historic Shelter Hall building is acceptable given its dangerous state. The replacement building is needed to partially hold up the seafront road and the scheme would deliver significant highways improvements and new usable commercial spaces that would contribute to the tourism offer of the seafront. The scheme would deliver much needed permanent public toilets. The proposed uses are considered to be appropriate for the seafront and would enhance year round tourism and would not harm the vitality and viability of any established shopping centres or result in undue anti-social behaviour or loss of amenity. The transport impacts would be acceptable. The scheme is considered to provide an attractive contemporary building which takes sympathetic references from the previous building. Harm identified to heritage has been largely justified and the revisions to the scheme have mostly mitigated this harm (and further revisions can be satisfactorily secured by condition). Any remaining harm is largely outweighed by the significant public benefits of the scheme and the delivery of an optimum viable use of the site. The development would be sustainable and is on course to meet a BREEAM target of 'excellent'. The scheme would deliver regeneration of the site and would reinforce the role of the seafront as a vibrant, thriving tourist and recreational destination. The scheme would meet key priorities for the area as set out on City Plan policies SA1 and DA1.

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3. The applicant/developer is advised that an agreement with Southern Water need to be reached prior to commencement of the development for the measures to be undertaken to divert/protect the public water supply main and to provide the necessary sewage infrastructure required to service this development. A formal application for connection to the public sewer is required in order to service this development. Please contact Southern Water, Southern House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (tel 0330 303 0119), or www.southernwater.co.uk
4. 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 conditions 4 and 5 above.
5. The applicant is advised that having a planning application in place is no defence against a statutory noise nuisance being caused or allowed to occur. Should the Council's Environmental Health department receive a complaint, they are required to investigate under the provisions of the Environmental Protection Act 1990 to determine whether or not a statutory nuisance is occurring.
6. The applicant is advised that the site is located in a cumulative impact area and an applicant would have to have extra regard to presumption of a refusal for additional licences within the area.
7. The applicant is advised that any grant of planning permission does not confer automatic grant of any licenses under the Licensing Act 2003 or the Regulation (EC) No. 852/2004 on the Hygiene of Foodstuffs, Article 6(2).
8. 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).
9. The applicant is advised that this planning permission does not override the need to obtain a licence under the Licensing Act 2003. Please contact the Council's Licensing team for further information. Their address is Environmental Health & Licensing, Bartholomew House, Bartholomew Square, Brighton BN1 1JP (telephone: 01273 294429, email: ehl.safety@brighton-hove.gov.uk, website: www.brighton-hove.gov.uk/licensing).
10. The applicant is advised that this planning permission does not override the need to obtain a licence for the tables and chairs/a-boards/shop displays/scaffolding with banners/shrouds on the highway under the

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Highways Act 1980. The applicant must contact the Council's Highway Enforcement team for further information. Tel: 01273 292 071, Email: street.licensing@brighton-hove.gov.uk.

11. The applicant is advised that any apparatus located within the adopted highway must be sited in accordance with and under licence from the Council's Streetworks team. The applicant must contact the Streetworks team (01273 293 366) prior to any works commencing on the public highway.

ITEM C

**Household Waste Recycling Site, Modbury
Road, Brighton**

**BH2016/01592
Removal or variation of condition**

14th SEPTEMBER 2016

BH2016/01592 Household Waste Recycling Site, Modbury Way, Hove



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2016/01592	<u>Ward:</u>	HOVE PARK
<u>App Type:</u>	Removal or Variation of Condition		
<u>Address:</u>	Household Waste Recycling Site, Modbury Way, Hove		
<u>Proposal:</u>	Application for variation of condition 3 of application BH2015/00180 to allow the transfer facility to accept street cleansing waste, waste from communal bin operations, cardboard, green garden waste from Brighton & Hove City Council collections, re-usable, recyclable, recoverable and residual waste arising from Household Waste Recycling Sites, commercial recyclable waste and commercial residual waste for energy recovery or landfill. (Retrospective)		
<u>Officer:</u>	Steve Tremlett Tel 292108	<u>Valid Date:</u>	05/05/2016
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	16 September 2016
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	Veolia, Poles Lane Otterbourne Winchester SO21 2EA		
<u>Applicant:</u>	Veolia Environmental Services (South Downs) Ltd, 8th Floor 210 Pentonville Road London N1 9JY		

1 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 and the policies and guidance in section 7 and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in section 11.

2 SITE LOCATION & DESCRIPTION

- 2.1 The Hove Household Waste Recycling Site is approximately 2.0 ha with a floor area of 2800m². The site is accessed from the south side of Old Shoreham Road between No.198 and the Curry's Retail Warehouse (Nos 184-185) via long access road. To the north are industrial buildings, to the east is the Hove Technology Centre. The west flank of the site is backed on by residential dwellings with gardens in Aldrington Avenue. At the southern end of the site is a large shed where domestic refuse and the recyclable material is collected and sorted.

3 RELEVANT HISTORY

BH1997/00778/FP – Demolition of existing buildings and the erection of new civic amenity facility incorporating waste transfer, recycling and associated works.
Approved 26/09/97

BH2004/02838/FP Temporary variation of conditions attached to planning permission BH1997/00778/FP to facilitate the provision of interim facilities for municipal waste recycling & transfer comprising:

1. Condition 3 amended to permit the transfer of collected household waste and the receipt of dry recyclables.
2. Condition 5 amended to allow extended hours of operation, from 0800 -1800 Monday - Friday and 0800 -1300 on Saturdays.
3. Condition 6 amended to permit the use of HGVs for operational purposes (other than street cleansing) from 0730-1800 Monday to Friday and 0800 -1300 on Saturdays.
4. Condition 7 amended to enable use of plant from 0730-1800 Monday to Friday and from 0800 - 1300 on Saturdays and Sundays.
5. Condition 10 amended to allow an increase in tonnage restriction to 40,000 tonnes per annum.
6. Condition 17 amended to permit the fitting of a low level reversing safety alarm to transfer station loading plant.
7. Condition 28 amended to allow the placement on the ground of metal items delivered by the public, prior to loading into waste containers.
8. Condition 30 amended to permit the positioning of waste containers in the approved designated area (drawing AL-100G) except where otherwise agreed in writing with the Local Planning Authority.
9. Condition 35 amended to permit the development to be carried out with the approved plans, or where otherwise agreed in writing by the Local Planning Authority. Approved 01/12/2004

BH2006/03620 Renewal of temporary planning permission BH2004/02838/FP to allow continued interim recycling and transfer activities until 31 December 2008. Approved 15/12/2006

BH2008/03960 - Application for the variation of the following conditions attached to planning permission BH1997/00778/FP:

1. Condition 3 amended to allow the use of the waste transfer building for general household waste and the receipt of dry recyclables.
2. Condition 5 amended to allow extended hours of operation, from 0800-1700 hrs Monday to Friday and 0800-1300 hrs on Saturdays.
3. Condition 6 amended to permit the use of HGVs for operational purposes (other than street cleansing) from 0800-1800 hrs Monday to Friday and 0900-1300 hrs on Saturdays and Sundays.
4. Condition 7 amended to enable use of mechanical shovels and loaders between 0800-1800 hrs Monday to Friday and 0900-1300 hrs on Saturdays and Sundays.
5. Condition 10 amended to allow the site to accept 25,000 tonnes per annum.
6. Condition 11 amended to allow HGV parking along the eastern side of the waste transfer hall.
7. Condition 17 amended to permit the fitting of a low level reversing safety alarm to transfer station loading plant.
8. Condition 27 amend the wording of this condition, which restricts sale of recycled materials to a designated area, by the addition of the phrase "except where agreed in writing by the Waste Planning Authority".

9. Condition 28 amended to allow the placement on the ground of metal items delivered by the public, prior to loading into waste containers on a permanent basis.

10. Condition 30 amended to permit the positioning of waste containers in the approved designated areas (drawing LEIG/04/001/C) except where otherwise agreed in writing with the Local Planning Authority.

11. Condition 35 amended to permit the development to be carried out in accordance with the approved plans, or where otherwise agreed in writing by the Local Planning Authority. Approved 20/04/2009

BH2010/03611 Application for variation of condition 1 of permission BH2008/03960 to allow the additional use of the waste management site as a transfer facility for cardboard and green waste recycling. Approved 04/03/2011

BH2015/00180 Application for variation of condition 3 of application BH2010/03611 to allow the importation and transfer of commercial waste through the transfer station at the site. Approved 01/05/2015

Pre-Application Consultation:

Pre-application advice was provided on details of the wording and nature of the application.

4 THE APPLICATION

- 4.1 Planning permission is sought to vary condition 3 of application BH2015/00180 to allow the transfer facility to accept street cleansing waste, waste from communal bin operations, cardboard, green garden waste from Brighton & Hove City Council collections, re-usable, recyclable, recoverable and residual waste arising from Household Waste Recycling Sites, commercial recyclable waste and commercial residual waste for energy recovery or landfill.
- 4.2 Application BH2015/00180 also amended Condition 3, however the new condition restricted commercial waste imports to cardboard and green waste which was not the intention of the applicant.
- 4.3 The application seeks to regularise an activity which has been occurring at the site for the last two / three years, to allow a broader range of commercial waste to be processed at the site. The application as submitted would also permit source-separated household food waste to be managed at the site, however in response to concerns raised the applicant has indicated that this aspect of the application is no longer being pursued.
- 4.4 At the request of the applicant following the submission of the application, the condition, as proposed to be amended, now clarifies that street cleansing waste can include waste fly-tipped onto the street.

5 PUBLICITY & CONSULTATIONS

External

Neighbours:

5.1 **Eighteen (18)** letters of representation have been received from **Kensett Ltd (196 Old Shoreham Rd), 1, 3, 5, 7, 9, 10, 11, 13, 17, 21, 31, 45, 57 Aldrington Avenue, 2 Amherst Crescent, 202, 204, 206 Old Shoreham Road** objecting to the application for the following reasons:

- Additional traffic;
- Reduced safety on the access road;
- Odour resulting from storage of food waste;
- Problems with vermin;
- Increased noise;
- The junction with Old Shoreham Road is not easy to navigate, and will be made worse with the increase in disposal and collection vehicles;
- Adverse impact on the enjoyment of gardens;
- Screens at the centre are broken and inadequate;
- Disposal of this kind of waste in the middle of a residential area is completely unacceptable;
- Increase in garden plants dying due to chemicals;
- Reduction in house values;
- East Brighton HWRS is a more appropriate location;
- Current planning conditions are frequently broken;
- Increasing the capacity of the site will exacerbate dust, smell and litter;
- If Veolia wish to mix this food waste with green waste it should go directly to their Whitesmith site;
- Permission should not be granted unless and until we have seen a full investigation into dumping food in a residential area;
- Application doesn't make clear how future abuse of permission will be mitigated

Internal:

5.2 **Environmental Health:**

Comment - From a departmental perspective, my concern is odour, as the site has been subject of numerous odour complaints which follow a seasonal pattern in the warmer months which is typically when residents might wish to enjoy external areas such as gardens. There have not been recent complaints and this may in part be due to the fact that the site management used to operate an extraction system for the tipping hall which exhausted air into the external environment. This has since ceased.

5.3 What this application fails to do is define an odour management plan that specifically addresses the additional odour potential from this new waste stream of source separated food waste. I do not believe that the current odour mitigation measures are sufficient to manage this new waste stream and I have no revised odour management scheme to assess and have confidence in ensuring that this waste will not cause odour problems to adjacent neighbours. We are now looking at a new application where the character of the waste is changing and it is proposed to include source separated food waste which will by its very character generate odour. I understand that this waste will vary in age and where it is in the decomposition process. Decomposed food generates odour.

- 5.4 Whilst I am happy that commercial waste may continue and the consent altered to allow this, I have my reservations over the introduction of source separated food waste being added to the permitted waste streams.
- 5.5 **Sustainable Transport:** Support - The Highway Authority would not wish to object to the above application. Whilst it is noted that that the volume of waste transported to and from the site will increase, this remains within currently permitted levels. As such it is not considered that refusal on the grounds of additional traffic would be warranted in this instance.
- 5.6 The Highway Authority would look for the previous conditions included on planning permission BH2015/00180 to be included on any new permission granted.
- External:**
- 5.7 **Southern Water:** Southern Water has no comments to make in respect of the above variation of condition application submitted.

6 MATERIAL CONSIDERATIONS

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that “If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”
- 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 and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only – site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.
- 6.3 The National Planning Policy Framework (NPPF) is a material consideration.
- 6.4 Due weight should be given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.
- 6.5 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7 RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

CP9 Sustainable transport

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

TR7 Safe Development
SU9 Pollution and nuisance control
SU10 Noise Nuisance
QD27 Protection of amenity

East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan

WMP6 Safeguarding Waste Sites
WMP18 Transport – Road, Rail and Water
WMP22 To enable expansions of capacity or alterations to operations within existing waste management facilities
WMP25 General amenity
WMP26 Traffic Impacts

8 CONSIDERATIONS & ASSESSMENT

8.1 The main considerations in the determination of this application relate to the facilitation of sustainable waste management, impact on the amenity of neighbouring residents, an increase in activity on site including lorry journeys, and the impact on road journeys and the environment arising from the increase in journeys to and from the site. Matters relating to property values are not material planning considerations.

Planning Policy:

8.2 Waste & Minerals Plan Policy WMP22 relates to alterations to operations within existing waste management facilities. The policy wording specifically relates to increases in operational capacity, which is not proposed through this application. However, the application is in conformity with the supporting text which encourages alterations to operations on existing sites to support more sustainable waste management and the movement of waste up the waste hierarchy. The application will enable better use to be made of an existing waste management facility which currently has spare capacity.

Impact on Amenity:

8.3 Waste & Minerals Plan Policy WMP25 covers general amenity considerations including odour when considering waste proposals, as well as consideration of the impact on air quality. Similarly Policy QD27 states that planning permission for any development 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.

8.4 As originally submitted, the application proposed the importation of source separated food waste. The large shed is fitted with odour controllers and there have been no complaints within the past two years. However concerns have been raised by residents and the Environmental Health Team regarding possible odour impacts resulting from separated food waste being stored outside of black bags. These concerns have led the applicant to indicate that the food waste element of the proposal is no longer pursued.

- 8.5 Without the food waste element of the proposal, the impact on amenity does not raise a concern. Commercial waste generally has similar characteristics to household waste, and has been processed through the site for approximately two years. Evidence from Environmental Health indicates there have been no complaints regarding odour during this period.

Sustainable Transport:

- 8.6 Waste and Minerals Plan Policy WMP18 deals with minimising the environmental impacts arising from the transportation of waste by road.
- 8.7 Condition 9 of the substantive consent restricts the total cumulative volume of waste that may be handled on this site per annum to 25,000 tonnes. It is not proposed to alter this condition and the maximum permitted waste throughput of the site will therefore remain unaltered.
- 8.8 The applicants have submitted a table of waste journeys and tonnage for the past 12 months. Householder waste accounted for significantly the largest volume of waste (900-1150 tonnes) and average daily journeys (1400). Commercial waste accounted for between 6-12 daily lorry movements and 200-550 tonnes per month. In addition the contract waste for the City Council's street cleaning and communal bins amounted to 10-20 daily movements with one tonne per load. More significantly, the facility has been and will continue to operate well within its permitted capacity as required by condition.
- 8.9 As set out in the application details, the proposed variation to the condition 3 of the 2015 consent would avoid some commercial waste vehicles arriving from the west having to traverse the City to Hollingdean which would reduce the length of journeys, the volume of vehicular emissions and noise, disturbance and vibration along the extended journey. The Transport team have raised no objections subject to re-imposition of the transport related conditions from the substantive consent (BH2015/00180).

9 CONCLUSION

- 9.1 The variation of Condition 3 of the previous consent (BH2015/00180) to allow the processing of commercial waste is considered to be acceptable and would make a modest change to vehicle trips and waste volume passing through the site. The data submitted demonstrates that the facility would still be operating well within the limits imposed by the existing consent and that there would not be any significant harm caused to residents arising from the increase in activity which has been operating for two years already. It is considered that the benefits of reducing journey lengths for commercial vehicles to use this site would be of wider benefit and would result in a more sustainable operation. The proposal would thus comply with adopted policies in the Waste and Minerals Plan, City Plan, Local Plan and the NPPF.

10 EQUALITIES

10.1 There are no equalities issues raised by this application.

11 CONDITIONS / INFORMATIVES

Regulatory Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings no.AL-100G, 101D, 102D, 103A, 106D received on the 23rd and 25th September 1997 and LEIG/04/001/A/1, B & C received on 13th and 22nd January 2009 and 21st January 2015.
Reason: For the avoidance of doubt and in the interests of proper planning.
- 2) Notwithstanding the provisions of Part 4 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no fixed plant or machinery, building, or structure shall be erected, installed or replaced within the site without the prior approval in writing by the Local Planning Authority.
Reason: Due to the proximity of the proposed development to residential property there is an exceptional need to secure control over additional plant and machinery in the interests of protecting residential amenity and in accordance with policy QD27 of the Brighton & Hove Local Plan.
- 3) The premises shall be used for no other purpose than as a Household Waste Recycling Site and transfer facility for commercial waste, street cleansing waste (including fly tipped waste and bulky waste collections), communal bin operations, cardboard and green waste, and on occasions when the Hollingdean MRF or WTS facility are unavailable or where there are other exceptional operational conditions the site shall also be used as a transfer facility for kerbside collected waste and recyclables (not to exceed 20 days per year, except where agreed in writing by the Local Planning Authority).
Reason: Due to the proximity of residential properties there is a need to secure control over additional activities on the site in the interests of protecting residential amenity and in accordance with policy WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan and policies QD27, SU9 and SU10 of the Brighton & Hove Local Plan.
- 4) The premises shall be not be open to and in use by the public except between the hours of 0800-1630 hrs on Monday to Fridays, 0830-1330 hrs on Saturdays and 1030-1330 hrs on Sundays and not at any time on Bank Holidays.
Reason: To safeguard residential amenity and in accordance with policy QD27 of the Brighton & Hove Local Plan.
- 5) Containers receiving waste shall not be emptied on site or collected except between the hours of 0800-1700 hrs Monday to Friday and 0800-1300 hrs on Saturdays and not at any time on Sundays or Bank holidays.
Reason: In the interests of protecting residential amenity and in accordance with policy WMP25 of the East Sussex, South Downs and Brighton & Hove

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Waste and Minerals Plan and policies QD27, SU9 and SU10 of the Brighton & Hove Local Plan.

- 6) Other than street cleansing, no HGVs shall be used for operational purposes except between the hours of 0800-1800 hrs Monday to Friday and 0900-1300 hrs on Saturdays and Sundays and at no time on Bank Holidays.
Reason: In the interests of protecting residential amenity and in accordance with policy WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan policies QD27, SU9 and SU10 of the Brighton & Hove Local Plan.
- 7) Mechanical shovels and loaders shall only be used between 0800-1800 hrs Monday to Friday and 0900-1300 hrs on Saturdays and Sundays and at no time on Bank or Public Holidays.
Reason: In the interests of protecting residential amenity and in accordance with policy WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan and policies QD27, SU9 and SU10 of the Brighton & Hove Local Plan.
- 8) No vehicles required for the operation of facilities shall be used on the site unless fitted with silencers maintained in accordance with manufacturer's recommendations and specification.
Reason: To safeguard residential amenity and in accordance with policy QD27 of the Brighton & Hove Local Plan.
- 9) The tonnage of waste accepted by the civic amenity facility shall not exceed 25,000 tonnes per annum.
Reason: In the interests of protecting residential amenity and in accordance with policy WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan and policies QD27, SU9 and SU10 of the Brighton & Hove Local Plan.
- 10) HGV parking shall be restricted to the area hatched in blue as shown on drawing LEIG/04/001/B received on the 13th January 2009 which shows HGV parking along the eastern side of the waste transfer hall. Any HGV will be either empty or contain dry recyclables only.
Reason: In the interests of protecting residential amenity and in accordance with policy WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan, policy CP9 of the Brighton & Hove City Plan Part One and policies QD27 and SU10 of the Brighton & Hove Local Plan.
- 11) The transfer station loading plant shall be fitted with of a low level reversing safety alarm. Prior to their installation, details of the safety reversing devices shall be submitted to and agreed in writing with the Local Planning Authority and thereafter retained.
Reason: To prevent noise breakout and disturbance to adjoining properties and in accordance with policy QD27 of the Brighton & Hove Local Plan.
- 12) The localised acoustic screen within the central area of the car park shall be retained on site.

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Reason: In order to protect adjoining residential properties from noise disturbance and to comply with policy QD27 of the Brighton & Hove Local Plan.

- 13) The 'push wall' along the western facade of the waste transfer building shall be independent from the external building fabric.

Reason: To minimise impact noise breakout and disturbance to adjoining properties and in accordance with policy QD27 of the Brighton & Hove Local Plan.

- 14) All glass, hardcore, asbestos, metal and paper recycling/collection containers shall be sited on the eastern elevation of the centrally positioned acoustic screen.

Reason: To minimise noise and disturbance to adjoining properties and in accordance with policy QD27 of the Brighton and Hove Local Plan.

- 15) The shutters and pedestrian doors on the southern elevation of the waste transfer building shall remain closed at all times other than of exit and access and shall be fitted with an automatic closing device.

Reason: To minimise noise and disturbance to adjoining properties and in accordance with policy QD27 of the Brighton and Hove Local Plan.

- 16) The 7m high building on the western boundary of the site shall not be used for the siting of waste collection containers.

Reason: To minimise noise and disturbance to adjoining properties and in accordance with policy QD27 of the Brighton and Hove Local Plan.

- 17) No materials shall be burnt on site.

Reason: To safeguard residential amenity and in accordance with policy QD27 of the Brighton and Hove Local Plan.

- 18) Prior to the use of the additional areas for sales of recycled materials outside of the designated area, a plan shall be submitted indicating the location of the proposed areas to the Local Planning Authority for approval in writing. The plan as approved shall be implemented in accordance with the agreed details.

Reason: To secure control over activity occurring on the site and in the interests of protecting residential amenity in accordance with policies WMP6 and WLP35 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan and policy QD27 of the Brighton & Hove Local Plan.

- 19) Metal items delivered by the public can be placed on the ground prior to loading into waste containers on a permanent basis. No other waste material shall be tipped onto the ground outside of the waste transfer building for storage purposes, sorting or loading into skips.

Reason: To secure control over activity on the site in order to safeguard residential amenity and to prevent ground water pollution in accordance in accordance with policy WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan and policies SU9 and QD27 of the Brighton & Hove Local Plan.

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- 20) No mechanical crushing or screening of stone, concrete, bricks, planings, asphalt or hardcore shall take place on the application site.
Reason: To safeguard residential amenity and in accordance with policy QD27 of the Brighton and Hove Local Plan.
- 21) The waste containers shall be positioned as shown on drawing LEIG/04/001/C, unless otherwise agreed in writing with the Local Planning Authority.
Reason: To control the level of activity on the site and in accordance with policies WMP6 and WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan policies SU9 and QD27 of the Brighton & Hove Local Plan.
- 22) The acoustic fencing positioned along the south western corner of the site shall be retained on site.
Reason: In order to protect adjoining residential properties from noise disturbance 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. This decision to grant Planning Permission has been taken:
 - (i) having regard to the policies and proposals in the National Planning Policy Framework and the Development Plan, including Supplementary Planning Guidance and Supplementary Planning Documents:
(Please see section 7 of the report for the full list); and
 - (ii) for the following reasons:-
The variation of Condition 3 of the previous consent (BH2015/00180) is considered to be acceptable and would make a modest change to vehicle trips and waste volume passing through the site. The data submitted demonstrates that the site would still be operating well within the limits imposed by the existing consent and that there would not be any significant harm caused to residents arising from the increase in activity which has been operating for 2 years already. It is considered that the benefits of reducing journey lengths for commercial vehicles to use this site would be of wider benefit and would result in a more sustainable operation. Concerns regarding food waste processing have been overcome by the applicant indicating that aspect of the application is not being pursued.

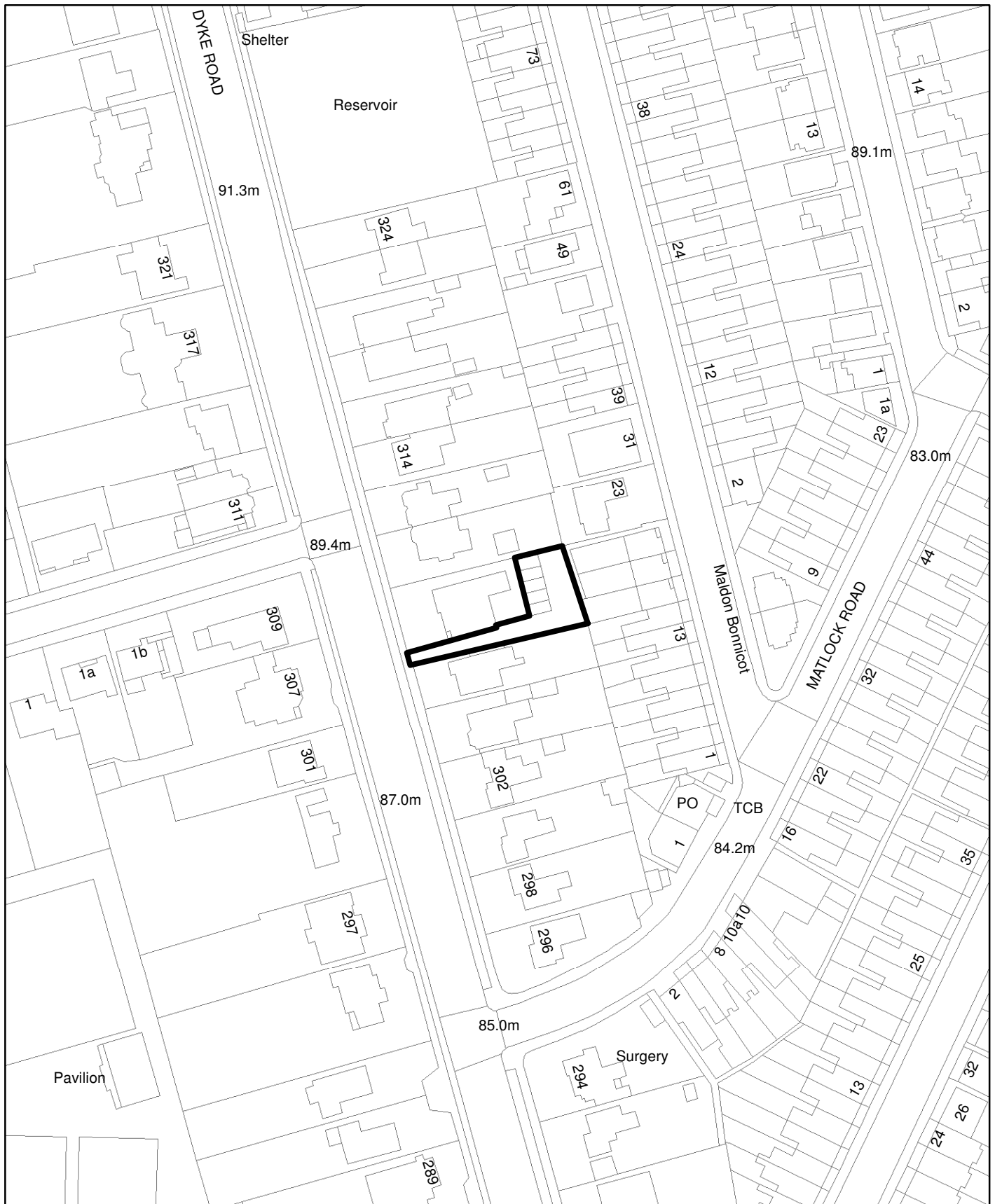
ITEM D

308 Dyke Road, Brighton

**BH2016/02329
Full Planning**

14th SEPTEMBER 2016

BH2016/02329 308 Dyke Road, Brighton



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2016/02329	<u>Ward:</u>	WITHDEAN
<u>App Type:</u>	Full Planning		
<u>Address:</u>	308 Dyke Road Brighton		
<u>Proposal:</u>	Erection of three bedroom residential dwelling with associated parking and landscaping to replace existing garages.		
<u>Officer:</u>	Mark Thomas Tel 292336	<u>Valid Date:</u>	21/06/2016
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	16 August 2016
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	Gregory Kewish Design, Kit Cottage Upton Cross Liskeard PL14 5AZ		
<u>Applicant:</u>	Mr Jonathan Stern, 4 Hove Park Way Hove BN3 6PS		

Councillors Ann Norman, Ken Norman and Taylor have requested this application is determined by Planning Committee.

1 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 and the policies and guidance in section 7 and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in section 11.

2 SITE LOCATION & DESCRIPTION

- 2.1 The application site relates to land to the rear of 308 Dyke Road. The site currently comprises a row of 5 garages and is accessed via a driveway off Dyke Road between 306 & 308 Dyke Road. 308 Dyke Road is a detached two-storey building which comprises 5 flats. The house includes accommodation in the roof slope. One of the flats includes an outside terrace area over a rear extension. Dyke Road is predominately comprised of large detached buildings set in substantial grounds.

3 RELEVANT HISTORY

- BH2015/04424** Erection of three bedroom residential dwelling with associated parking and landscaping to replace existing garages. Refused 17/05/2016.
BH2014/04187 Variation of condition 2 of application BH2014/01009 (Demolition of existing garages and erection of 1no three bedroom house with off street parking.) to allow for alterations to proposed scheme including enlargement of basement level and revised fenestration. Approved 02/03/2015.
BH2014/01009 Demolition of existing garages and erection of 1no three bedroom house with off street parking. Approved 08/08/2014.

4 THE APPLICATION

- 4.1 Planning permission is sought for the demolition of the existing garages and the construction of a three bedroom dwellinghouse. The dwelling would be two-storeys tall. The dwelling includes green roofs and would be accessed via the existing side access.

5 PUBLICITY & CONSULTATIONS

External

5.1 Neighbours:

Four (4) letters of representation have been received from **19 Maldon Road (x2), 21 Maldon Road, 310 Dyke Road**, objecting to the application for the following reasons:

- The development would be 'squeezed' between Maldon Road and Dyke Road gardens.
- Loss of security.
- Overlooking/ loss of privacy.
- Increased noise and disturbance during construction and occupation.
- The building would be out of character with the current late Victorian houses.

- 5.2 **Councillors Ann Norman and Ken Norman** object to the proposed development. A copy of their representation is appended to the report.

- 5.3 **Councillor Taylor** objects to the proposed development. A copy of their representation is appended to the report.

- 5.4 **Brighton and Hove Archaeological Society** recommend that the County Archaeologist is consulted for comment.

- 5.5 **East Sussex County Archaeology** comment on the proposed development as follows:

- The site is located within an Archaeological Notification Area defining an area of prehistoric occupation.
- In the light of the potential for loss of heritage assets on the site resulting from development, the proposals should be the subject of a programme of archaeological works. This should be secured by condition.

Internal:

5.6 Environmental Health: Comment

- The application seeks to a 3 bedroom house on land which formerly contained garages. Domestic garages are often used for the storage of fuels and oils, as well areas to make vehicle repairs, and as such there is the potential for the land to be contaminated.
- Given the above, it is prudent and appropriate in this instance to apply a condition, which will ensure that if there any unexpected findings encountered during the construction process, that works cease and a formal risk assessment by professional and competent individuals takes place to guide further action. This is referred to as a discovery strategy.

5.7 Sustainable Transport: Comment

- Although the applicant has referred to walking in the supporting evidence, he has not referred to mobility and visually impaired access and though footways in the vicinity of the site have been improved over the years by developer contributions there are still junctions along Dyke Road that could do with footway improvements (dropped kerbs in particular). There are accessible bus stops in the vicinity of the site but mobility scooters are not permitted on buses hence the importance of dropped kerbs for this growing mode of transport.
- SPGBH4 states that a minimum of 1 cycle parking space is required for every dwelling plus 1 space per 3 dwellings for visitors. For this development of 1 residential unit the minimum cycle parking standard is 2 cycle parking spaces in total (1 for residential units and 1 visitor spaces). The applicant has offered to install 4 cycle parking spaces in his supporting evidence however there is insufficient detail therefore cycle parking is requested by condition.
- In order to be in line with Policy TR14 of the Brighton & Hove Local Plan 2005 cycle parking must be secure, convenient, well lit, well signed, near entrances and wherever practical, sheltered. As the applicant does not appear to have supplied this detail with his supporting evidence it will be requested by condition. It should be noted that the Highway Authority would not approve vertical hanging racks as they are difficult for some people to use and therefore not considered to be policy compliant. As an alternative the Highway Authority approves the use of Cycle Works Josta 2 tier cycle rack(s) that will store one cycle above another Also, the Highway Authority approves the use of Sheffield type stands spaced in line with the guidance contained within the Manual for Streets section 8.2.22 where appropriate.
- There are opportunities, if somewhat limited, in the form of free on-street disabled parking bays in the vicinity of the site for disabled residents and visitors to park when visiting the site by car. Blue Badge holders are also able to park, where it is safe to do so, on double yellow lines for up to 3 hours in the vicinity of the site. Therefore in this instance the Highway Authority would not consider the lack of on-site disabled car parking to be a reason for refusal.
- The applicant is not proposing any change to the vehicle access arrangements onto the public highway and for this single dwelling this is deemed acceptable.
- SPG04 states that the maximum car parking standard for within a CPZ is 1 space per dwelling plus 1 car space per 5 dwellings for visitors. The applicant is proposing 1 car parking spaces for each 3 bedroom property. For this development of 1 residential unit the maximum car parking standard is 2 spaces (1 per unit and 1 visitor space). Therefore the proposed level of car parking (1 space) is in line with the maximum standards and is therefore deemed acceptable in this case.
- There is not forecast to be a significant increase in vehicle trip generation as a result of these proposals therefore any highway impact will be minimal so the application is deemed acceptable.
- It is likely that the increase in dwellings will also result in an increase in pedestrian and mobility and visually impaired trip generation. In order to ensure that the proposed development provides for the transport demand it generates and the needs of pedestrians and the mobility and visually impaired, the following developer contribution is requested by way of a Grampian Condition

and Highway Works Informative in accordance with policies TR1, TR8 and QD28 of the Brighton & Hove Local Plan.

- Pedestrian crossing improvements (dropped kerbs with paving and tactile paving if appropriate) are requested at the junction of (and across) Barrowfield Drive with Dyke Road to create or improve access to facilities and amenities within the vicinity of the site such as dwellings (friends & family), education, employment, shops, postal services, leisure, medical and transport land-uses.

6 MATERIAL CONSIDERATIONS

6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that “If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

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 and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only – site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.

6.3 The National Planning Policy Framework (NPPF) is a material consideration.

6.4 Due weight should be given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

6.5 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7 RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP8	Sustainable buildings
CP9	Sustainable transport
CP12	Urban design
CP14	Housing density

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
- QD15 Landscape design
- QD16 Trees and hedgerows
- QD27 Protection of amenity
- HO5 Provision of private amenity space in residential development
- HO13 Accessible housing and lifetime homes

Supplementary Planning Guidance:

- SPGBH4 Parking Standards

Supplementary Planning Documents:

- SPD03 Construction & Demolition Waste
- SPD06 Trees & Development Sites

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to whether the scheme is appropriate in terms of its design and appearance, its impact on the amenity of adjacent properties, highway considerations, sustainability and standard of accommodation.
- 8.2 **Principle of Development**
The site is located within the Built-up Area as designated in the Brighton and Hove Local Plan and comprises five domestic garages. There are extant permissions for the construction of a two storey, three bedroom, detached house on the site (BH2014/01009 and BH2014/04187). Both dwellings are of similar footprint, form and height, with both incorporating a basement level. The main difference between the two schemes is the enlarged basement area consented under BH2014/04187.
- 8.3 The City Plan Part 1 Inspector's Report was received February 2016. This supports a housing provision target of 13,200 new homes for the city to 2030. It is against this housing requirement that the five year housing land supply position is assessed following the adoption of the Plan on the 24th March 2016. The City Plan Inspector indicates support for the Council's approach to assessing the 5 year housing land supply and has found the Plan sound in this respect. The five year housing land supply position will be updated on an annual basis.
- 8.4 Given the current housing requirements within the City, the existing use of the site and the extant planning permission, the principle of residential use can be accepted, subject to meeting other development plan policies detailed below.
- 8.5 **Design:**
Planning permission is sought for the construction of a detached dwelling house following the demolition of the existing garages. The dwelling would be up to two-storeys high in the style of a chalet bungalow, and includes excavation works so that the ground floor level would sit lower than the existing ground level.
- 8.6 The dwelling is modern in design and includes a mix of flat green roofs and 'sarnifil' clad slopes with a standing seam effect. The proposed house would be

surrounded by a small green area which includes bin and cycle storage. The house would have rendered walls and grey powder coated aluminium windows. The dwelling would be accessed via the existing vehicular access and the scheme includes one off-street parking space. The contemporary design approach is considered acceptable in principle, and is comparable to the approach undertaken for consented applications BH2014/01009 and BH2014/04187.

- 8.7 The dwelling would largely fill the northern part of the proposed site, being set close to the north (1.3m separation), east (1.3m) and west (0.85m) boundaries, and extending to within 5.2m of the southern boundary. The undeveloped area to the south of the site would provide for a medium sized garden. A further amenity space would be provided to the north-east corner where the building would step away from the northern and eastern boundaries to form an additional garden/ courtyard space. The stepped building line and new garden area is the main difference between the current scheme and refused application BH2015/04424, and introduces a welcomed visual relief over the refused scheme. It is noted that the consented schemes, BH2014/01009 and BH2014/04187, occupy a similar floor area to the proposed development, and moreover that the consented schemes would have had a greater visual impact from the public realm due to the setting of the house encroaching on the break between nos. 306 and 308 Dyke Road. Furthermore, the proposed dwelling appears less bulky than the consented schemes due to the reduced overall height and the less angular built form. The proposed dwelling would also appear less cramped than that proposed under BH2015/04424 due to the increased separation from the north and east boundaries.
- 8.8 Overall, the bulk of the property compared to that of the extant permissions would be lessened by an overall reduction in height and the introduction of a simpler, less blocky built form. The dwelling would have a similar overall ground coverage as the extant proposal, but would have less visual impact from the public realm due to the building being positioned away from the break between nos. 306 and 310 Dyke Road. It is welcomed that the proposed dwelling would feature more separation from the boundaries than that proposed under BH2015/04424. Overall, it is not considered that the proposed development would result in significant harm to the character and appearance of the recipient property beyond that of extant permissions BH2014/01009 and BH2014/04187. Furthermore, it is considered that the scheme has been revised sufficiently to overcome the reason for refusal of BH2015/04424.
- 8.9 **Impact on Amenity:**
Policy QD27 states that planning permission for any development 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.
- 8.10 The main impact of the proposed development would be towards the neighbouring properties at nos. 308 Dyke Road to the west, 310 Dyke Road to the north and nos. 17-21 Maldon Road to the east. It is noted that the proposed dwelling would be of comparable height and proximity to the boundaries with nos.

17 and 19 Maldon Road, and 310 Dyke Road as the dwelling which was considered acceptable by applications BH2014/01009 and BH2014/04187. The proposed dwelling would be lower in height overall and greater in separation from the boundary with no. 306 Dyke Road than the extant scheme. For these reasons it is not considered that significant levels of overshadowing, loss of outlook or increased sense of enclosure would occur beyond that permitted by BH2014/01009 and BH2014/04187.

8.11 The proposed western elevation would stand 2.9m to the eaves, and would be set 0.85m back from a 2.5m boundary treatment. This arrangement is similar to that to the northern and eastern elevations, and given that such an impact has been considered acceptable under extant permissions BH2014/01009 and BH2014/04187, refusal in terms of the level of overbearing impact is not recommended in this instance.

8.12 The proposed boundary treatments (which are as per BH2014/01009 and BH2014/04187) would adequately safeguard surrounding residential properties from harmful levels of overlook and loss of privacy.

8.13 Standard of Accommodation:

Policy QD27 of the Brighton and Hove Local Plan states that planning permission for any development will not be granted where it would cause loss of amenity to the proposed residents, whilst policy HO5 requires the provision of private useable amenity space in new residential development.

8.14 The proposal seeks planning permission for a 3 bedroom house with a floor area and layout which would provide spacious living conditions. Each principal room would have a suitable outlook and access to natural light.

8.15 A garden is proposed to the front, although it would be in a backland siting, obscured from view from the street. The provision of garden space is considered suitable for the size of accommodation proposed, in accordance with policy HO5 of the Brighton and Hove Local Plan.

8.16 Step-free access to the (new-build) dwelling appears to be achievable; therefore, in the event permission is granted conditions can be attached to ensure the development complies with Requirement M4(2) of the optional requirements in Part M of the Building Regulations.

8.17 Sustainability

Policy CP8 of the City Plan Part One requires new residential development demonstrate efficiency in the use of water and energy. The applicants have submitted a Sustainability Checklist. Details have been provided within the Checklist detailing the energy efficiency measures that are proposed.

8.18 It is noted that in relation to sustainability the Government have advised that the Council can no longer require that development meets a Code for Sustainable Homes Standard. Government have introduced transitional optional standards for energy and water usage and it is recommended these standards be secured by condition to address the requirements of Policy CP8.

8.19 Transport

The proposed level of parking is within the maximum parking standards of SPG04. Any overspill parking is unlikely to have a significant impact on the highway. Cycle storage would be provided within a dedicated store for three cycles. Whilst an indicative location for the store has been submitted, full details/elevations have not been provided. These details could be secured by condition.

8.20 It is likely that the development would result in a small uplift in trip generation. It is not considered that this would be significant nor amount to a severe impact on highway and transportation networks.

8.21 The development would likely result in an uplift if pedestrian movements. In order to ensure that the proposed development provides for the transport demand it generates and the needs of pedestrians and the mobility and visually impaired, pedestrian crossing improvements (dropped kerbs with paving and tactile paving if appropriate) shall be secured by condition at the junction of (and across) Barrowfield Drive with Dyke Road to create or improve access to facilities and amenities within the vicinity of the site.

9 CONCLUSION

9.1 The proposed development would have an acceptable impact on the character and appearance of the locality, and on the amenity of occupiers of neighbouring properties. The proposed dwelling would provide acceptable living conditions for future occupiers.

10 EQUALITIES

10.1 Level access would be available to the proposed dwelling.

11 PLANNING CONDITIONS / INFORMATIVES

11.1 Conditions:

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

Plan Type	Reference	Version	Date Received
Site location and block plans	PL000	-	21 st June 2016
Site layout plan	PL001	-	21 st June 2016
Proposed ground and first floor plans	PL002	-	21 st June 2016
Proposed south elevation	PL003	-	21 st June 2016

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Proposed east elevation	PL004	-	21 st June 2016
Proposed contextual elevation	PL005	-	21 st June 2016
Proposed west elevation	PL005	-	21 st June 2016
Proposed north elevation	PL006	-	21 st June 2016
Proposed section AA	PL007	-	21 st June 2016
Proposed section BB	PL008	-	21 st June 2016
Proposed sections CC & DD	PL009	-	21 st June 2016
Proposed contextual elevations	PL010	-	21 st June 2016

3. No extension, enlargement or alteration of the dwellinghouse as provided for within Schedule 2, Part 1, Classes A, B, C, D and 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 QD14 and QD27 of the Brighton & Hove Local Plan.
4. 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
Reason: To ensure a satisfactory appearance to the development and to comply with policy QD1 of the Brighton & Hove Local Plan.
5. The dwelling(s) hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such 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.
6. 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 SU2 of the Brighton & Hove Local Plan and policy CP8 of the Brighton & Hove Submission City Plan Part One (Proposed Further Modifications September 2015).

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7. None of the residential units hereby approved shall be occupied until each residential unit built has achieved a water efficiency standard using 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 SU2 of the Brighton & Hove Local Plan and policy CP8 of the Brighton & Hove Submission City Plan Part One (Proposed Further Modifications September 2015).
8. Prior to first occupation of the development hereby permitted, pedestrian crossing improvements (dropped kerbs with paving and tactile paving if appropriate) shall have been installed at the junction of and across Barrowfield Drive with Dyke Road.
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 & CP9 of the City Plan Part One.
9. 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.
10. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a method statement to identify, risk assess and address the unidentified contaminants.
Reason: As this matter is fundamental to the acceptable delivery of the permission to safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan.
11.
 - i) No development shall take place until a programme of archaeological work has been secured in accordance with a Written Scheme of Archaeological Investigation which has been submitted to and approved in writing by the Local Planning Authority.
 - ii) The development hereby permitted shall not be brought into use until the archaeological site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition [1] and that provision for analysis, publication and dissemination of results and archive deposition has been secured.
Reason: This pre-commencement condition is imposed because it is necessary 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.

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 to grant Planning Permission has been taken:
 - (i) having regard to the policies and proposals in the National Planning Policy Framework and the Development Plan, including Supplementary Planning Guidance and Supplementary Planning Documents:
(Please see section 7 of the report for the full list); and
 - (ii) for the following reasons:-
The proposed development would have an acceptable impact on the character and appearance of the locality, and on the amenity of occupiers of neighbouring properties. The proposed dwelling would provide acceptable living conditions for future occupiers.

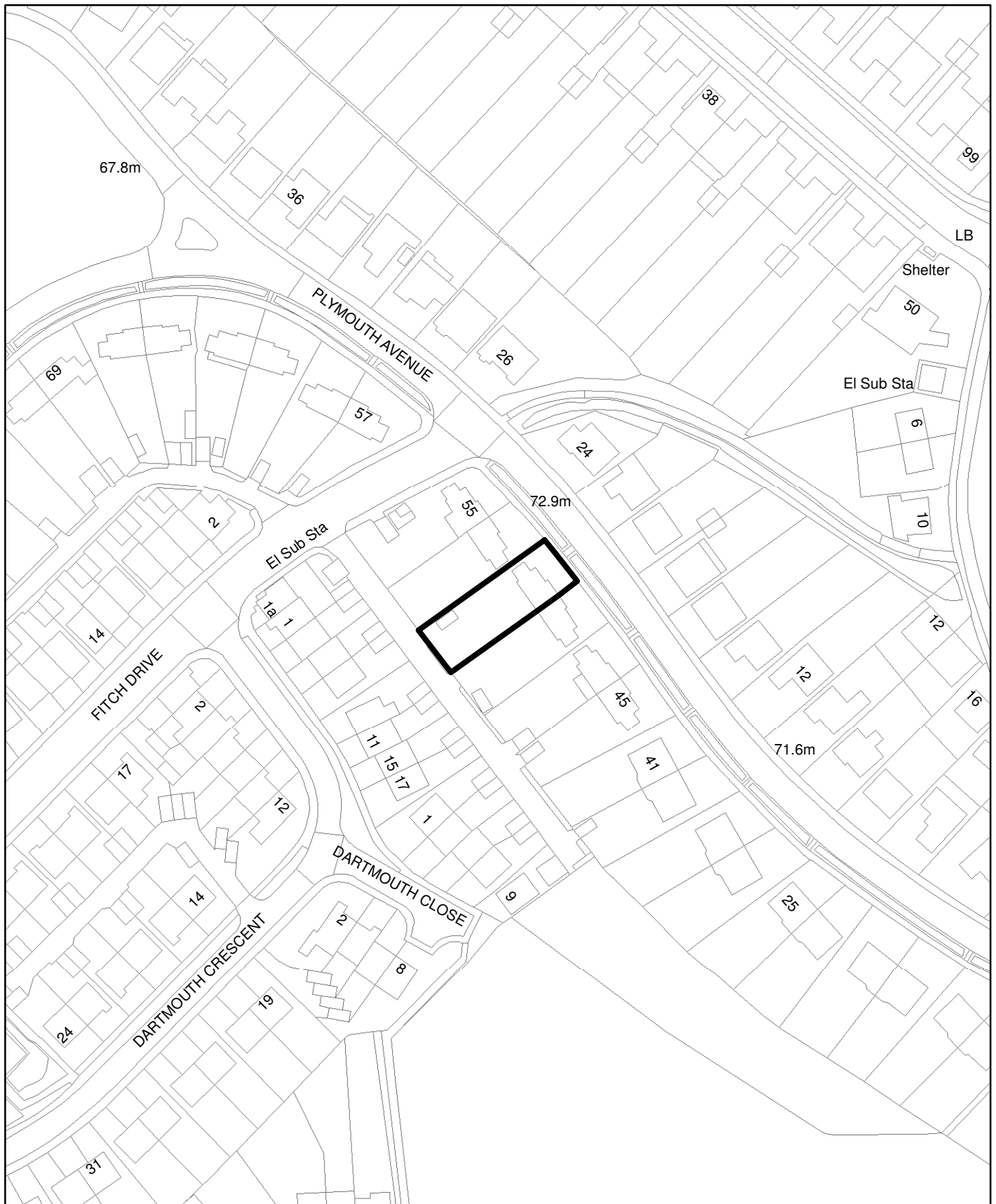
ITEM E

51 Plymouth Avenue, Brighton

**BH2016/01847
Full Planning**

14th SEPTEMBER 2016

BH2016/01847 51 Plymouth Avenue, Brighton



**Brighton & Hove
City Council**



Scale: 1:1,250

PLANNING COMMITTEE LIST – 14TH SEPTEMBER 2016

<u>No:</u>	BH2016/01847	<u>Ward:</u>	MOULSECOOMB & BEVENDEAN
<u>App Type:</u>	Full Planning		
<u>Address:</u>	51 Plymouth Avenue Brighton		
<u>Proposal:</u>	Change of use from three bedroom single dwelling (C3) to three bedroom small house in multiple occupation (C4).		
<u>Officer:</u>	Chris Swain Tel 292178	<u>Valid Date:</u>	20/05/2016
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	15 July 2016
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	Lewis and Co Planning SE Ltd, Lewis & Co Planning 2 Port Hall Road Brighton BN1 5PD		
<u>Applicant:</u>	Mr George Birtwell, C/o Lewis & Co Planning 2 Port Hall Road Brighton BN1 5PD		

Councillor Yates has requested this application is determined by Planning Committee.

1 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 and the policies and guidance in section 7 and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in section 11.

2 SITE LOCATION & DESCRIPTION

- 2.1 The site relates to a two storey semi-detached property on the south western side of Plymouth Avenue.

3 RELEVANT HISTORY

- 3.1 None relevant.

4 THE APPLICATION

- 4.1 Planning permission is sought for the change of use from three bedroom single dwelling (C3) to three bedroom small house in multiple occupation (C4). Planning permission is required because of the Article 4 Direction in this ward

5 PUBLICITY & CONSULTATIONS

External

- 5.1 **Neighbours: Twenty eight (28)** letters of representation have been received from **6, 10, 12, 20 (x2) 22, 34, 36, 40, 42, 45, 47, 49, 50, 52, 53, 54, 55, 61, 80 Plymouth Avenue, 10A, 12 Auckland Drive, 17 Durham Close, 15 Dartmouth Crescent, 17 Ashcroft, 27 Downsway, one unspecified address**

PLANNING COMMITTEE LIST – 14TH SEPTEMBER 2016

and the **Bevendean Local Action Team** objecting to the application for the following reasons:

- Already student properties at No.2 Auckland Drive, the former surgery on Auckland Drive and 26 Plymouth Avenue,
- Additional parking stress,
- Pavements are blocked by vehicles preventing the movement of wheelchairs,
- The area is being to appear run down with large numbers of absent landlords,
- Additional refuse concerns,
- The increase in student properties is pricing out families,
- The local school is receiving less pupils and may end up closing in the future,
- The heart of the community is being destroyed,
- Increased noise and disturbance,
- Local nursery is now shut for half of the week due to a lack of numbers,
- Additional parking would increase problems with HGV's and buses finding it difficult to pass and result in highway safety problems,
- The decline of this peaceful and beautiful area is linked to the increase in student properties,
- Reduced use of facilities such as parks, playgroups and youth centres and there are concerns that these will be cut,
- Lower Bevendean is already a deprived area, increasing the student population will not help the situation,
- There are a number of illegal student houses in the local area,
- Families are being driven out,
- Increased HMO's is resulting in a serious lack of affordable family housing,
- Application purely for financial gain by greedy landlords at the expense of the community,
- Community facilities, such as the doctors surgery are closing due to increased HMO's,
- B&HCC are prioritising student housing over family homes,
- The LPA should look at a wider area when determining the density of HMO properties within an area,
- Family homes are being lost to a transient community with no long term investment in the structure of the community,
- Insufficient infrastructure and amenities in Bevendean for the increased population,
- Students are better suited to new and proposed developments in the Lewes Road area,
- There are a high number of other HMO applications sited in the immediate vicinity which will increase

5.2 **Cllr Daniel Yates** objects to the proposal. Representation attached.

Internal:

5.3 **Sustainable Transport:** Comment

Trip Generation

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 in this instance.

5.4 Car Parking

No parking is proposed; however, it is not considered that likely levels of additional on-street parking demand resulting from the proposals could be deemed to amount to a severe impact on the highway in this location and as such refusal would not be warranted on highways and transportation grounds under the National Planning Policy Framework (NPPF).

5.5 Cycle Parking

A secure and accessible cycle store for two bicycles will be provided at the rear of the site which is considered acceptable for this size and type of development. It is recommended that the necessary condition be attached to secure implementation.

6 MATERIAL CONSIDERATIONS

6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that “If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

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 and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only – site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.

6.3 The National Planning Policy Framework (NPPF) is a material consideration.

6.4 Due weight should be given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

6.5 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7 RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

- SS1 Presumption in Favour of Sustainable Development
- CP8 Sustainable buildings

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- CP9 Sustainable transport
- CP19 Housing mix
- CP21 Student housing and Housing in Multiple Occupation

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

- TR4 Travel plans
- TR7 Safe Development
- TR14 Cycle access and parking
- SU10 Noise Nuisance
- QD27 Protection of amenity

Supplementary Planning Guidance:

- SPGBH4 Parking Standards

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 The proposed development is a change of use from a C3 dwelling to a use which would allow occupation of the property as a C4 HMO providing accommodation for up to 6 unrelated individuals who share basic amenities including a kitchen and bathrooms.
- 8.3 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:

'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:

- *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.'*

- 8.4 A mapping exercise has taken place which indicates that there are 25 neighbouring properties within a 50m radius of the application property. One other property has 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 4%.
- 8.5 A number of local residents have made representations stating that No.26 Plymouth Avenue is an HMO use. The council is investigating the lawful use of this property. Notwithstanding the above, if 26 Plymouth Avenue were in such a

PLANNING COMMITTEE LIST – 14TH SEPTEMBER 2016

use whilst the percentage of HMO's would increase to 8% it would still be below the 10% threshold and therefore would still comply with policy CP21.

- 8.6 Based upon the existing percentage of neighbouring properties in HMO use, which is less than 10%, the proposal to change to a C4 HMO would be in accordance with policy CP21.

Standard of accommodation:

- 8.7 The layout is unchanged from existing and provides a kitchen, living room, utility room and WC at ground floor level and three bedrooms and a bathroom at first floor level. The two rear bedrooms are considered to be of a reasonable size with good levels of natural light and outlook. Whilst the front bedroom is much smaller in size the communal areas are generous in size with good circulation space and overall the layout is considered to provide an acceptable standard of accommodation. There are concerns that the ground floor rooms could be converted to bedrooms thereby severely restricting the communal space within the dwelling to the detriment of occupiers. To overcome this, a condition is attached requiring the living room, kitchen and utility room to be retained as communal space to ensure a satisfactory standard of accommodation is maintained.

Impact on Amenity:

- 8.8 Whilst the development could result in additional persons residing within the property it is not considered that any increased impact to adjoining occupiers in regards to noise and disturbance would be of a magnitude which would warrant the refusal of planning permission.

Transport:

- 8.9 The proposed change of use would not result in a significant increase in on-street parking pressure or uplift in trip generation. Whilst the applicant has not proposed secure, covered cycle parking there appears to be sufficient space on site and as such suitable provision is sought via condition.

9 CONCLUSION

- 9.1 The change of use is considered to be acceptable in principle in this location and accords with the Council's emerging policy on HMO's. The development does not result in significant harm to neighbouring amenity and would not create a harmful demand for travel.

10 EQUALITIES

- 10.1 None identified.

11 PLANNING OBLIGATION / CONDITIONS / INFORMATIVES

Regulatory Conditions:

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

PLANNING COMMITTEE LIST – 14TH SEPTEMBER 2016

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

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

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

Plan Type	Reference	Version	Date Received
Site location plan, block plan and existing and proposed plans	1502/01	-	20 May 2016
Existing and proposed plans	1502/CU01	-	20 May 2016

- 2) The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development at all times.

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

- 3) The ground floor layout comprising of the living room, kitchen and utility room as detailed on drawing no.1502/CU01 received on 20 May 2016 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.

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 to grant Planning Permission has been taken:
 - (i) having regard to the policies and proposals in the National Planning Policy Framework and the Development Plan, including Supplementary Planning Guidance and Supplementary Planning Documents: (Please see section 7 of the report for the full list); and
 - (ii) for the following reasons:-
The change of use is considered to be acceptable in principle in this location and accords with the Council's emerging policy on HMO's. The development does not result in significant harm to neighbouring amenity and would not create a harmful demand for travel.

Jack Summers

From: Jeanette Walsh
Sent: 21 June 2016 11:17
To: Planning Applications
Subject: FW: 51 Plymouth Avenue Bevendean, Planning app BH2016/01847

Follow Up Flag: Follow up
Flag Status: Flagged

From: Daniel Yates
Sent: 20 June 2016 11:04 PM
To: Jeanette Walsh
Cc: Anne Meadows; Mo Marsh
Subject: 51 Plymouth Avenue Bevendean, Planning app BH2016/01847

Jeanette,

May I please make my comments regarding the above planning application as below.

I note that several letters of objection have already been received from local residents and I would like to support many of their comments

Should the recommendation on this application be to approve I would like this application to come to committee please.

I would echo the residents issues regarding the impact of additional vehicles and adult residents on the noise and disturbance that this development will create. Residents they also bring information about unlicensed/unauthorised HMOs in the area. These could well bring the numbers above the 10% rule. Also I would like confirmation within the officers report regarding the impact that this development would have in relation to:

- Impact on street scene especially noise and disturbance to other residents from additional vehicle movements, visitors to the property
- The appropriateness of this development for the area.
- Whether this development complies with the council's planning approach as outlined in City Plan Part one.

Best wishes

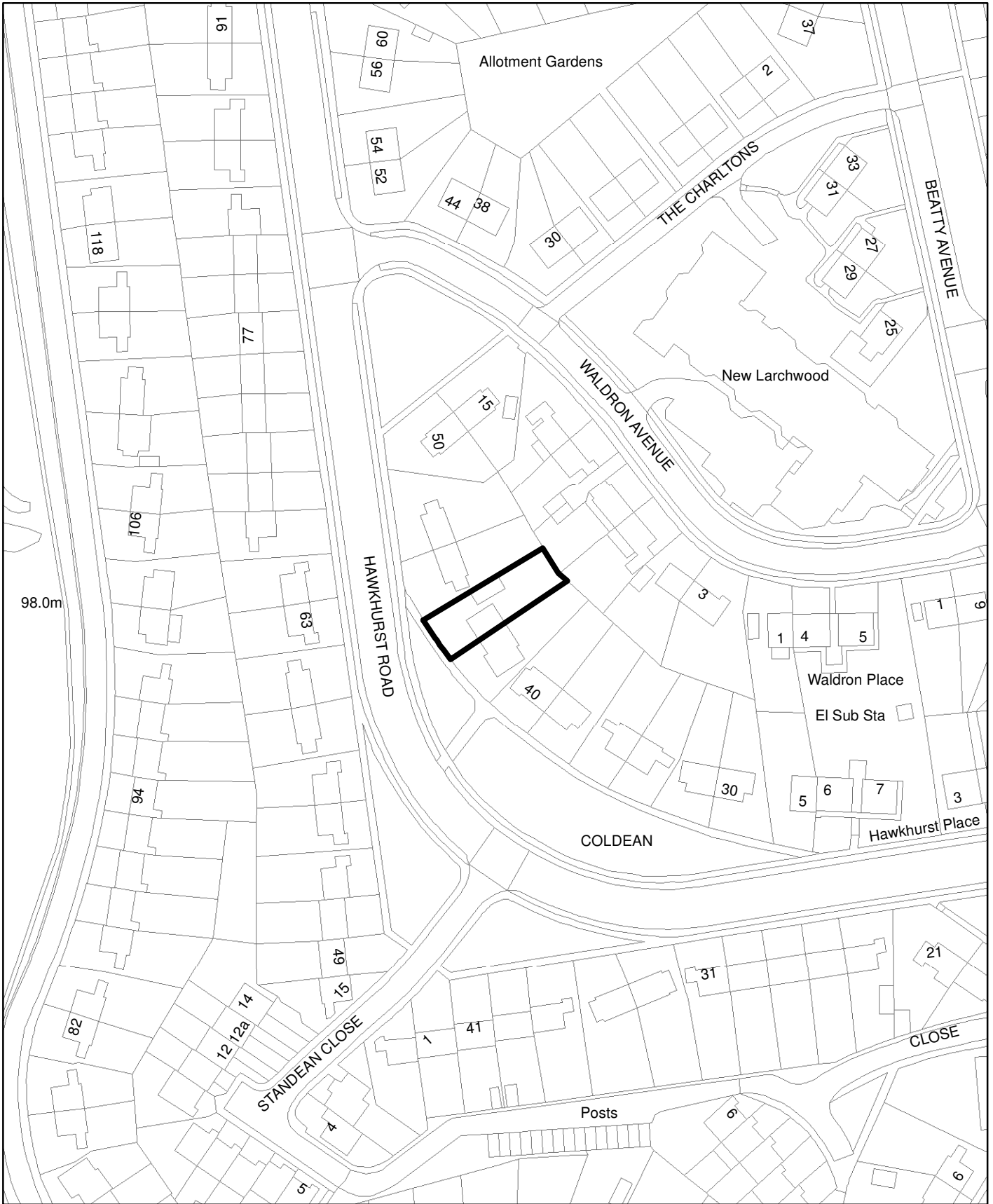
Daniel Yates
Labour Councillor for Moulsecoomb and Bevendean
Chair, Brighton & Hove Health and Wellbeing Board
daniel.yates@brighton-hove.gov.uk
@danieljyates

ITEM F

42 Hawkhurst Road, Brighton

**BH2016/02069
Full Planning**

14th SEPTEMBER 2016



**Brighton & Hove
City Council**



N

Scale: 1:1,250

<u>No:</u>	BH2016/02069	<u>Ward:</u>	HOLLINGDEAN & STANMER
<u>App Type:</u>	Full Planning		
<u>Address:</u>	42 Hawkhurst Road Brighton		
<u>Proposal:</u>	Change of use from three bedroom house (C3) to six bedroom small house in multiple occupation (C4) with hip to gable roof extension with front rooflights and rear dormer.		
<u>Officer:</u>	Luke Austin Tel 294495	<u>Valid Date:</u>	03/06/2016
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	29 July 2016
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	AC Plans, 23 Sullington Way Shoreham-by-Sea West Sussex BN43 6PJ		
<u>Applicant:</u>	Mr John Wright, 36 Green Ridge Brighton BN1 5LL		

Councillor Hill has requested that this application is determined by Planning Committee.

1 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 and the policies and guidance in section 7 and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in section 11.

2 SITE LOCATION & DESCRIPTION

- 2.1 The application site relates to a two storey semi-detached property to the eastern side of Hawkhurst Road. The property includes an existing single storey extension to the side / rear and a timber deck to the rear. The property is located within a predominantly residential area characterised by a mixture of two storey demi-detached and terraced properties.

3 RELEVANT HISTORY

BH2016/02068 - Certificate of Lawfulness for proposed loft conversion incorporating hip to gable roof extension, rear dormer and front rooflights. Approved 27/07/2016.

BH2004/03202/FP - Erection at first floor side extension. Appeal allowed 12/09/2005.

4 THE APPLICATION

- 4.1 Planning permission is sought for the change of use from three bedroom house (C3) to six bedroom small house in multiple occupation (C4) with hip to gable roof extension with front rooflights and rear dormer. The existing ground floor extension and proposed loft extension would be utilised in order to provide the

additional accommodation. Planning permission is required for the change of use because of the Article 4 Direction in this ward.

- 4.2 Amendments have been made during the course of the application involving the removal of a bathroom within the loft space in order to increase the size of the two bedrooms on this level.
- 4.3 A Certificate of Lawfulness application has recently been approved at the application site for extensions to the roof which are an exact match externally as the roof extensions proposed within this application.

5 PUBLICITY & CONSULTATIONS

External

5.1 Neighbours:

Three (3) letters of representation have been received from **7 Waldron Avenue, 59 Hawkhurst Road** and **64 Ewhurst Road** objecting to the application for the following reasons:

- This is a residential street with already a plethora of HMOs
- The adjoining house has already applied for HMO use
- We are already overlooked by this property
- It is unfair to crowd our area with HMOs
- Inappropriate development of the loft space into two further bedrooms
- Would unbalance the building
- The loft space is clearly not habitable as the liveable space is smaller than 10m² as listed

- 5.2 **Councillor Hill:** Objects to the proposed works. A copy of this letter is attached to this report.

Internal:

- 5.3 **Sustainable Transport:** Support the proposal subject to the inclusion of a condition securing cycle parking details.

6 MATERIAL CONSIDERATIONS

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that “If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

- 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 and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only – site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.

- 6.3 The National Planning Policy Framework (NPPF) is a material consideration.
- 6.4 Due weight should be given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.
- 6.5 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7 RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

- SS1 Presumption in Favour of Sustainable Development
- CP8 Sustainable buildings
- CP9 Sustainable transport
- CP19 Housing mix
- CP21 Student housing and Housing in Multiple Occupation

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

- TR7 Safe Development
- TR14 Cycle access and parking
- SU10 Noise Nuisance
- QD27 Protection of amenity
- HO5 Provision of private amenity space in residential development

Supplementary Planning Guidance:

- SPGBH4 Parking Standards

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to the principle of the change of use, the impact upon neighbouring amenity, the standard of accommodation which the use would provide, transport issues and the impact upon the character and appearance of the property and the surrounding area.
- 8.2 **Principle of development:**
The proposal would allow occupation of the property as a small HMO providing accommodation for 6 unrelated individuals who share basic amenities including a kitchen, living/dining room and bathroom.
- 8.3 Policy CP21 of the Brighton and Hove Draft 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:

‘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:

- *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.'*

- 8.4 A mapping exercise has taken place which indicates that there are 23 neighbouring properties within a 50m radius of the application property. One other property has 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 4.3%.
- 8.5 Based upon the existing percentage of neighbouring properties in HMO use, which is less than 10%, the proposal to change to a C4 HMO would be in accordance with policy CP21.
- 8.6 It is noted that there is also an application currently under consideration at the adjoining property, 44 Hawkhurst Road (BH2016/02089). If this application were to be approved it would bring the proportion of HMO's up to 8.33%. As this is still under the 10% this would not affect the recommendation of this application.
- 8.7 It has also been acknowledged that objections have referred to several other HMO properties in the immediate area, specifically 21, 29, 31, 41, 61, 69 and 73 Hawkhurst Road. Whilst these properties have been identified as HMO's, they do not fall within a 50m radius drawn from the centre point of the application site's front curtilage boundary and therefore do not impact on the assessment of this application.
- 8.8 **Design and Appearance:**
The proposal seeks consent for loft extensions including a hip to gable roof and a rear dormer window. The proposed alterations would be directly contrary to SPD12 which requires roof alterations to semi-detached properties to avoid unbalancing the pair and dormer windows to be kept as small as possible and clearly be a subordinate addition to the roof, set well off the sides, ridge and eaves of the roof.
- 8.9 The applicant, however, has an established fallback position for the works formed by a recently approved lawful development certificate (BH2016/02068)
- 8.10 It is considered to be highly likely that the fallback position would be enacted if planning permission was refused; this position would be identical to the physical works being proposed by this planning application. The fallback position is therefore given significant weight in this case. It is therefore considered that refusal of the application would not be warranted and that the fallback position justifies the granting of planning permission in terms of design.

Standard of Accommodation:

- 8.11 The submitted plans illustrate 6 bedrooms, a kitchen/dining room and two bathrooms. 5 of the bedrooms are of adequate size ranging from approximately 8.5m² to 11.3m². The proposed floor plans also include an indicative layout illustrating that the rooms would be able to accommodate a double bed, desk space and storage space.
- 8.12 The property would include adequate communal space comprised of a kitchen and an open plan living/dining room with glazed doors opening out into the garden.
- 8.13 The sixth bedroom located to the front portion of the loft would include a floor area of 10.3m² however due to the slope of the roof; approximately 7.5m² of the room would include over 1.5m of headroom.
- 8.14 Although the council do not have any adopted policies outlining minimum space standards, for comparative purposes the Government's recent Technical Housing Standards – National Described Space Standards March 2015 document advises that in order to provide one bedspace, a single bedroom should have a floor area of at least 7.5m² and should be at least 2.15m wide. In order to provide two bed spaces, a double (or twin bedroom should have a floor area of at least 11.5m² and should be at least 2.75m wide. The proposed sixth bedroom would therefore meet the space requirements of one bedspace.
- 8.15 Whilst the room would be restricted the room would benefit from two rooflights with splayed sections within the roof allowing for more light and less constriction at head height. On balance therefore due to the usable space within the bedroom in conjunction with the sufficient communal areas at ground floor level the proposed unit would provide an acceptable standard of accommodation
- 8.16 **Impact on Amenity:**
Whilst the proposal would result in 6 unrelated persons residing within the property, it is not considered that any increased impact to adjoining occupiers in regards to noise and disturbance would be of a magnitude which would warrant refusal of planning permission.
- 8.17 Furthermore whilst it is acknowledged that the proposed rear dormer window would allow for overlooking of properties to the rear (7 and 9 Waldron Road) the approximate 34m rear to rear gap between the properties is considered to allow for a level of overlooking that would be reasonably expected within a residential setting of this character. Additionally the applicant has an established fallback position which, if enacted, would result in the exact same outlook and level of overlooking. A refusal in terms of impact on neighbouring amenity would therefore be unreasonable in this instance.
- 8.18 **Sustainable Transport:**
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 in this instance.

- 8.19 It is proposed that 2 existing car parking spaces and associated crossover will be retained. Although the site is located outside of a Controlled Parking Zone (CPZ) and could therefore generate additional overspill parking, it is not considered significant enough to warrant refusal.
- 8.20 The proposal indicates within the application form and block plan that there will be 6 cycle parking spaces located within a store to the rear garden which would use a 'Mottez' type stand. The proposed details however appear to illustrate 5 spaces and the 'Mottez' type stand is not considered satisfactory as the wheel can be secured and not the frame. Cycles are also prone to falling over and the locked wheel becoming damaged as a result.
- 8.21 Details of an alternative option will therefore be secured by condition prior to first occupation of the development.

9 CONCLUSION

- 9.1 Whilst the design of the proposal would be contrary to SPD12 guidance, given the established fallback position, the proposal is considered acceptable with regards character and appearance.
- 9.2 The change of use is considered to be acceptable in principle in this location and accords with the Council's policy on HMO's. The development does not result in significant harm to neighbouring amenity and would not create a harmful demand for travel.

10 EQUALITIES

- 10.1 None identified.

11 PLANNING OBLIGATION / CONDITIONS / INFORMATIVES

11.1 Regulatory Conditions:

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

Plan Type	Reference	Version	Date Received
Location Plan	AP/107/42	-	03/06/16
Block Plan	AP/106/42	-	03/06/16
Existing Plan & Elevations	AP/101/42	-	03/06/16
Proposed Plans & Elevations	AP/103/42	A	27/07/16
Proposed Cycle Shelter	E1	-	03/06/16

- 3) The development hereby approved shall be implemented in accordance with the proposed layout detailed on drawing no. AP/103/42 received on

27 July 2016 and shall be retained as such thereafter. The ground floor rooms annotated as dining room, living room and kitchen as set out on drawing no. AP/103/42 shall be retained as communal space and none of these rooms shall be used as bedrooms at any time.

Reason: to ensure a suitable standard of accommodation for occupiers to comply with policy QD27 of the Brighton & Hove Local Plan.

11.2 Pre-Occupation Conditions:

- 4) Notwithstanding the approved plans 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.

11.3 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 to grant Planning Permission has been taken:
 - (i) having regard to the policies and proposals in the National Planning Policy Framework and the Development Plan, including Supplementary Planning Guidance and Supplementary Planning Documents:
(Please see section 7 of the report for the full list); and
 - (ii) for the following reasons:-

Whilst the design of the proposal would be contrary to SPD12 guidance, given the established fallback position, the proposal is considered acceptable with regards character and appearance.

The change of use is considered to be acceptable in principle in this location and accords with the Council's policy on HMO's. The development does not result in significant harm to neighbouring amenity and would not create a harmful demand for travel.

COUNCILLOR REPRESENTATION

From: Tracey Hill
Sent: 06 July 2016 3:32 PM
To: Luke Austin
Cc: Caroline Penn
Subject: BH2016/02069 42 Hawkhurst Road

Dear Luke

I would like to write to object to this planning application, and ask that if the delegated decision is to grant that it be decided at Committee.

There is currently another application for conversion to an HMO at the property next door, number 44 (BH2016/02089). A previous planning application at number 44 suggested that there were 2 other HMOs within a 50m radius of number 44, which was 8% of households. One more HMO within the 50m radius would therefore put the percentage above 10%. If number 44 is granted, it should therefore be the case that number 42 is refused due to density – and vice versa. It should not be the case that both applications are approved because only more property in the area would put the density of HMOs up to the level defined in CP21.

There may also be other HMOs in the immediate area. 61, 21, 29, 31, 41, 69, 73 are all in the HMO register. Just one more HMO within 50m would mean that both applications should be refused.

A development of such size would also dominate houses behind, which are set at a lower level.

Best wishes

Tracey

Tracey Hill
Labour and Co-operative Councillor for Hollingdean and Stanmer ward
Deputy Chair of Housing & New Homes Committee
Lead Councillor for Private Rented Sector Housing
Brighton and Hove City Council
01273 291437

ITEM G

**11 Boundary Road and land to rear of
Harbour Mews, Hove**

**BH2016/01224
Full Planning**

14th SEPTEMBER 2016

BH2016/01224 11 Boundary Road and land to rear of Harbour Mews, Hove



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2016/01224	<u>Ward:</u>	WISH
<u>App Type:</u>	Full Planning		
<u>Address:</u>	11 Boundary Road and Land to Rear in Harbour Mews Hove		
<u>Proposal:</u>	Conversion of existing ground floor rear office (B1) and demolition of existing warehouse (B8) at rear to create 1no two bedroom flat (C3) incorporating single storey side/rear extension and erection of 1no three bedroom house with associated landscaping and car parking.		
<u>Officer:</u>	Chris Swain Tel 292178	<u>Valid Date:</u>	08/04/2016
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	03 June 2016
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	Lewis and Co Planning SE Ltd, 2 Port Hall Road Brighton BN1 5PD		
<u>Applicant:</u>	Mr Colin Brace, The Paddock Hassocks West Sussex BN6 9NA		

1 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 and the policies and guidance in section 7 and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in section 11.

2 SITE LOCATION & DESCRIPTION

- 2.1 The application relates to a single storey, dual-pitched roof, warehouse to the rear of no. 11 Boundary Road within Harbour Mews. The application also involves an existing single storey rear, flat roof, extension to no. 11 Boundary Road, which provides ancillary office space for the warehouse use. The warehouse and premises are currently vacant.

3 RELEVANT HISTORY

BH29015/03181 - Conversion of existing ground floor rear office (B1) and demolition of existing warehouse (B8) at rear to create 1no two bedroom flat (C3) incorporating single storey side/rear extension and erection of 1no three bedroom house with associated landscaping and car parking. Refused on 18 January 2016 for the following reasons;

- The proposed two storey dwelling, by virtue of its height, scale, positioning and proximity to the shared boundary with nos. 7, 9 and 11 Seaford Road, would have an overbearing impact on occupiers of these neighbouring properties, resulting in significant overshadowing of rear gardens and an*

oppressive increased sense of enclosure. As such, the proposed development would be contrary to policy QD27 of the Brighton & Hove Local Plan.

2. *The proposed two storey dwelling, by virtue of its height, scale, positioning and proximity to no. 3 Harbour Mews, would have an overbearing impact on occupiers of this neighbouring property, resulting in an oppressive increased sense of enclosure to the ground floor living space. As such, the proposed development would be contrary to policy QD27 of the Brighton & Hove Local Plan.*
3. *The proposed single storey dwelling would offer an unacceptable standard of living accommodation for future occupiers due to its unduly restricted and enclosed outlook and limited access to natural light. As such, the proposed development would be contrary to policy QD27 of the Brighton & Hove Local Plan.*

BH2015/02478 - Prior approval for change of use from offices (B1) to residential (C3) to form 1no one bedroom flat. Refused on 3 September 2015.

BH2015/01234 - Prior approval for change of use from retail (A1) to residential (C3) to create 1no studio flat. Approved 5 June 2015.

BH2009/01365 (nos. 1 – 3 Harbour Mews) Demolition of existing garages and construction of three new 1 1/2 storey houses. Refused 24 August 2009 - appeal allowed.

4 THE APPLICATION

- 4.1 Planning permission is sought for the conversion of existing ground floor rear office (B1) and demolition of existing warehouse (B8) at rear to create 1no two bedroom flat (C3) incorporating single storey side/rear extension and erection of 1no three bedroom house with associated landscaping and car parking.

5 PUBLICITY & CONSULTATIONS

External

- 5.1 **Neighbours: Eleven (11)** letters of representation have been received from **2, 3 Harbour Mews, 79 Hertford Road, 3, 9, 17 Seaford Road, 50 St Kenya Avenue, 31A Chichester Place, 30 Eastern Avenue, Shoreham by Sea, 26 Albion Street and 21 Park Lane** objecting the application for the following reasons:

- Overdevelopment,
- Noise and disturbance from building works,
- Overshadowing,
- Loss of privacy,
- Out of character with the surrounding Georgian properties,
- Impacts on the structural integrity of shared boundary walls of adjoining properties,
- Will encroach on access to parking spaces allocated to Nos. 2 and 3 Harbour Mews,

- The town is already overly crowded with the development of every small space to the detriment of existing owner occupiers,
- Loss of light, sunshine and enjoyment of adjoining gardens,
- Will impact negatively on property values,
- Detrimental to health, happiness and emotional wellbeing,
- Creating stress and expense for neighbouring occupiers,
- Lack of parking spaces for new development will impact on neighbouring occupiers,
- The access is too limited for two additional dwellings,
- The developer has not undertaken consultation with occupiers of Harbour Mews,
- Limited access for emergency services,
- Increased refuse, recycling issues
- The proposed dwellings would be on a private road with no 'right of way',
- The proposal appears little changed from a previously refused scheme,
- Increased noise and disturbance to neighbouring occupiers, impacting on the existing tranquil nature of the site,
- Increased traffic,
- Loss of building deprives small businesses of warehouse / office space resulting in a shortage of this kind of commercial property,
- Loss of local employment opportunities,
- Considerably taller than the existing building,

5.2 **One** letter of representation has been received from **16 St Leonards Road**, supporting the application for the following reasons:

- Local residents views have been taken in consideration,
- Design is well thought out and would transform site.

5.3 **Councillor Nemeth** supports the application. Email attached.

Internal:

5.4 **City Regeneration:**

It is acknowledged that the location poses difficulties with regards to the range of businesses that could now operate in this location due to the proximity of residential units and narrow access. Whilst evidence of marketing since February 2015 is provided, no details of the length of time the property has been vacant or the rental rates quoted to prove redundancy of the units' current use has been provided. The proposed provision of 2 residential units is welcomed to contribute towards the city's challenging housing needs.

5.5 **Environmental Health:**

Records show that the site is adjacent to potentially contaminated land. There is also concern that asbestos may be present in the structure given its age. Further details and investigation of these points is required by condition.

5.6 **Highway Authority:**

There are concerns that access to the rear flat is reliant on the adjacent hardstand/ car park for unobstructed access for pedestrians and cyclists. Cars turning to leave the site in a forward gear would also be reliant on this area.

The access road is acceptable for this size of development. The level of parking (1 space) is within the maximum parking standards of SPG04. The space should be marked out. Any overspill parking is unlikely to impact the highway. The provision of 3 cycle parking spaces is acceptable. The change in use is unlikely to result in an increase in trips and on this basis no financial contribution is requested on this occasion.

6 MATERIAL CONSIDERATIONS

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that “If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”
- 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 and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only – site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.
- 6.3 The National Planning Policy Framework (NPPF) is a material consideration.
- 6.4 Due weight should be given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.
- 6.5 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7 RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP2	Sustainable economic development
CP3	Employment land
CP7	Infrastructure and developer contributions
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP11	Flood risk
CP12	Urban design
CP14	Housing density

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
QD27	Protection of amenity
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes

Supplementary Planning Guidance:

SPGBH4 Parking Standards

Supplementary Planning Documents:

SPD03 Construction & Demolition Waste

SPD11 Nature Conservation & Development

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations material to this application are the principle of development on the site, the impacts of the proposed dwelling on the character and appearance of the street, the impacts on the amenities of adjacent occupiers, the standard of accommodation to be provided, and sustainability and traffic issues.
- 8.2 The City Plan Part 1 Inspector's Report was received February 2016. This supports a housing provision target of 13,200 new homes for the city to 2030. It is against this housing requirement that the five year housing land supply position is assessed following the adoption of the Plan on the 24th March 2016. The City Plan Inspector indicates support for the Council's approach to assessing the 5 year housing land supply and has found the Plan sound in this respect. The five year housing land supply position will be updated on an annual basis.
- 8.3 **Principle of Development**
The site is located within the Built-up Area as designated in the Brighton and Hove Local Plan and currently consists of a detached warehouse and a single storey extension to the rear of no. 11 Boundary Road.
- 8.4 Policy CP3 states that the loss of unallocated sites or premises in, or whose last use was, employment use (Use Classes B1-B8) will only be permitted where the site or premises can be demonstrated to be redundant and incapable of meeting the needs of alternative employment uses (Use Classes B1-B8). Where loss is permitted the priority for re-use will be for alternative employment generating uses or housing.
- 8.5 The loss of the employment was recently accepted (January 2016) in application BH2015/03181. Whilst the submitted marketing statement was relatively limited it was considered that this, in conjunction with the poor vehicular access and the

siting within a constrained residential location did not lend itself to a commercial usage.

- 8.6 Whilst the applicant has not submitted any additional information justifying the loss of the office, considering the short time frame between applications that the loss of the commercial space has been established and as such the proposal is considered acceptable in this regard.

8.7 Character and appearance

Whilst a previous application for a similar scheme was refused on the grounds that it would harm residential amenity for the adjoining properties and would fail to provide appropriate living conditions for future occupiers of the flat the design was considered to be acceptable.

- 8.8 The main difference in the current design in comparison to the previous proposal is the change from an asymmetrical pitched roof to a more traditional dual pitched roof design with a lower eaves height. The general detailing and approach to materials would be comparable.

- 8.9 The proposed two storey dwelling would relate acceptably to the surrounding residential properties in terms of its height and scale. The pitch of the roof structure would be similar to the traditional dual-pitched roofs of properties on St Leonards Road and Seaford Road. The eaves heights would be set below the adjoining properties to both the north and south and would relate acceptably with these properties. The proposed materials would comprise a slate roof, aluminium fenestration and masonry elevations with areas of timber cladding. Subject to samples of materials and to details regarding the treatment of the timber and how it would weather, the proposed materials are considered compatible with the locality.

- 8.10 The northern side elevation would not feature any window openings and the southern side elevations would feature only a single window which would be largely obscured by timber louvres. Whilst this arrangement is not ideal, it is considered that sufficient visual interest would be provided by the timber cladding to avoid an overly stark appearance to the development. The proposed front entrance, which would be partially visible from the access road from St Leonards Road would offer visual interest without detracting from the prevailing character and appearance of the area.

- 8.11 The proposed two storey dwelling would benefit from a rear garden area in the form of a walled courtyard. This area of amenity space would provide an appropriate degree of separation between the new dwelling and properties on Boundary Road to the west. In this regard the proposed dwelling is considered to represent an improved relationship with properties on Boundary Road than the existing warehouse which is in closer proximity.

- 8.12 The enlargement of the single storey extension to form a two bedroom flat would have a limited visual impact. The enlarged part would be situated within the footprint of the existing warehouse, whose footprint would be reduced as part of the proposed development. The extension would comprise painted render walls

and aluminium framed fenestration. These materials would be compatible with the host property.

8.13 Standard of Accommodation

The proposed two storey building would accommodate a three-bedroom house with private amenity space in the form of a rear courtyard. The internal room sizes are considered acceptable and would provide an adequate standard of accommodation with adequate provision of natural light and ventilation. The outlook from the habitable rooms is considered acceptable. The level of private amenity space is considered acceptable in relation to the scale of the development.

8.14 In the previously refused application the proposed two bedroom flat was considered to have overly restricted levels of outlook and natural light which would have an oppressive impact on future occupiers.

8.15 In the current scheme the rear boundary wall has been reduced in height from 2m to 1.8m and the depth of the rear courtyard garden has been increased from 2m to 3m improving the levels of light and outlook to the rear, reducing the sense of enclosure and providing a more usable private amenity space.

8.16 To the south of this unit the amenity space has been increased by blocking up the existing alley way to the south and repositioning the gate to the east. An additional window has been added to the southern flank wall to the main living area increasing the light and outlook to this room and this in conjunction with the larger private amenity area would result in a satisfactory standard of accommodation for future occupiers.

8.17 Policy HO13 requires all new residential dwellings to be built to Lifetime Homes standards whereby they can be adapted to meet people with disabilities without major structural alterations. 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 appears to be achievable; therefore, in the event permission is granted conditions can be attached to ensure the development complies with Requirement M4(2) of the optional requirements in Part M of the Building Regulations.

8.18 Impacts on neighbouring amenity

The previous application was refused on the grounds that it would result in a detrimental impact upon the amenity of the neighbouring occupiers to the north on Seaford Road and to the south on Harbour Mews.

8.19 The overall ridge height of the current proposal has been reduced by 1m in comparison to the previously refused scheme, with the eaves height on the northern and southern boundaries reduced by 0.9m and 0.2m respectively. It is considered that the reduction in height of the eaves / ridge on the northern boundary would ensure that there would not be a significantly harmful impact to the adjoining properties, nos. 7, 9 and 11 Seaford Road and their respective

gardens by way of overshadowing, loss of outlook or light or a significantly overbearing impact.

8.20 To the south of the proposed dwelling is a terrace of three two storey houses, nos. 1-3 Harbour Mews. The reduction in the height of the eaves to the southern elevation in conjunction with the reduction of the overall height of the scheme is considered sufficient to ensure that outlook would not be overly restricted and not result in a significantly harmful sense of enclosure. It is further noted that these three properties all have a southerly aspect with views into their respective amenity spaces.

8.21 It is not considered that the proposal would result in any significant increase in noise and disturbance to neighbouring occupiers.

8.22 Views from the proposed ground floor windows serving the main living spaces and kitchen would be onto existing and proposed boundary treatments which are a minimum of 1.8m in height. These boundaries would adequately screen views towards neighbouring properties. First floor windows would be set sufficiently away from windows at nearby residential property to avoid an overly intrusive impact.

8.23 It is not considered that the proposal would result in any significant increase in noise and disturbance to neighbouring occupiers.

8.24 Sustainability

City Plan Part One policy CP8 requires new residential development demonstrate efficiency in the use of water and energy, setting standards that mirror the national technical standard for water and energy consumption. Conditions are applied to ensure the development meets these standards as set out in policy CP8.

8.25 Transport

Local Plan policy TR1 requires all new development to provide for the travel demand it creates, whilst policy TR14 requires that new development must provide covered cycle parking facilities for residents.

8.26 The level of parking (1 space) is within the maximum parking standards of SPG04. Any overspill parking is unlikely to impact the highway beyond that of the existing use. The provision of 3 cycle parking spaces is appropriate to the scale of development. The change in use is unlikely to result in an increase in trips beyond the existing arrangement.

9 CONCLUSION

9.1 The principle of the development is considered to be acceptable. The development would make efficient and effective use of the site and would have no adverse impact on the character and visual amenity of the locality. The development would provide a new unit of housing with an adequate standard of accommodation and without detriment to neighbouring amenity or highway safety.

10 EQUALITIES

10.1 None identified.

11 PLANNING OBLIGATION / CONDITIONS / INFORMATIVES

Regulatory Conditions:

1) 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.

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

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

Plan Type	Reference	Version	Date Received
Site location and block plan	D.001	A	8 April 2016
Existing ground floor plan and rear elevation	D.04	A	8 April 2016
Proposed ground floor plan and east elevation	D.05	B	8 April 2016
Proposed first floor plan	D.06	B	8 April 2016
Existing and proposed east and west elevations	D.07	A	8 April 2016
Existing and proposed north elevation	D.08	A	8 April 2016
Existing and proposed south elevation	D.09	A	8 April 2016
Section AA and street scene elevations	D.10	A	8 April 2016
Plan of proposed courtyard to flat	D.15	-	8 April 2016

3) Prior to first occupation of the development hereby permitted a scheme for the storage of refuse and recycling shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in full as approved 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.

4) The first floor windows set within the north facing elevation and roofslope of the development hereby permitted shall be obscure glazed and non-opening, unless the parts of the windows 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.

PLANNING COMMITTEE LIST- 14 SEPTEMBER 2016

- 5) The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development at all times.
Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan.
- 6) The residential units hereby approved shall not be occupied until they have 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 City Plan Part One.
- 7) The residential units hereby approved shall not be occupied until they have achieved a water efficiency standard using 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 City Plan Part One.
- 8) 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 and render,
b) samples of all timber cladding to be used, including details of their treatment to protect against weathering,
c) details of the aluminium windows (including colour).
Development shall be carried out in accordance with the approved details.
Reason: To ensure a satisfactory appearance to the development and to comply with policies CP12 of the City Plan Part One and QD14 of the Brighton & Hove Local Plan.
- 9) The hard surfaces to the front of the dwellings and all external amenity areas 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 policy CP11 of the City Plan Part One.
- 10) The dwellings hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4 (2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such 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.

- 11) No extension, enlargement or other alteration of the dwellinghouse(s) as provided for within Schedule 2, Part 1, Classes A, B, C, D and 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 character of the area and for this reason would wish to control any future development to comply with policy QD14 of the Brighton & Hove Local Plan.

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

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

Reason: As this matter is fundamental to the acceptable delivery of the permission to safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan.

- 13) 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, assessing the risk and proposing remediation measures, together with a programme, shall be submitted to and approved in writing by the Local Planning Authority. 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.

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 to grant Planning Permission has been taken:
 - (i) having regard to the policies and proposals in the National Planning Policy Framework and the Development Plan, including Supplementary Planning Guidance and Supplementary Planning Documents:
(Please see section 7 of the report for the full list); and
 - (ii) for the following reasons:-

The principle of the development is considered to be acceptable. The development would make efficient and effective use of the site and would have no adverse impact on the character and visual amenity of the locality. The development would provide a new unit of housing with an adequate standard of accommodation and without detriment to neighbouring amenity or highway safety.

3. 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 (i) (b) and (i) (c) of the condition. 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) and the Environment Agency website (www.environment-agency.gov.uk).

PLANNING COMMITTEE LIST- 14 SEPTEMBER 2016

Steve Harrington

From: Robert Nemeth
Sent: 27 April 2016 01:40
To: Planning Applications
Subject: BH2016/01224 - 11 Boundary Road and Land to Rear in Harbour Mews Hove

Hi

I wish to strongly support the above application which has just been confirmed as registered on the system. I trust that it will go to Committee in the event of a recommendation for refusal.

I am satisfied that nearby residents have been consulted properly, and that the plans have been developed with residents' comments in mind.

Thank you

Cllr Robert Nemeth - Wish Ward
Brighton & Hove City Council
@robert_nemeth

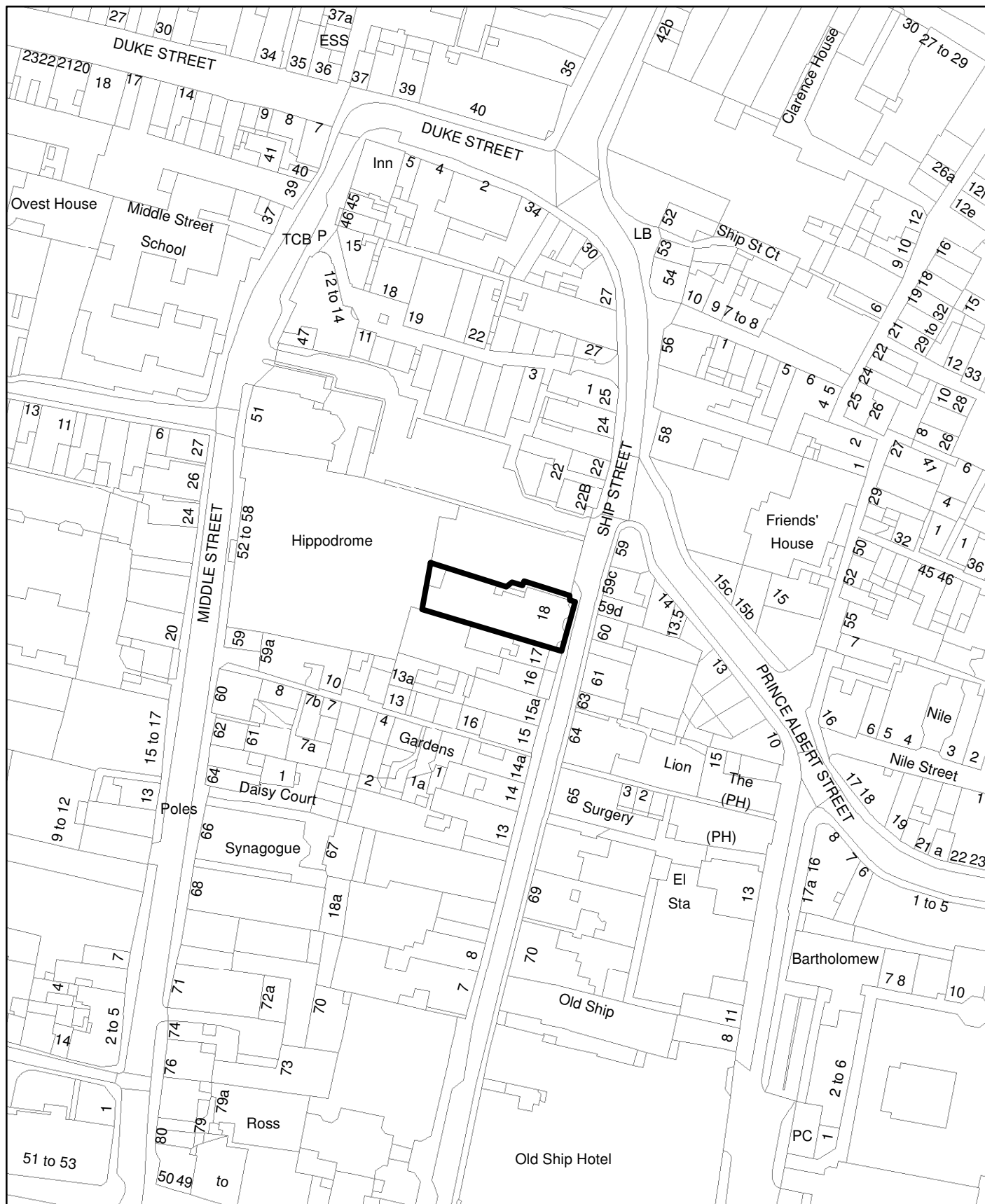
ITEM H

18-19 Ship Street, Brighton

**BH2016/01756
Full Planning**

14th SEPTEMBER 2016

BH2016/01756 18-19 Ship Street, Brighton



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2016/01756	<u>Ward:</u>	REGENCY
<u>App Type:</u>	Full Planning		
<u>Address:</u>	18 - 19 Ship Street Brighton		
<u>Proposal:</u>	Erection of upper first floor rear extension to create one bedroom flat.		
<u>Officer:</u>	Chris Swain Tel 292178	<u>Valid Date:</u>	16/05/2016
<u>Con Area:</u>	Old Town	<u>Expiry Date:</u>	11 July 2016
<u>Listed Building Grade:</u>	Adjoining grade II and Grade II*		
<u>Agent:</u>	Yelo Architects Ltd, Olivier House 18 Marine Parade Brighton BN2 1TL		
<u>Applicant:</u>	Mr Mark Woolley, 1 Olivier House 18 Marine Parade Brighton BN21TL		

Councillor Phillips has requested this application is determined by Planning Committee.

1 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 and the policies and guidance in section 7 and resolves to **REFUSE** planning permission for the reasons set out in section 11.

2 SITE LOCATION & DESCRIPTION

- 2.1 The site relates to a double fronted 1970's building built over four floors (including basement) to the western side of Ship Street. The building comprises of hairdressers to ground floor with associated studio space at lower ground floor level. The first floor is in residential use with the second floor in office use. The rear section of the building, set out over two floors is solely in residential use, other than the roof terrace above the flat roof which is associated with the existing second floor office space.
- 2.2 The Old Town Conservation Area is characterised as an area of very tight knit urban grain in a largely informal street pattern with buildings of generally small scale but with some larger and later 19th century or early 20th century buildings in the main streets. It is also a very mixed use area with mainly commercial uses at street level and mixed uses above. Many of the buildings in the close vicinity are Grade II Listed, including numbers 15 and 16 immediately adjacent, numbers 14, 14A and 15 to the south, number 22 to the north and numbers 58, 59, 62, 63 and 64 on the opposite side of the road. To the west of the site is the Grade II* Listed Hippodrome on a much larger scale with later extension visible from Ship Street.

- 2.3 The site is located within an area which has an Article 4 Direction which prohibits the change of use from office to residential without planning permission.

3 RELEVANT HISTORY

BH2016/01757 - Creation of additional floor to create 1no three bedroom flat with associated alterations. Currently under consideration.

BH2015/03782 - Creation of additional floor to create 1no three bedroom flat with associated alterations. Withdrawn by the applicant 3 May 2016.

BH2015/03784 - Erection of upper first floor rear extension to create one bedroom flat. Withdrawn by the applicant 3 May 2016.

BH2015/00357 - Conversion of second floor office (B1) to residential (C3), erection of additional residential storey, roof extension, rear roof terrace and associated alterations to form 1no dwelling. Refused 14 August 2015 for the following reasons;

1. *The proposal by virtue of its scale, bulk, height, materials and design would result in an incongruous development that would appear overly dominant and out of character within the context of the immediate Ship Street streetscene. The enlarged building would result in significant detrimental impact to both the Old Town Conservation Area and the setting of the adjoining listed buildings, contrary to policies QD1, QD14, HE3 and HE6 of the Brighton and Hove Local Plan.*
2. *The proposed extension above the existing two storey element to the rear, by virtue of its height, bulk and siting in close proximity and at a higher ground level to the adjoining properties to the south on Ship Street and Ship Street Gardens and Flat 1, 19 Ship Street to the west, would result in a significantly overbearing and oppressive impact and a detrimental sense of enclosure to these properties and their respective gardens. The proposal is therefore contrary to policies QD14 and QD27 of the Brighton and Hove Local Plan.*
3. *The raised terrace area, due to its elevated position, substantial size and inadequate screening would result in significant overlooking and loss of privacy towards the neighbouring properties to the south and west and their respective gardens to the detriment of the residential amenity of the occupiers of these properties. The residential nature of the terrace is considered to lend itself to a more intensive use resulting in the potential for harmful noise and disturbance and a further loss of amenity to neighbouring properties. As such, the proposal is contrary to policies QD14 and QD27 of the Brighton and Hove Local Plan.*
4. *The applicant has failed to adequately demonstrate that the existing Class B1 premises are no longer viable and are genuinely redundant, contrary to policies EM3 and EM5 of the Brighton & Hove Local Plan and CP3 of the Brighton & Hove City Plan Part One.*

BH2003/02834 - Formation of second floor roof terrace at rear enclosed by 1.8 metre high bamboo fencing (Retrospective). Approved 15 October 2003.

BH2000/03103/FP - Alterations to permission reference BH2000/01854/FP to change use of lower ground floor to retail, ground floor to retail and 1 no. 3 bed flat, and first floor to 2 no. 2 bed flats and 1 no. 1 bed flat (second floor to remain as a proposed 1 no. 3 bed flat). Approved 30 January 2001.

BH2000/01854/FP - Change of use from offices (use class B1) to three residential units (use class C3) and retail unit (use class A1), including erection of staircase enclosure to rear/side. Approved 20 September 2000.

4 THE APPLICATION

- 4.1 Planning permission is sought for the erection of upper first floor rear extension to create a one bedroom flat.

5 PUBLICITY & CONSULTATIONS

External

5.1 Neighbours:

Neighbours: Five (5) Representations have been received from **16, 17 Ship Street, 13A, (Flat 2 and Flat 6), The Chambers 16 Ship Street Gardens**, objecting to the proposal on the following grounds,

- Overlooking, loss of privacy,
- Overshadowing, loss of light to adjoining properties,
- Excessive scale and bulk,
- Design and materials out of character with the street and the conservation area,
- Overbearing and enclosing impact to adjoining properties,
- No party wall agreement offered,
- Drawings should not show the approved Hippodrome development (BH2013/04348) on the proposed drawings as this is now defunct,
- Without the Hippodrome development the proposal would be excessive in scale,
- Address is incorrect (should be 18-19 Ship Street),
- Residents in Ship Street Gardens were not consulted,
- Harmful impact on the adjacent listed buildings,
- The proposal is the same as a previously refused scheme,
- Proposal is out of proportion with the existing built form within the area,
- Loss of the open character of the area,
- Concerns that the penthouse would be used as a party house,
- It is misleading to present the two concurrent applications on the site (BH2016/01756 and BH2016/01757) as separate schemes as they are likely to be built out together and the cumulative impact of both proposals would need to be assessed.

- 5.2 **Councillor Phillips** supports the application. Email attached.

- 5.3 **Historic England:** The application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

Internal:

- 5.4 **Sustainable Transport:** No objection

The applicant appears not to be proposing cycle parking spaces. For this size and type of development a minimum of 1-2 cycle parking spaces is required. There appears to be space on site therefore the Highway Authority does request that further details of the spaces are submitted and a condition is recommended to be attached requiring its provision.

- 5.5 The Highway Authority deems that the proposed development has good access and is near local services and public transport and is within a controlled parking zone; therefore a condition should be attached to prohibit residents from being eligible for parking permits and encourage the development and surrounding area to be genuinely car-free.

- 5.6 The creation of one additional residential unit is unlikely to generate any significant increase in trips to the site and the Highway Authority has no objection.

- 5.7 **Heritage Team:**

This proposal would add an additional storey over the flat roof of the two storey rear extension, replacing an existing roof terrace and tall metal balustrade. The extension, which serves the commercial space, is uncharacteristically large and has an usual roof form with substantial glazing to the pitches. As existing it does not relate well at all to the main building and is clearly visible from Ship Street as an uncharacteristic feature in the street scene.

- 5.8 The proposed extension would almost double the extension's overall height but it would be set in each side such that it would be much narrower. The proposed use of rendered walling to the lower part with a slated upper section, slightly pitched, would help the extension to visually integrate with the form and materials of the main building and would draw the eye away from the existing glazed element. However the sloping slated section should have a hipped end to reflect both the level below and the main roof, as well as to reduce its bulk in the key views from Ship Street.

- 5.9 Two solar panels are shown on the roof plan at the west end and it is assumed that these would be set at an angle, facing south, on a supporting frame and therefore clearly visible from the north, but they are not shown on elevation. They would clutter the roofline and should be omitted, but solar panels or solar slates could instead be incorporated on the south elevation.

6 MATERIAL CONSIDERATIONS

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be

made in accordance with the plan unless material considerations indicate otherwise.”

- 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 and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only – site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.
- 6.3 The National Planning Policy Framework (NPPF) is a material consideration.
- 6.4 Due weight should be given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.
- 6.5 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7 RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP7	Infrastructure and developer contributions
CP8	Sustainable buildings
CP9	Sustainable transport
CP12	Urban design
CP14	Housing density
CP15	Heritage
CP19	Housing mix

Brighton & Hove Local Plan:

TR7	Safe development
TR14	Cycle access and parking
SU2	Efficiency of development in the use of energy, water and materials
SU10	Noise nuisance
QD5	Design - street frontages
QD14	Extensions and alterations
QD27	Protection of amenity
HO5	Provision of private amenity space
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

Supplementary Planning Guidance:

SPGBH4	Parking Standards
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8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application are the principle of the development, the impact on the character and appearance of the building, the Old Town Conservation Area and adjoining listed buildings, the impacts on the amenities of adjacent occupiers, the standard of accommodation to be provided, and sustainability and traffic issues.
- 8.2 The City Plan Part 1 Inspector's Report was received February 2016. This supports a housing provision target of 13,200 new homes for the city to 2030. It is against this housing requirement that the five year housing land supply position is assessed following the adoption of the Plan on the 24th March 2016. The City Plan Inspector indicates support for the Council's approach to assessing the 5 year housing land supply and has found the Plan sound in this respect. The five year housing land supply position will be updated on an annual basis.
- 8.3 It is noted that the drawings show details of a proposed scheme at the adjoining Hippodrome site approved under planning application BH2013/04348. Whilst the LPA is aware that works to this scheme have not commenced and may not be implemented it is considered that the drawings submitted are prejudicial to the satisfactorily determination of the application.
- 8.4 There are inaccuracies in the submitted plans with both the existing and proposed floor plans showing a residential use at second floor level. At the time of the site visit this space was in use as office. The application submission only relates to works to create an additional residential unit within the proposed extension and is not an assessment of any potential change of use from office to residential at second floor level which would need to come forward as a separate planning application.
- 8.5 It is noted that there is a concurrent application on the application site (BH2016/01757). It is considered that both applications could be undertaken independently and are not part of a single operational development. Whilst regard must be had for the potential cumulative impact of both schemes they are both separate proposals in their own right and must also be assessed accordingly.
- 8.6 **Impact on character and appearance of the area**
The proposal follows the refusal of a previous scheme to add additional storeys to the main bulk of the building as well as the rear addition to create new residential accommodation. This scheme was refused as the proposed scale, bulk, height, materials and design was considered to result in an incongruous development that would appear overly dominant and out of character within the context of the immediate Ship Street streetscene.
- 8.7 The current scheme proposes an additional storey to the projecting two storey element to the rear building. The proposal would run along the full length of the building and would be 2.8m higher than existing. The upper side elevations would be angled in and the proposal would be finished with a flat roof. The

proposal would be finished with rendered sides and slate tiles with timber framed windows to the sloping side elevations.

- 8.8 As existing, the lower rear element of the building steps down significantly from the main building and provides some visual relief between the main bulk of the building and the Hippodrome to the rear. The additional storey to the rear, whilst reduced in height from the previously refused scheme would still diminish this spacing resulting in significant massing to the rear of the building, exacerbating the dominant impact of the building.
- 8.9 The enlarged rear addition would not appear as a subservient element to the main building and would be out of scale with the tight knit historic context of the surrounding area. The gable end fails to reflect the hipped roofs of both the level below and the main roof and accentuates the bulk of the proposal.
- 8.10 The prominent siting of the existing building which is highly visible in longer views from the north increases the dominance and harmful impact of the proposal.
- 8.11 The additional height and bulk exacerbates the unsympathetic external appearance of the building which is out of character with the surrounding area and as such has a detrimental impact upon the setting of the listed buildings within the immediate vicinity, particularly Nos. 16 and 17 Ship Street to the south.
- 8.12 Whilst the use of render and slate is considered appropriate, the use of a green roof jars somewhat next to this traditional palette and does not sit well within the context of the historic townscape.
- 8.13 The Heritage Team states that in its current form the proposal would harm the Old Town Conservation Area and the setting of the surrounding listed buildings.
- 8.14 To conclude, the proposal detracts significantly from the appearance and character of the building and the wider surrounding area. It would fail to preserve the Conservation Area and would harm the setting of the adjoining listed buildings.
- 8.15 **Amenity**
Policy QD27 relates to protection of amenity and confirms that permission will not be granted where development would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 8.16 Policy HO5 requires the provision of private useable amenity space in new residential development.
- 8.17 For future occupiers
The proposed dwelling appears to have room sizes appropriate for their function and would provide adequate circulation space.

- 8.18 All of the windows to the south facing elevation would be obscure glazed, whilst there are no windows to the rear elevation. The main kitchen / lounge which would be single aspect and outlook limited to the two north facing windows. There would be no outlook from the proposed bedroom resulting in an oppressive impact for future occupiers and as such the layout is considered to result in unacceptable living conditions for future occupiers.
- 8.19 Whilst no external amenity area would be provided the proposal is close to a number of public open spaces and the lack of amenity space would not be so significant as to warrant refusal in this instance.
- 8.20 The proposal includes sufficient space internally for recycling storage.
- 8.21 Adjoining occupiers
The additional storey above the existing two storey element to the rear would result in increased bulk and height on the shared boundaries with Nos. 16 and 17 Ship Street and 13A Ship Street Gardens, resulting in an unacceptable overbearing impact and increased sense of enclosure to these properties and their respective gardens. Whilst it is acknowledged that the proposed extension would be set back from the shared boundary wall to the south of the site this does not provide adequate mitigation for what would be a significantly oppressive impact to the properties to the south. The application building, in conjunction with the Hippodrome building currently appear as extremely dominant structures when viewed from the residential properties to the south of the site, the proposal would significantly worsen this situation resulting in significant harm to the visual amenity of these properties. There would be a similar oppressive impact to the rear yard of the Flat 1, 19 Ship Street to the rear at ground floor level.
- 8.22 Whilst the side windows would be obscure glazed the high number of windows to the southern flank wall would still result in the perception of overlooking and adds to the unneighbourly impact to the adjoining properties and their respective gardens to the south.
- 8.23 The flats to the ground and first floor within the existing two storey projection are lit by sloping rooflights to the sides. Whilst there would be a reduction in daylight to the rooms served by these windows, any detrimental impact is not considered to be so significant as to warrant refusal.
- 8.24 It is not considered that the proposal would result in any significant noise or disturbance to adjoining properties.
- 8.25 **Highway issues**
The additional residential unit would not likely result in any significant increase in trip generation or any other detrimental impacts upon the highway network and the application would be acceptable in this regard.
- 8.26 It is noted that the applicant is not proposing cycle parking spaces. There does not appear to be an obvious space to locate adequate storage on-site and as

such in this instance, the lack cycle storage provision is considered to be acceptable.

- 8.27 The proposed development is sited within a controlled parking zone, has good access and is near local services and public transport. If the application were otherwise acceptable, a condition would be attached to prohibit residents from being eligible for parking permits and encourage the development and surrounding area to be genuinely car-free.

9 CONCLUSION

- 9.1 The proposal would detract from the appearance of character and of the building. It would fail to preserve the conservation area and results in harm to the setting of adjoining listed buildings. The proposal would result in harm to the residential amenity of neighbouring occupiers and would fail to provide an acceptable standard of accommodation for future occupiers.
- 9.2 Whilst acknowledging the need for additional housing in the city it is not considered that a modest gain of one residential unit outweighs the significant harm outlined above.

10 EQUALITIES

- 10.1 None identified.

11 REASON FOR REFUSAL / INFORMATIVES

Reasons for Refusal:

1. The proposed extension above the existing two storey element to the rear, by virtue of its height, bulk and siting in close proximity and at a higher ground level to the adjoining properties to the south on Ship Street and Ship Street Gardens and Flat 1, 19 Ship Street to the west, would result in a significantly overbearing and oppressive impact and a detrimental sense of enclosure to these properties and their respective gardens. Furthermore, the glazing to the south facing elevation of the proposed extension would result in the perception of overlooking and an unneighbourly impact to adjoining properties. The proposal is therefore contrary to policies QD14 and QD27 of the Brighton and Hove Local Plan.
2. The proposal by virtue of its scale, bulk, height and design would result in an unsympathetic development that would appear overly dominant and out of character within the existing building. The enlarged building would result in a detrimental impact to both the Old Town Conservation Area and the setting of the adjoining listed buildings, contrary to policies QD14, HE3 and HE6 of the Brighton and Hove Local Plan and policy CP15 of the Brighton & Hove City Plan Part One.
3. The proposed residential unit by virtue of the lack of outlook to the bedroom would provide oppressive living conditions for future occupiers and a substandard form of residential accommodation. The development would be contrary to policy QD27 of the Brighton & Hove Local Plan.

PLANNING COMMITTEE LIST- 14 SEPTEMBER 2016

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 listed below:

Plan Type	Reference	Version	Date Received
Block and location plan	Y072-A01	-	16 May 2016
Existing plans (lower floors)	Y072-A02	-	16 May 2016
Existing plans (upper floors)	Y072-A03	-	16 May 2016
Existing elevations	Y072-A04	-	16 May 2016
Existing streetscene	Y072-A04	-	16 May 2016
Proposed plans (lower floors)	Y072-D01	-	16 May 2016
Proposed plans (upper floors)	Y072-D02	-	16 May 2016
Proposed elevations	Y072-D03	-	16 May 2016
Proposed streetscene	Y072-D04	-	16 May 2016

Ben Foster

From: Chris Swain
Sent: 19 August 2016 09:40
To: Planning Comments
Subject: BH2016/01757

-----Original Message-----

From: Alex Phillips
Sent: 21 June 2016 8:54 AM
To: Chris Swain; Tom Druitt
Subject: RE: Planning applications to committee

Yes I am.

Am supporting the applications because they create more housing in the city centre. Do you need anything else from me?

Many thanks
Alex

----- Original Message -----

From: Chris Swain <Chris.Swain@brighton-hove.gov.uk>
Date: Mon, June 06, 2016 9:44 am +0100
To: Alex Phillips <Alex.Phillips@brighton-hove.gov.uk>
Subject: RE: Planning applications to committee

Dear Cllr Phillips

Many thanks for your email.

Are you also requesting that the planning applications are heard at the planning committee meeting if the recommendation is to refuse?

If so, you will also need to outline your reasons for supporting the applications.

Kind regards

Chris Swain
City Planning & Development
Brighton & Hove City Council
Email: chris.swain@brighton-hove.gov.uk
Tel: 01273 292178
www.brighton-hove.gov.uk

NB. Please note case officers will normally be available to take your call between 2pm – 4.30pm Monday - Friday

Any electronic files sent in support of a planning application must not exceed 5Mb in size. Please ensure all electronic files are submitted in PDF format. They should be sent planning.applications@brighton-hove.gov.uk to enable them to be processed as quickly as possible.

Planning footer July 2014

-----Original Message-----

From: Alex Phillips

Sent: 03 June 2016 11:57 PM

To: Chris Swain

Cc: Planning Applications; Tom Druitt

Subject: Planning applications to committee

Importance: High

Dear Chris,

I would like to support the following planning applications going to committee:

BH2016/01756 - Erection of upper first floor rear extension to create one bedroom flat

BH2016/01757 - Creation of additional floor to create 1no three bedroom flat with associated alterations

Please confirm that this has been done.

Many thanks

Alex

CLlr Alexandra Phillips

Green City Councillor, Regency Ward

Brighton & Hove City Council

07908 260 528

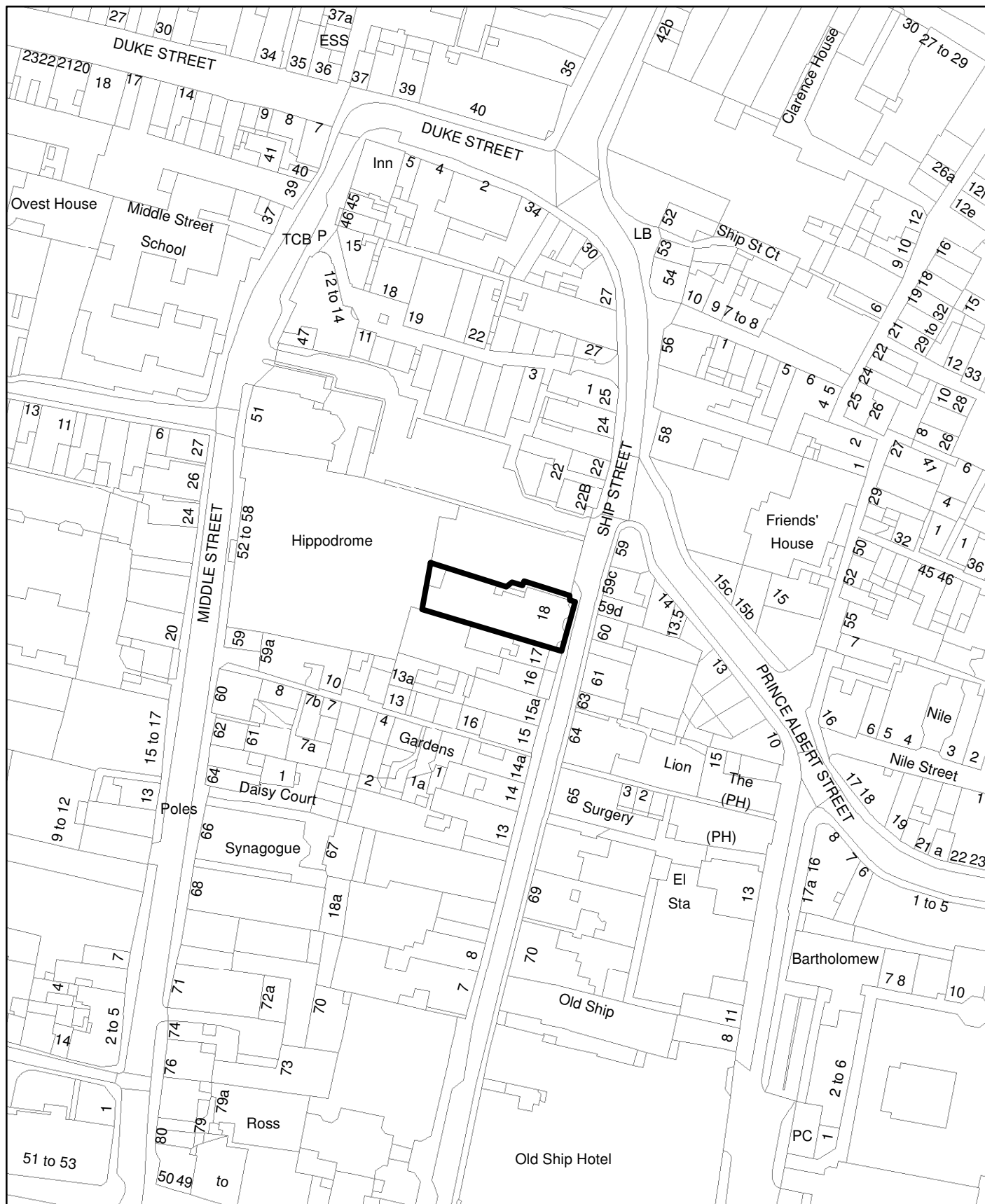
ITEM I

18-19 Ship Street, Brighton

**BH2016/01757
Full Planning**

14th SEPTEMBER 2016

BH2016/01757 18-19 Ship Street, Brighton



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2016/01757	<u>Ward:</u>	REGENCY
<u>App Type:</u>	Full Planning		
<u>Address:</u>	18 - 19 Ship Street Brighton		
<u>Proposal:</u>	Creation of additional floor to create 1no three bedroom flat with associated alterations.		
<u>Officer:</u>	Chris Swain Tel 292178	<u>Valid Date:</u>	16/05/2016
<u>Con Area:</u>	Old Town	<u>Expiry Date:</u>	11 July 2016
<u>Listed Building Grade:</u> Adjoining Grade II and Grade II*			
<u>Agent:</u>	Yelo Architects Ltd, Olivier House 18 Marine Parade Brighton BN2 1TL		
<u>Applicant:</u>	Mr Mark Woolley, 1 Olivier House 18 Marine Parade Brighton BN21TL		

Councillor Phillips has requested this application is determined by Planning Committee.

1 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 and the policies and guidance in section 7 and resolves to **REFUSE** planning permission for the reason set out in section 11.

2 SITE LOCATION & DESCRIPTION

- 2.1 The site relates to a double fronted 1970's building built over four floors (including basement) to the western side of Ship Street. The building comprises of hairdressers to ground floor with associated studio space at lower ground floor level. The first floor is in residential use with the second floor in office use. The rear section of the building, set out over two floors is solely in residential use, other than the roof terrace above the flat roof which is associated with the existing second floor office space.
- 2.2 The Old Town Conservation Area is characterised as an area of very tight knit urban grain in a largely informal street pattern with buildings of generally small scale but with some larger and later 19th century or early 20th century buildings in the main streets. It is also a very mixed use area with mainly commercial uses at street level and mixed uses above. Many of the buildings in the close vicinity are Grade II Listed, including numbers 15 and 16 immediately adjacent, numbers 14, 14A and 15 to the south, number 22 to the north and numbers 58, 59, 62, 63 and 64 on the opposite side of the road. To the west of the site is the Grade II* Listed Hippodrome on a much larger scale with later extension visible from Ship Street.

- 2.3 The site is located within an area which has an Article 4 Direction which prohibits the change of use from office to residential without planning permission.

3 RELEVANT HISTORY

BH2016/01756 - Erection of upper first floor rear extension to create one bedroom flat. Currently under consideration.

BH2015/03782 - Creation of additional floor to create 1no three bedroom flat with associated alterations. Withdrawn by the applicant 3 May 2016.

BH2015/03784 - Erection of upper first floor rear extension to create one bedroom flat. Withdrawn by the applicant 3 May 2016.

BH2015/00357 - Conversion of second floor office (B1) to residential (C3), erection of additional residential storey, roof extension, rear roof terrace and associated alterations to form 1no dwelling. Refused 14 August 2015 for the following reasons;

1. *The proposal by virtue of its scale, bulk, height, materials and design would result in an incongruous development that would appear overly dominant and out of character within the context of the immediate Ship Street streetscene. The enlarged building would result in significant detrimental impact to both the Old Town Conservation Area and the setting of the adjoining listed buildings, contrary to policies QD1, QD14, HE3 and HE6 of the Brighton and Hove Local Plan.*
2. *The proposed extension above the existing two storey element to the rear, by virtue of its height, bulk and siting in close proximity and at a higher ground level to the adjoining properties to the south on Ship Street and Ship Street Gardens and Flat 1, 19 Ship Street to the west, would result in a significantly overbearing and oppressive impact and a detrimental sense of enclosure to these properties and their respective gardens. The proposal is therefore contrary to policies QD14 and QD27 of the Brighton and Hove Local Plan.*
3. *The raised terrace area, due to its elevated position, substantial size and inadequate screening would result in significant overlooking and loss of privacy towards the neighbouring properties to the south and west and their respective gardens to the detriment of the residential amenity of the occupiers of these properties. The residential nature of the terrace is considered to lend itself to a more intensive use resulting in the potential for harmful noise and disturbance and a further loss of amenity to neighbouring properties. As such, the proposal is contrary to policies QD14 and QD27 of the Brighton and Hove Local Plan.*
4. *The applicant has failed to adequately demonstrate that the existing Class B1 premises are no longer viable and are genuinely redundant, contrary to policies EM3 and EM5 of the Brighton & Hove Local Plan and CP3 of the Brighton & Hove City Plan Part One.*

BH2003/02834 - Formation of second floor roof terrace at rear enclosed by 1.8 metre high bamboo fencing (Retrospective). Approved 15 October 2003.

BH2000/03103/FP - Alterations to permission reference BH2000/01854/FP to change use of lower ground floor to retail, ground floor to retail and 1 no. 3 bed flat, and first floor to 2 no. 2 bed flats and 1 no. 1 bed flat (second floor to remain as a proposed 1 no. 3 bed flat). Approved 30 January 2001.

BH2000/01854/FP - Change of use from offices (use class B1) to three residential units (use class C3) and retail unit (use class A1), including erection of staircase enclosure to rear/side. Approved 20 September 2000.

4 THE APPLICATION

- 4.1 Planning permission is sought for the creation of additional floor to create a three bedroom flat with associated alterations.

5 PUBLICITY & CONSULTATIONS

External:

- 5.1 **Neighbours: Six (6)** Representations have been received from **16, 17 Ship Street, 13, 13A, (Flat 1 and Flat 2), The Chambers 16 Ship Street Gardens**, objecting to the proposal on the following grounds,

- Overlooking, loss of privacy,
- Overshadowing, loss of light to adjoining properties,
- Excessive scale and bulk,
- Design and materials out of character with the street and the conservation area,
- Overbearing and enclosing impact to adjoining properties,
- No party wall agreement offered,
- Drawings should not show the approved Hippodrome development (BH2013/04348) on the proposed drawings as this is now defunct,
- Without the Hippodrome development the proposal would be excessive in scale,
- Address is incorrect (should be 18-19 Ship Street),
- Residents in Ship Street Gardens were not consulted,
- Harmful impact on the adjacent listed buildings,
- The proposal is the same as a previously refused scheme,
- Proposal is out of proportion with the existing built form within the area,
- Loss of the open character of the area,
- Concerns that the penthouse would be used as a party house,
- It is misleading to present the two concurrent applications on the site (BH2016/01756 and BH2016/01757) as separate schemes as they are likely to be built out together and the cumulative impact of both proposals would need to be assessed.

- 5.2 **Councillor Phillips** supports the application. Email attached.

- 5.3 **Historic England:** The application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

Internal:

- 5.4 **Sustainable Transport:**

The applicant appears not to be proposing cycle parking spaces. For this size and type of development a minimum of 1-2 cycle parking spaces is required. There appears to be space on site therefore the Highway Authority does request that further details of the spaces are submitted and a condition is recommended requiring its provision.

- 5.5 The Highway Authority deems that the proposed development has good access and is near local services and public transport and is within a controlled parking zone; therefore a condition should be attached to prohibit residents from being eligible for parking permits and encourage the development and surrounding area to be genuinely car-free.

- 5.6 The creation of one additional residential unit is unlikely to generate any significant increase in trips to the site and the Highway Authority has no objection.

- 5.7 **Heritage**

The existing building is already a large one in the context of the Old Town, in terms of footprint, massing and volume. Traditionally in the Old Town conservation area larger scale buildings served more specific 'communal' uses such as church, town hall, post office or theatre, not shops and houses.

- 5.8 This proposal would add an additional storey to the main building and the design approach seeks to continue the semi-traditional design and materials of the existing building. The contextual street scene drawing shows the proposed parapet height to be in line with the listed buildings at 16/17 Ship Street but with a higher ridge line, though the roofs to 16/17 are hidden behind the parapet in street level views. However, 18 Ship Street is set substantially forward from its immediate neighbours (and a large first floor bay that projects further forward still). Consequently in views along Ship Street from the south the additional height of the side wall, together with the front of the roof slope, would be unduly prominent and would visually dominate the adjoining listed buildings. In current perspective views from the north, at the junction with Prince Albert Street, the height of the building appears consistent with the rest of the west side of the street, allowing the roofline to gently diminish in perspective. The additional height of the proposal would instead draw the eye unduly to number 18, particularly due to the uncharacteristic scale of the resulting north elevation.

- 5.9 The existing building is already unduly prominent and the proposal would make it the dominant building in the immediate locality, overwhelming the historic buildings in views along Ship Street in both directions. It would fail to preserve the character and appearance of the Old Town conservation area and would harm the setting of the nearby listed buildings in Ship Street mentioned above. As it is set forward of the listed buildings at numbers 16 and 17 it would have a

particularly harmful impact on the setting of those two buildings. The harm to the conservation area and the setting of the listed buildings would be very significant but would be 'less than substantial' in the terms of the NPPF.

- 5.10 It is acknowledged that the proposal would improve the design coherence of the rear elevation. The proposal also includes for railings on the street frontage to match the adjoining ones but such railings are only found on properties with a basement well so this is not considered to be a heritage benefit. The modest benefit to the rear elevation does not outweigh the identified harm to the heritage assets and their settings and that harm must be given great weight.

6 MATERIAL CONSIDERATIONS

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."
- 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 and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only – site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.
- 6.3 The National Planning Policy Framework (NPPF) is a material consideration.
- 6.4 Due weight should be given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.
- 6.5 All material considerations and any policy conflicts are identified in the "Considerations and Assessment" section of the report.

7 RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP7	Infrastructure and developer contributions
CP8	Sustainable buildings
CP9	Sustainable transport
CP12	Urban design
CP14	Housing density
CP15	Heritage
CP19	Housing mix

Brighton & Hove Local Plan:

- TR7 Safe development
- TR14 Cycle access and parking
- SU2 Efficiency of development in the use of energy, water and materials
- SU10 Noise nuisance
- QD5 Design - street frontages
- QD14 Extensions and alterations
- QD27 Protection of amenity
- HO5 Provision of private amenity space
- 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

Supplementary Planning Guidance:

- SPGBH4 Parking Standards

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application are the principle of the development, the impact on the character and appearance of the building, the Old Town Conservation Area and adjoining listed buildings, the impacts on the amenities of adjacent occupiers, the standard of accommodation to be provided, and sustainability and traffic issues.
- 8.2 The City Plan Part 1 Inspector's Report was received February 2016. This supports a housing provision target of 13,200 new homes for the city to 2030. It is against this housing requirement that the five year housing land supply position is assessed following the adoption of the Plan on the 24th March 2016. The City Plan Inspector indicates support for the Council's approach to assessing the 5 year housing land supply and has found the Plan sound in this respect. The five year housing land supply position will be updated on an annual basis.
- 8.3 It is noted that the drawings show details of a proposed scheme at the adjoining Hippodrome site approved under planning application BH2013/04348. Whilst the LPA is aware that works to this scheme have not commenced and may not be implemented it is considered that the drawings submitted are prejudicial to the satisfactorily determination of the application.
- 8.4 There are inaccuracies in the submitted plans with both the existing and proposed floor plans showing a residential use at second floor level. At the time of the site visit this space was in use as office. The application submission only relates to works to create an additional residential unit within the proposed extension and is not an assessment of any potential change of use from office to residential at second floor level which would likely require to come forward as a separate planning application.
- 8.5 It is noted that there is a concurrent application on the application site (BH2016/01756). It is considered that both applications could be undertaken independently and are not part of a single operational development. Whilst

regard must be had for the potential cumulative impact of both schemes they are both separate proposals in their own right and must also be assessed accordingly.

8.6 Impact on character and appearance of the area

The proposal follows the refusal of a previous scheme to add additional storeys to the main bulk of the building as well as the rear addition. This was refused as the proposed scale, bulk, height, materials and design was considered to result in an incongruous development that would appear overly dominant and out of character within the context of the immediate Ship Street streetscene.

8.7 The current scheme proposes a single additional storey to the main building. The existing pitched roof to the front and side (north) elevations would be replaced with a vertical render wall with an additional pitched roofed storey above. A pitched roof would be added to the existing lift housing to the rear.

8.8 The proposal would result in a top heavy and awkward roof form that would be alien to the surrounding area and significantly harm the appearance and character of the building and the conservation area. The existing building is already larger in terms of footprint, massing and volume in comparison to the historic built form within the Old Town, and the proposal would be substantially greater still in the regard and wholly inappropriate in the context.

8.9 The front elevation of the existing building at first floor level overhangs the ground floor level, extending to the edge of the pavement and well beyond the frontages of the adjoining properties to the south at 16 and 17 Ship Street and as such dominates this section of the streetscene. The proposal would extend up the front facade to second floor level significantly increasing the amount of the building which extends beyond adjoining frontage and exacerbating the bulk on the street

8.10 The prominent siting of the building which is highly visible in longer views from the north increases the dominance and harmful impact of the proposal.

8.11 The height and bulk has a significant detrimental impact upon the setting of the listed buildings within the immediate vicinity, particularly Nos. 16 and 17 to the south.

8.12 The Heritage Team objects strongly to the scheme stating that the inappropriate proposal would result in significant harm to the conservation area and the setting of the surrounding listed buildings.

8.13 The addition of a pitched roof to the rear lift housing is considered to be acceptable in design terms and would not result in significant harm to the appearance or character of the building of the rear terrace.

8.14 To conclude, the proposal detracts significantly from the appearance and character of the building and the wider surrounding area. It would fail to preserve the Conservation Area and would significantly harm the setting of the adjoining listed buildings.

8.15 Amenity

Policy QD27 relates to protection of amenity and confirms that permission will not be granted where development would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.

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

8.17 For future occupiers

The proposed dwelling appears to have room sizes appropriate for their function, all having acceptable levels of natural light, outlook and ventilation. The scale of the proposed dwelling is such that it could be easily altered to provide accommodation for future occupiers with mobility issues.

8.18 Whilst no external amenity area would be provided the proposal is close to a number of public open spaces and the lack of amenity space would not be so significant as to warrant refusal.

8.19 The proposal includes sufficient space internally for recycling storage.

8.20 Adjoining occupiers

The additional storey would be sited above the main bulk of the building. It would not extend significantly beyond the rear elevations of the existing terraced properties to the south and as such there would not be any harmful overshadowing, loss of light, outlook or privacy to the neighbouring properties. The pitched roof proposed to the existing extension housing the lift to the rear would be set well in from the side boundaries of the site and as such would not result in any significant harm to the amenity of the adjoining property, No.17 Ship Street.

8.21 There are existing high level windows to the front and rear and the new windows proposed are not considered to result in any significant increase in overlooking to neighbouring properties.

8.22 It is acknowledged that there is an existing terrace above the second floor flat roof to the rear. This was approved retrospectively in 2003. A condition was added stating that the existing screening should be retained at all times to prevent the loss of privacy to neighbouring properties. This screening has now been removed with the terrace affording views into neighbouring properties although it is not known when the breach of this condition occurred.

8.23 It is not clear in the submission whether the proposed residential unit would have access to the rear terrace above the two storey rear extension. It is considered that if this terrace were to be in association with a residential rather than commercial use this would increase the potential for evening and weekend use and could give rise to an intensification of the use of this outdoor space resulting in a significantly detrimental impact to neighbouring properties by reason of noise and disturbance and overlooking / loss of privacy. If the

application were otherwise acceptable a condition would be attached to ensure that the proposed flat did not have access to this space.

8.24 It is not considered that the proposal would result in any significant noise or disturbance to adjoining properties.

8.25 Highway issues

The additional residential unit would not likely result in any significant increase in trip generation or any other detrimental impacts upon the highway network and the application would be acceptable in this regard.

8.26 It is noted that the applicant is not proposing cycle parking spaces. There does not appear to be an obvious space to locate adequate storage on-site and as such in this instance, the lack cycle storage provision is considered to be acceptable.

8.27 The proposed development is sited within a controlled parking zone, has good access and is near local services and public transport. If the application were otherwise acceptable, a condition would be attached to prohibit residents from being eligible for parking permits and encourage the development and surrounding area to be genuinely car-free.

9 CONCLUSION

9.1 The proposal by virtue of its scale, bulk, height and design would result in an incongruous development that would appear overly dominant and out of character within the context of the immediate Ship Street streetscene. The enlarged building would result in significant detrimental impact to both the Old Town Conservation Area and the setting of the adjoining listed buildings. Whilst acknowledging the need for additional housing in the city it is not considered that a modest gain of one residential unit outweighs the significant harm outlined above.

10 EQUALITIES

10.1 None identified.

11 REASON FOR REFUSAL / INFORMATIVES

Reasons for Refusal:

1. The proposal by virtue of its scale, bulk, height and design would result in an incongruous development that would appear overly dominant and out of character within the context of the immediate Ship Street streetscene. The enlarged building would result in significant detrimental impact to both the Old Town Conservation Area and the setting of the adjoining listed buildings, contrary to policies QD14, HE3 and HE6 of the Brighton and Hove Local Plan and policy 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

PLANNING COMMITTEE LIST- 14 SEPTEMBER 2016

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 listed below:

Plan Type	Reference	Version	Date Received
Block and location plan	Y072-A01	-	16 May 2016
Existing plans	Y072-A02	-	16 May 2016
Existing plans	Y072-A03	-	16 May 2016
Existing elevations	Y072-A04	-	16 May 2016
Existing streetscene	Y072-A05	-	16 May 2016
Proposed plans	Y072-D01	-	16 May 2016
Proposed plans	Y072-D02	-	16 May 2016
Proposed elevations	Y072-D03	-	16 May 2016
Proposed streetscene	Y072-D04	-	16 May 2016

Ben Foster

From: Chris Swain
Sent: 19 August 2016 09:40
To: Planning Comments
Subject: BH2016/01757

-----Original Message-----

From: Alex Phillips
Sent: 21 June 2016 8:54 AM
To: Chris Swain; Tom Druitt
Subject: RE: Planning applications to committee

Yes I am.

Am supporting the applications because they create more housing in the city centre. Do you need anything else from me?

Many thanks
Alex

----- Original Message -----

From: Chris Swain <Chris.Swain@brighton-hove.gov.uk>
Date: Mon, June 06, 2016 9:44 am +0100
To: Alex Phillips <Alex.Phillips@brighton-hove.gov.uk>
Subject: RE: Planning applications to committee

Dear Cllr Phillips

Many thanks for your email.

Are you also requesting that the planning applications are heard at the planning committee meeting if the recommendation is to refuse?

If so, you will also need to outline your reasons for supporting the applications.

Kind regards

Chris Swain
City Planning & Development
Brighton & Hove City Council
Email: chris.swain@brighton-hove.gov.uk
Tel: 01273 292178
www.brighton-hove.gov.uk

NB. Please note case officers will normally be available to take your call between 2pm – 4.30pm Monday - Friday

Any electronic files sent in support of a planning application must not exceed 5Mb in size. Please ensure all electronic files are submitted in PDF format. They should be sent planning.applications@brighton-hove.gov.uk to enable them to be processed as quickly as possible.

Planning footer July 2014

-----Original Message-----

From: Alex Phillips

Sent: 03 June 2016 11:57 PM

To: Chris Swain

Cc: Planning Applications; Tom Druitt

Subject: Planning applications to committee

Importance: High

Dear Chris,

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BH2016/01756 - Erection of upper first floor rear extension to create one bedroom flat

BH2016/01757 - Creation of additional floor to create 1no three bedroom flat with associated alterations

Please confirm that this has been done.

Many thanks

Alex

CLlr Alexandra Phillips

Green City Councillor, Regency Ward

Brighton & Hove City Council

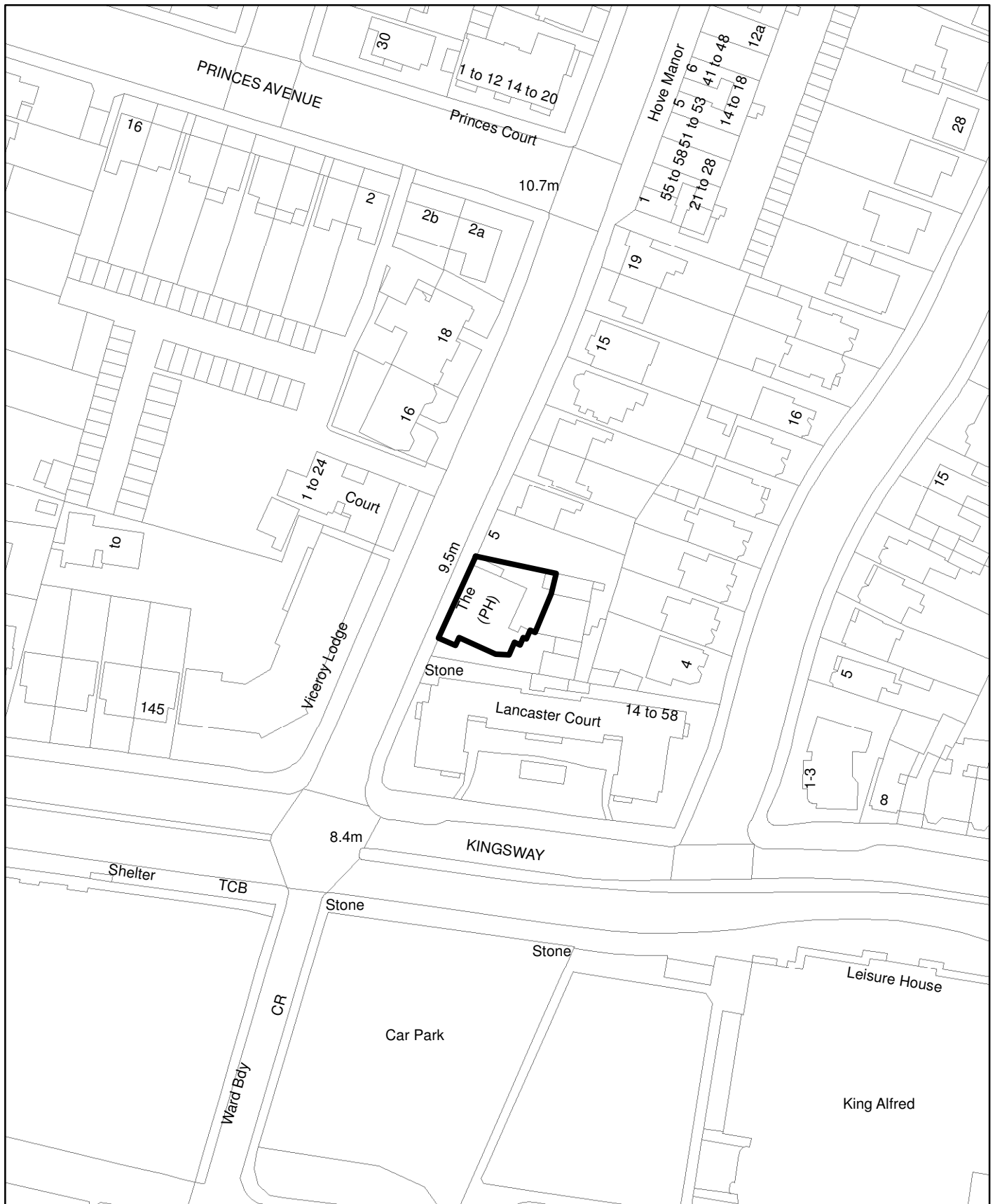
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ITEM J

3 Hove street, Hove

**BH2016/00954
Full Planning**

14th SEPTEMBER 2016



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2016/00954	<u>Ward:</u>	CENTRAL HOVE
<u>App Type:</u>	Full Planning		
<u>Address:</u>	3 Hove Street Hove		
<u>Proposal:</u>	Erection of orangery extension to rear		
<u>Officer:</u>	Charlotte Bush Tel 292193	<u>Valid Date:</u>	01/04/2016
<u>Con Area:</u>	Old Hove	<u>EOT:</u>	16 September 2016
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	Landivar Architects Limited, Former Ironworks Cheapside Brighton BN1 4GD		
<u>Applicant:</u>	The Ginger Pig, Mr Ben McKellar 3 Hove Street Hove BN3 2TR		

1 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 and the policies and guidance in section 7 and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in section 11.

2 SITE LOCATION & DESCRIPTION

- 2.1 The application site is a link-detached three storey property located on the eastern side of Hove Street.
- 2.2 This property is locally listed and is in the Old Hove Conservation Area. The property dates from 1914 designed by Thomas Garrett. Architecturally it is a good example of an early 20th Century public house with its design surviving intact and its original use as a pub remains. The three mock timber-framed gables are particularly prominent features in the streetscape.
- 2.3 Hove Street is predominantly comprised of detached and semi-detached houses and blocks of residential apartments. 1 – 58 Lancaster Court is adjacent to the south; 1-3 Adelaide Mews to the rear; and 5 and 5a Hove Street to the north, which is a detached property with commercial property premises on the ground floor and residential accommodation above.
- 2.4 The ground floor is currently occupied as a restaurant and public house. The rooms to the first and second floor are currently uninhabitable, but a Certificate of Lawfulness has been granted for the proposed use of the first and second floors as ancillary guest accommodation (Application BH2016/022059). The rear garden is currently used a beer garden, with a licence restriction for the pub garden to be closed by 11pm

3 RELEVANT HISTORY

BH2016/02147 - Roof alterations incorporating roof extension and insertion of 4no rooflights to front elevation. Approved 29/08/2016

BH2016/02059 - Certificate of lawfulness for the proposed use of the first and second floors as ancillary guest accommodation. Approved 18/08/2016

BH2016/00956 - Roof alterations including a roof extension and installation of rooflights to front elevation, creation of rear roof terrace at first floor and alterations to fenestration. Withdrawn

BH2016/00844 - Certificate of lawfulness for existing use of premises as a guest house (C1). Refused 23/05/2016

4 THE APPLICATION

- 4.1 Planning permission is sought for the erection of an orangery extension to the rear of the property. The orangery would project 6.1 metres from the rear elevation to abut the boundary, and 5.55 metres from the south east elevation. Access to the orangery will be via the restaurant area. The proposed scheme would feature two non-opening acoustic rated triple glazed rooflights and two sets of acoustic rated triple glazed French doors.

5 PUBLICITY & CONSULTATIONS

External

5.1 Neighbours:

Fourteen (14) letters of representation have been received from **Lancaster Court Freehold Company, Unknown number at Lancaster Court, 3 Lancaster Court, 6 Lancaster Court, 23 Lancaster Court, 28 Lancaster Court, 37 Lancaster Court, 55 Lancaster Court, 2 Adelaide Mews, 11 Hove Street, Flat 3- 15 Hove Street, 21 Viceroy Lodge, 45 Viceroy Lodge, 8 Vallance Gardens** objecting to the application for the following reasons:

- Existing noise pollution will be increased
- Increased use of the rear of the property which is close to residential properties
- The orangery will need to be well ventilated, allowing noise to escape
- Increased traffic from delivery and collection lorries early in the morning which is also noisy and disruptive
- Increased capacity for private functions which are disruptive to the neighbourhood
- There is too much construction in the area and it is becoming cramped

- 5.2 **Five (5)** letters have been received from **1 Adelaide Mews, 2 Adelaide Mews, 3 Adelaide Mews, 28 Lancaster Court and the Lancaster Court Freehold Company**, withdrawing objections following amendments received on the 10th June 2016 and 17th July 2016.

- 5.3 **One (1)** letter of support has been received from 8 Vallance Gardens.

- 5.4 **Councillor Wealls** supports the application. A copy of the correspondence is attached.

Internal:

- 5.5 **Sussex Police:** No objection

After viewing the proposals in this application, Sussex Police do not object.

- 5.6 **Environmental Health:** No objection subject to condition

Given the area is currently a pub garden, the erection of an extension is likely to provide greater protection to local residents from people noise emanation. The application should therefore be approved.

- 5.7 However I would note that the licence for the pub requires that the pub garden be closed by 11pm. Given the extension will be able to stay open in line with the pub hours, and is closer to neighbouring residents than the existing outline of the premises structure, the applicant may want to look at how well acoustically insulated it will be.

- 5.8 If noise complaints are received in relation to the extension then these will be investigated by Environmental Health, and consideration maybe given to restricting the hours of use of the orangery.

- 5.9 **Heritage:** No objection subject to conditions

The proposed work is confined to the rear of the property and will not be visible from the public realm, therefore the impact on the conservation area is negligible.

- 5.10 The proposals include the widening of an existing door and the blocking of a rear window, and details of the proposed doors should be sought by condition. It is considered that the position of the existing window opening should be marked by leaving a shallow reveal visible as evidence of the original form of the building.

- 5.11 Mitigation and Conditions

Please see above regarding the window and door to be altered. Details of the new roof and window framing should also be required for approval.

- 5.12 Further comments 27 July 2016

The changes do not affect the original comments.

- 5.13 **Brighton & Hove Archaeological Society:** Comment

The proposed application is close to the finds spots of material from both the Late Bronze Age and Neolithic periods. It is possible that vestiges of ancient landscapes may remain.

- 5.14 The Brighton and Hove Archaeological Society would suggest that you contact the County Archaeologist for his recommendations.

- 5.15 **County Archaeologist:** No objection

The site is within an Archaeological Notification Area defining the historic core of Hove. There is a condition on permission BH2014/00735 at 1 Hove Street for a programme of archaeological works. However, in this case as the development impacts will be relatively limited and we are aware from historic mapping that the area of the proposed development had been built on in the 19th century, I consider it unlikely that these proposals will have a significant archaeological impact and have no further comments to make in this case.

5.16 Highway Authority: No objection

The Highway Authority would not wish to restrict grant of consent of this Planning Application.

6 MATERIAL CONSIDERATIONS

6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that “If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

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 and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only – site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.

6.3 The National Planning Policy Framework (NPPF) is a material consideration.

6.4 Due weight should be given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

6.5 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7 RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

- SS1 Presumption in Favour of Sustainable Development
- CP2 Sustainable economic development
- CP12 Urban design
- CP15 Heritage

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

- SU10 Noise nuisance
- QD14 Extensions and alterations
- QD27 Protection of amenity
- HE6 Development within or affecting the setting of conservation areas

HE10 Buildings of local interest

Supplementary Planning Documents:

SPD09 Architectural Features

SPD12 Design Guide for Extensions and Alterations; and

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to the impact of the proposed extension upon the character and appearance of the existing locally listed property, street scene and wider conservation area. In addition any impacts to the amenities of neighbouring properties shall also be assessed.
- 8.2 Policy QD14 of the Brighton & Hove Local Plan states that planning permission for extensions or alterations to existing buildings, including the formation of rooms in the roof, will only be granted if the proposed development:
- a) is well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area;
 - b) would not result in significant noise disturbance or loss of privacy, outlook, daylight/sunlight or amenity to neighbouring properties;
 - c) takes account of the existing space around buildings and the character of the area and an appropriate gap is retained between the extension and the joint boundary to prevent a terracing effect where this would be detrimental to the character of the area; and
 - d) uses materials sympathetic to the parent building.
- 8.3 In considering whether to grant planning permission for extensions to residential and commercial properties, account will be taken of sunlight and daylight factors, together with orientation, slope, overall height relationships, existing boundary treatment and how overbearing the proposal will be.
- 8.4 **Character and appearance**
The application is currently occupied as a public house and restaurant, with a beer garden to the rear which can be used until 11pm.
- 8.5 Amendments have been made during the lifetime of the application to address the concerns from neighbours regarding noise pollution.
- 8.6 The proposed scheme would project 6.1 metres from the rear elevation to abut the boundary, and 5.55 metres from the south east elevation. Access to the orangery would be via the restaurant area. The proposed scheme would feature two non-opening acoustic rated triple glazed rooflights and two sets of acoustic rated triple glazed French doors.
- 8.7 The primary design concern relates to the size of the proposed structure as it would develop a substantial area of the rear curtilage of the building and would be built out to the boundaries of the site. However, the proposed scheme would not readily be visible from the public realm and would be predominantly concealed by the high boundary walls. As such, the proposed scheme is not considered to

cause harm to the character of the building, the streetscene or the wider Old Hove Conservation Area, and is therefore recommended for approval.

8.8 Impact on Amenity:

Policy QD27 states that planning permission for any development 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.

8.9 The original scheme was considered to have a negative impact on neighbouring amenity due to potential increased noise disturbance. Amendments to the plans have largely addressed this issue with the inclusion of a sound proofed roof, triple glazed non-opening rooflights and triple glazed French doors.

8.10 A condition is recommended to ensure that the French doors remain closed after 11pm in line with the current licencing agreement for this site.

8.11 The proposed scheme is not considered to pose any additional harm to neighbouring properties in terms of overlooking, loss of privacy, overshadowing or loss of light.

8.12 The proposed extension will not result in significant harm to the amenities of neighbouring residents and as such is considered acceptable.

9 CONCLUSION

9.1 The proposed extension would not harm the appearance of the property, the wider area or the amenities of adjacent occupiers, in accordance with development plan policies.

10 EQUALITIES

10.1 None identified.

11 PLANNING OBLIGATION / CONDITIONS / INFORMATIVES

Regulatory Conditions:

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

Plan Type	Reference	Version	Date Received
Existing Location and Block Plan	A001		16/03/2016
Proposed Location and Block Plan	D001		16/03/2016
Existing Roof Plan	A006		16/03/2016
Proposed Roof Plan	D006		16/03/2016
Existing West Elevation	A007		16/03/2016

PLANNING COMMITTEE LIST- 14 SEPTEMBER 2016

Proposed West Elevation	D007		16/03/2016
Existing East Elevation	A008		16/03/2016
Proposed East Elevation	D008	A	10/06/2016
Existing basement Plan	A002		16/03/2016
Proposed Basement Plan	D002		16/03/2016
Existing Ground Floor Plan	A003		16/03/2016
Proposed Ground Floor Plan	D003	A	10/06/2016
Existing First Floor Plan	A004		16/03/2016
Proposed First Floor Plan	D004	A	10/06/2016
Existing Second Floor Plan	A005		16/03/2016
Proposed Second Floor Plan	D005		16/03/2016
Acoustic Zinc Roof	AA008		15/07/2016
Upgraded Acoustic Wall Roof	AA009		15/07/2016

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

3. The French doors leading into the garden shall remain closed between the hours of 23.00 and 09.00 the following day.
Reason: In order to protect adjoining properties from noise disturbance and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

4. No development shall take place until full details of the following have been submitted to and approved in writing by the Local Planning Authority.
- the door leading from the restaurant to the proposed extension;
 - the blocking up of the existing rear window between the kitchen and proposed extension, to include a shallow reveal visible as evidence of the original form of the building;
 - the roof of the proposed extension; and
 - the window framing to the proposed rear extension.
- The development shall be carried out in accordance with the details approved.
Reason: To ensure a satisfactory appearance of the development in the interests of this locally listed building and the visual amenities of the area and to comply with policies QD14, HE6 and HE10 of the Brighton & Hove Local Plan.

Informatives:

- 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.
- This decision to grant Planning Permission has been taken:
 - having regard to the policies and proposals in the National Planning Policy Framework and the Development Plan, including Supplementary Planning Guidance and Supplementary Planning Documents: (Please see section 7 of the report for the full list); and
 - for the following reasons:-

PLANNING COMMITTEE LIST- 14 SEPTEMBER 2016

The proposed extension would not harm the appearance of the property, the wider area or the amenities of adjacent occupiers, in accordance with development plan policies.

Jack Summers

From: noreply@brighton-hove.gov.uk
Sent: 06 July 2016 18:15
To: Planning Comments
Subject: Planning Application BH2016/00954 - comment 1048897

Follow Up Flag: Follow up
Flag Status: Flagged

Planning Application - BH2016/00954

Comment reference number: 1048897

I support the planning application

Sender's details

Councillor Andrew Wealls
[REDACTED]
[REDACTED]

Comment

Please note my strong support for this application. The proposed orangery will enhance the building as the design is sympathetic to the existing building style. It will not be visible from surrounding properties, whilst any noise will be contained by virtue of the area being enclosed.

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ITEM K

101 Roundhill Crescent, Brighton

**BH2016/00752
Full Planning**

14th SEPTEMBER 2016

BH2016/00752 101 Roundhill Crescent, Brighton



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2016/00752	<u>Ward:</u>	ST. PETER'S & NORTH LAINE
<u>App Type:</u>	Full Planning		
<u>Address:</u>	101 Roundhill Crescent Brighton		
<u>Proposal:</u>	Erection of 1no three bedroom dwelling (C3) incorporating alterations to boundary wall and external alterations to existing building including repair works, alterations to fenestration and associated works.		
<u>Officer:</u>	Mark Dennett Tel 292321	<u>Valid Date:</u>	04/04/2016
<u>Con Area:</u>	Round Hill	<u>Expiry Date:</u>	30 May 2016
<u>Listed Building Grade:</u>	II		
<u>Agent:</u>	ZSTA, 3 Dorset Place Brighton BN2 1ST		
<u>Applicant:</u>	Ms Wendy Jamieson, 101 Roundhill Crescent Brighton BN2 3GP		

1 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 and the policies and guidance in section 7 and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in section 11.

2 SITE LOCATION & DESCRIPTION

- 2.1 The application site is the rearmost part of the rear garden to 101 Roundhill Crescent, a 4 storey residential building comprising four flats on the corner (north-east quadrant) of Roundhill Crescent and D'Aubigny Road. The depth of the existing garden to the rear of 101 Roundhill Crescent is 18m. The far end of the garden is abutted by the flank wall of the house at 4 D'Aubigny Road. The proposed site boundary is the last 8.8m of this garden; back to front the site has a depth of 10.5m.
- 2.2 The property and related land is located within the Round Hill Conservation Area; 101 Roundhill Crescent is a Grade II Listed Building. Nos. 103 to 113 inc. Roundhill Crescent are also Listed (grade II). Round Hill Conservation Area is largely in residential use, with larger houses on Roundhill Crescent and Richmond Road, mostly now flats, and predominantly smaller individual family houses in the other roads. There is a noticeable incline on D'Aubigny Road and within the site down from north to south. Roundhill Crescent in front of the terrace at nos.101-113 slopes down from west to east, but there is no noticeable change of levels within the site.

3 RELEVANT HISTORY

BH2015/02786

Erection of two storey, three bedroom dwelling. Refused 26/11/15 for these reasons (in synopsis):

detrimental to character of immediate surroundings in the conservation area by siting, design height and detailing and impact on skyline;

insufficient benefits to outweigh harm to conservation area & setting of listed building;

alterations to western boundary wall out of keeping;

partial loss of the wall unacceptable in absence of acceptable redevelopment scheme;

roofspace bedroom unacceptable standard of accommodation;

overlooking of 101 Roundhill Crescent from proposed south elevation windows;

would appear oppressive viewed from garden of 103 Roundhill Crescent;

insufficient evidence of building accessibility.

BH2015/02796

Alterations to boundary wall Refused 26/11/15- loss of historic fabric unacceptable in absence of acceptable development scheme for site.

BH2015/00322

Erection of two storey building comprising x5 flats Refused 7/4/15

BH2011/02420 – 101 Roundhill Crescent - Erection of shed and decked area to land to rear of 101 Roundhill Crescent. (Retrospective). Approved 20/10/2011.

BH2011/02259 - 101B Roundhill Crescent - Listed Building Consent for erection of first floor side extension. Refused 12/10/2011.

BH2011/02257 - 101B Roundhill Crescent - Erection of first floor side extension. Refused 12/10/2011.

There is a current application for Listed Building Consent- **BH2015/00753**-for works at the existing building at 101 Roundhill Crescent, viz. External alterations including repair works, alterations to boundary wall including installation of a new gate, reinstatement of cast iron window guards to second floor windows, alterations to fenestration and associated works.

4 THE APPLICATION

4.1 Planning permission is sought for the erection of a two storey, three bedroom dwelling, including habitable roofspace. It would have a simple roof of a single front and rear plane with a gable to the south, facing 101 Roundhill Crescent.

4.2 The proposed building would directly abut the south facing flank wall of no. 4, D'Aubigny Road, a two storey house. Its rear elevation would be to the rear of those premises by 0.75m.; the rear elevation would virtually abut the boundary with 103 Roundhill Crescent. Its front elevation would have the same front building line as 4, D'Aubigny Road, being set back from the pavement by an average of 2.3m (the elevation is not quite parallel to the pavement). It would have a private garden adjoining its proposed south wall.

- 4.3 It might be noted that the plan form of the building is not wholly rectangular, the width of the rear elevation being 5.3m and the front elevation 6.2m. This has the effect that, whilst the proposed boundary between existing and proposed houses is parallel to the rear of no 101, the garden for the proposed house is narrower at the road frontage than the rear. This, main garden- at the side of the proposed house- would have an area of 27m². The proposed house is not parallel to 101 Roundhill Crescent: the distance between proposed and existing buildings is 12.8m at the rear and 11.7m at the front. The proposed house would have a main front entrance accessed via two steps; there is a further proposed entrance door at the side- also accessed via two steps.
- 4.4 The existing 1.8m high boundary wall, of 'bungaroosh' construction, to D'Aubigny Road along the current garden is retained, bar the creation of a pedestrian entrance to the proposed house, where a gap of 1.85m would be created with new piers on either side to match those elsewhere in D'Aubigny Road. n.b. the removal of part of the wall is subject to a listed building consent application (BH2016/00753).
- 4.5 The accommodation proposed comprises two double bedrooms at first floor and a single bedroom within the roofspace. The proposal includes- on the rear elevation facing east- one ground floor level window to the kitchen/dining area and one first floor window to a bedroom. On the proposed south elevation, that facing 101 Roundhill Crescent, there is one window- a first floor bathroom window. The bedroom in the roofspace is lit solely by a single 'conservation rooflight' on the rear roof plane.
- 4.6 The architectural treatment seeks to mirror that of 4, D'Aubigny Road which it would join with a three sided front bay on both storeys but no other first floor fenestration. It is however a little wider than the existing house 6.2m as opposed to 5.9m. Architectural detailing is as in 4, D'Aubigny Road, for example the string course and the vermiculated keystones above each ground floor window and main door are replicated. The main walling material would be painted render, the roofing material would be blue/black slates and the windows would have white painted timber frames.
- 4.7 As D'Aubigny Road slopes noticeably from north to south the proposed building is on a lower level than 4, D'Aubigny Road, which it would abut. There is a very small proposed drop in proposed ground floor level (i.e. a small excavation) of 0.4m where the proposed and existing buildings join. Notably the line of the roof ridge is 0.65m lower than that of number 4. This is a variation on the previously refused scheme (BH2015/00322) and will be considered further below.

5 PUBLICITY & CONSULTATIONS

External

5.1 Neighbours:

Nine (9) letters of representation have been received from **101 (x2); 101a; 101b; 101c (x2); 101 basement; 94 and 94c Roundhill Crescent** supporting the application for the following reasons:

- 'Family' housing is welcomed and needed (contrasted unfavourably to 'student housing' by some respondents).

- The design is considered in keeping and is sympathetic to the character of D'Aubigny Road.
- It is a 'mirror' of the opposite side of the road.
- Surrounding roads are mostly 'unbroken terraces' without extensive gaps.
- 101 Roundhill Crescent would not be overlooked.
- Restoration improvements to 101 Roundhill Crescent are desirable.
- Consider that the reasons for refusal of the previous application are overcome

5.2 **Twenty-seven (27)** letters of representation have been received from: **103 1st fl; 103 flat 1; 103a; 103 top flat; 105; 105a; 107 flat 1; 107 flat 2; 107 flat 4 and 47 Roundhill Crescent; 1; 3 (x2); 4; 8 (x2) D'Aubigny Road; 112/114 (x2) and 33 Richmond Road; 6 and 13 (x2) Wakefield Road; 31 Crescent Road; 51 Upper Lewes Road; 9, Belton Road; 55, Princes Road and 19, Roundhill Street objecting** to the application for the following reasons:

- Loss of the gap between 101 Roundhill Crescent and 4 D'Aubigny Road and the long distance public views obtained through it; some references to mention of views in the Round Hill Conservation Area Character Statement. Some respondents comment that the Sainsbury's building within the existing view does not compromise it. Some comment that the smaller gaps at other similar locations within the conservation area are not comparable as the adjoining buildings are not listed.
- Loss of the green space that the existing garden provides in an area without public open space.
- Loss of the gap would detrimentally impact on the character of the Round Hill Conservation Area.
- The proposed building would overshadow garden of 103 Roundhill Crescent and other Roundhill Crescent gardens.
- Overlooking of and loss of privacy to 103 Roundhill Crescent.
- The 'restoration benefits' put forward should not be considered as balancing the planning impacts of the proposal. Considerations should not 'reward neglect'.
- Would increase parking pressures.

5.3 **East Sussex County Council Ecologist**

No objection. Considers that the proposed development should not have an adverse impact on biodiversity and can be supported from an ecological perspective. The site offers opportunities for biodiversity enhancements that will help the Council address its duties under the Natural Environment & Rural Communities Act and NPPF (no specific condition is recommended).

5.4 **Conservation Advisory Group**

No objection. note that previous application for site was refused and that through the gap there is a view of the Lewes Road area, the cemetery and allotments and a view of Race Hill but considered that the predominant view is now the of Sainsbury's and that the proposal would help to screen that out and only marginally reduce the vista.

Internal:

5.5 **Heritage:** Comment.

5.6 Statement of Significance

101 Roundhill Crescent is Listed Grade II. It is a townhouse forming part of a terrace with nos. 103-113, built in the mid-19th century. Although Victorian in date it displays Regency detailing. No. 101 is the end of the terrace on the corner with D'Aubigny Road and differs from the others in that its front door is at the side in a side extension. The extension has been extended upward at first floor level over the original part and forwards at ground floor level. It is understood from the applicant that these date to at least the early 20th century. However the extensions are unsympathetic and poorly detailed. The front elevation retains its original sash windows apart from the central basement one which has been converted into an entrance door. It retains its stone first floor front balcony with cast iron railings in a scrolling foliage pattern. The rear and side elevations and the boundary wall are in relatively poor condition and would benefit from repair and maintenance.

5.7 The proposed development site forms the garden to 101 Roundhill Crescent with a boundary to D'Aubigny Road. It is located in the Round Hill Conservation Area and forms part of the curtilage and setting to the listed building. Historically it has always been open. It is larger than other gardens within the area, denoting the relative status of this property in relation to the more modest houses along D'Aubigny Road and elsewhere in the conservation area.

5.8 Round Hill Conservation Area is largely in residential use, with larger houses on Round Hill Crescent and Richmond Road (mostly now flats) and predominantly smaller individual family houses on the other roads. The area is notable for its hilly siting with distant views of the sea, downland and surrounding leafy areas framed by housing. Its hilly siting also means there are views towards the area from other parts of Brighton where it is characterised by houses stepping up the hill and separated by ribbons of green (the gardens to the houses). The green ribbons are indicative of the former use of this area for laundries. There are no public green spaces in the area; glimpsed views of private green spaces and views to downland/open land further afield provide relief to the dense urban form. The break between the end of terraces at road junctions also provide a break in urban form and thus contribute to this relief.

5.9 The Proposal and Potential Impacts

The proposal is to construct a new single dwelling within the existing garden to no.101 Roundhill Crescent; it follows previously refused applications for construction within the garden.

5.10 The garden currently retains the original plot size to 101 Roundhill Crescent. It forms the primary curtilage of this listed building and an important part of its setting. Its plot size provides an appropriate amount of space around the building which complements the scale of the building and reflects its status. It historically has always been open. The loss of the open space causes some harm to the setting of 101 Roundhill Crescent.

- 5.11 The break in building line, visible private open space of the gardens to 101-113 Roundhill Crescent and distant views to open land (allotments up to Warren Road) on the distant skyline are visible from D'Aubigny Road. They provide relief to the dense urban form and are a visual public amenity. Such visual public amenities are considered important to the character of the conservation area as described in the Round Hill Conservation Area Character Statement. The space therefore contributes to the character of the conservation area, and its loss would cause some harm to the character of the conservation area. It is acknowledged that the proposal is reduced in width from the original refused scheme and allows for the retention of a significant gap. This allows much of the view to still be appreciated within the street scene, although in a much narrower gap. A photo montage has been provided to confirm that the retained gap allows for a break in the roofline/building line when viewed obliquely from Roundhill Crescent, which also relieves the built form. This therefore minimises the level of harm caused.
- 5.12 The proposed new dwelling is detailed to be generally in keeping with the architectural style of the neighbouring Victorian housing. It is designed to form a pair with the neighbouring number 4, D'Aubigny Road. It is particularly important to ensure the building is well detailed such that this approach is effective.
- 5.13 The proposed development has been amended from the last scheme such that it now follows the established building line to the east side of D'Aubigny Road. It is also stepped down in height from the neighbouring 4 D'Aubigny Road, in order to follow the topography more accurately and remain subservient in the street scene. This is appropriate.
- 5.14 The building has been designed to exactly match the detailing to 4 D'Aubigny Road. A condition should be attached to any approval to ensure this is the case, with large scale details also required.
- 5.15 The front boundary arrangement including lowered wall and piers to match original designs on D'Aubigny Road is appropriate. It is acknowledged that the size of piers differs between the properties along the road, relative to the scale of property. It appears the proposed match the smaller houses to the west side of the road and upper part of the east side. This is appropriate, subject to large scale details. Details will also be required of the steps, dwarf wall to the steps, lowered boundary wall (with coping) and the additional proposed bungaroosh wall.
- 5.16 The windows have been appropriately amended to well-proportioned timber hung sash windows. It would be appropriate for the front door and side door to be recessed to match the reveals to the existing door to number 4. The lowest section of glazing to the side door would appropriately be solid.
- 5.17 The LPA has a statutory duty to preserve listed buildings and their settings, and to preserve and enhance the character or appearance of conservation areas- Planning (Listed Buildings and Conservation Areas) Act 1990 sections 16, 66 and 72). The proposal does cause some harm to the setting of the listed

building and the character/appearance of the conservation area. Paragraph 132 of the NPPF requires great weight to be given to the conservation of heritage assets.

5.18 In terms of the NPPF, the proposal is considered to cause less than substantial harm to the conservation area and listed building.

5.19 Where a development would lead to less than substantial harm, para.134 of the NPPF allows the public benefits of the proposal to be weighed against the harm. Policy HE4 of the Local Plan is complementary to such an approach. The application sets out a number of proposed improvements to the main listed building (including walls). Some of these constitute repairs to the building; the owner has a general responsibility to maintain their listed building in good condition and thus the 'public benefit' of such work can only be considered to limited extent against the harm of the proposal. A number of works involve reinstatement and improvement to the building; the public benefit of these works can be considered against the harm of the proposal to a greater extent.

5.20 The following works are proposed:

- Painting of the flank and rear walls.
- Rationalised pipework, painted to match the walls.
- Reinstatement of the cast iron window guards to match 103.
- Reinstatement of missing areas of red clay pavers to the basement lightwell and encaustic tiles to main pathways/steps (dependent on amount of reinstatement required).
- Replacement ground floor door to match door to number 103.
- Small shed painted dark green with imitation turf removed.
- Decking and summerhouse removed
- Improved planting scheme
- Improvements to side gates and adjacent walls.
- Improved design to the rear basement lightwell railings.
- Improvements to first floor rear door, including removal of the fanlight.

5.21 The Heritage Team have also identified further works over and above those proposed that would improve 101 Roundhill Crescent in historic buildings terms.

5.22 Arboriculture

No objection. Notes that there are no trees or vegetation on the site itself, or the streets surrounding the development. Notes that there are one or two shrubs behind flint walls in neighbouring properties that should not be affected by the proposed development.

5.23 Sustainable Transport:

No objection. Considers no on site car parking required as the site has good accessibility by sustainable means and where overspill parking is constrained by the surrounding Controlled Parking Zone. Seeks condition to secure cycle storage as proposed and a condition to secure off site works, viz. dropped kerbs

and tactile paving at the eastern and western footways on Roundhill Crescent at the junction of D'Aubigny Road.

6 MATERIAL CONSIDERATIONS

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."
- 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 and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only – site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.
- 6.3 The National Planning Policy Framework (NPPF) is a material consideration.
- 6.4 Due weight should be given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.
- 6.5 All material considerations and any policy conflicts are identified in the "Considerations and Assessment" section of the report.

7 RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP8	Sustainable buildings
CP9	Sustainable transport
CP12	Urban design
CP13	Public streets and spaces
CP14	Housing density
CP15	Heritage

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

TR7	Safe Development
TR14	Cycle access and parking
QD5	Design - street frontages
QD27	Protection of amenity
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes
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
- HE12 Scheduled ancient monuments and other important archaeological sites

Supplementary Planning Guidance:

SPGBH4 Parking Standards

Supplementary Planning Documents:

SPD03 Construction & Demolition Waste

SPD09 Architectural Features

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to the principle of development, design and appearance including the impacts on the adjoining listed buildings and Round Hill Conservation Area; impacts on the amenities of adjoining occupiers; the standard of accommodation for future occupiers; landscaping; sustainable transport issues; ecology and biodiversity and sustainability of the proposal.
- 8.2 The City Plan Part 1 Inspector's Report was received in February 2016. This supports a housing provision target of 13,200 new homes for the city to 2030. It is against this housing requirement that the five year housing land supply position is assessed following the adoption of the Plan on the 24th March 2016. The City Plan Inspector indicates support for the Council's approach to assessing the 5 year housing land supply and has found the Plan sound in this respect. The five year housing land supply position will be updated on an annual basis.
- 8.3 Principle of Development**
City Plan Part One policy SS1 sets out policy in pursuance of the 'presumption in favour of sustainable development' set out in the NPPF. It states that the City Council will work proactively with applicants to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. The policy further says that the strategy needs to balance accommodating the city's development needs, including homes, with the need to protect and enhance the city's high quality environments. This application is an example of where this balance is the essential determinant in the application.
- 8.4 The policy also promotes the efficient use and development of land/sites across the city including higher densities in appropriate locations. It should however be noted that the policy seeks that the 'majority of new housing... will be located on brownfield sites' and that the NPPF excludes private residential gardens from its definition of 'previously developed' or brownfield land. The City Council has not however, as the NPPF allows, elected to adopt a policy making a presumption against development in residential gardens.
- 8.5 Whilst it is not considered that strategic policy is balanced one way or the other in relation to this proposal, it might be noted that the City Plan Part One policy

CP1 'Housing Delivery' relies, in its housing delivery targets, on 'windfall' sites making up 1250 units in the 20 year plan period. The policy notes that 'small windfall site development, will contribute towards meeting the planned housing requirements of the city and ongoing five year supply requirements'.

8.6 In addition to the general policy planning considerations, because the proposal affects the setting of 101 Roundhill Crescent as a (grade II) listed building, the Council must 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.' The Heritage Team comments have been made in that context.

8.7 **Design & Appearance**

Taking the consideration of the appearance of the building aside from the issues related to the gap between 101 Roundhill Crescent and 4 D'Aubigny Road, the Heritage Team have identified that it is designed to appear as a pair with no. 4 (bearing in mind that no. 4 is attached to no.6 which it does not mirror). Importantly, in relation to the previously refused scheme, its roof steps down in height, following the topography as opposed to continuing the ridge line at the same height and following the front building line where the previous scheme protruded 0.5m in front of it. It is considered that the appearance of the building per se is acceptable in relation to the character of the conservation area.

8.8 City Plan Part One policy CP14 'Housing Density' introduced housing density as a consideration, seeking that housing densities be appropriate to the identified positive character of the neighbourhood and setting out criteria for permitting housing at densities higher than those typically found in the area. It generally seeks a minimum of 50 dph (dwellings per hectare). Densities in the immediate surroundings of the application premises, using this measurement vary considerably, in large part because there is a mix of single dwellings and flatted development. The existing density for the application site i.e. the existing flats in relation to the plot size is (approximately) 106 dph; the proposed house would raise the density to 141 dph. For comparison a small house in a small plot on D'Aubigny Road is 111 dph and the flatted development opposite the premises- 99 Roundhill Crescent is 280 dph. In that context the proposed density cannot be said to be atypical and does not fall to be tested against the criteria for consideration of higher than locally typical densities set out in this policy.

8.9 City Plan Policy Part One policy CP12 Urban Design sets out a series of criteria for the consideration of design issues, mainly in the context of a future 'Urban Design Framework'. It might be noted that criterion 6 seeks to 'protect or enhance strategic views into, out of or within the city.' and that many of the respondents have referred to the views that may be obtained over the application site from D'Aubigny Road. Whilst the space between 101 Roundhill Crescent and 4 D'Aubigny Road might be considered in other contexts- such as the setting of the listed building, it is not a strategic view and the view is not per se accorded strategic policy protection.

8.10 City Plan Part One policy CP12 further advises that until the intended Urban Design Framework and City Plan Part One are published that the Council's

Urban Characterisation Study (2009) will assist the 'consideration of backland or infill developments'. The Study is descriptive rather than prescriptive- in describing the Round Hill area it notes, inter alia ' a strong building line' and that the area 'affords good views out towards the Downs and back towards the sea and to local landmarks.'

8.11 There is more comment on views in the Round Hill Conservation Area Statement which notes that the conservation area is notable for its hilly setting with long terraces of houses framing distant views of the sea to the south and of the downs to the east. In this case the views are the downs to the east only. It should also be noted that views across the development site are only obtained when directly facing the site. The Round Hill Conservation Area Statement picks out two 'vistas' it considers to be 'of note' which are 'down Crescent Road and along Wakefield Road.' It might be noted that although clearly the proposal would close part of the existing gap between buildings that there is a further view to the Downs from D'Aubigny Road opposite the site, looking south of 101 Roundhill Crescent.

8.12 The Heritage Team have come to the view that the differences between the current and previous schemes, as detailed in their consultation response, are such that in terms of the conservation area and listed building consent aspects that harm caused is less than substantial. As far as the loss of part of the gap between 101 Roundhill Crescent and 4, D'Aubigny Road is concerned there is no general policy protection of non-strategic views. In practice the view is lost in part, not wholly and from the best viewing position of the gap- on the opposite side of D'Aubigny Road there remains a downland view to the south of 101 Roundhill Crescent. It might be noted that from such a viewing position that much of part of the view that is lost would be that of the Sainsbury's supermarket in the middle ground. In conclusion it is not considered that the loss of the space between buildings should, of itself, constitute a reason for refusal.

8.13 Impact on Amenity:

Policy QD27 states that planning permission for any development 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 relationships of particular consequence in terms of amenity are those with 101 and 103 Roundhill Crescent. It has been noted that unlike the previous application whose rear building line was flush with the rear of 4 D'Aubigny Road that the current application is 0.75m to its rear. That depth is not considered to give rise to a substantive loss of amenity to those premises.

8.15 It may be noted that overlooking (of specifically 101 Roundhill Crescent) from a window in its proposed south elevation was a reason for refusal of the earlier application. In that case the window appeared to be to a bedroom. In the current application there remains one first floor window on the south elevation but it is clearly to a bathroom. To ensure that this would be obscure glazed a condition to that effect is recommended. In that circumstance it is considered that there

would be no overlooking. Whilst there are windows proposed in the rear, east, elevation the relationship with habitable space in the Roundhill Crescent premises is oblique and the flats themselves would not be overlooked.

- 8.16 The previous application was also refused on grounds of the impact on properties to the east in Roundhill Crescent in terms of its scale, bulk and massing close to the boundary being overbearing and oppressive '*when viewed from the garden areas of neighbouring properties*'. The current application is different from the previous one, in terms of building envelope, only in terms of height. This would lessen the impact of the building on both aspects of this reason for refusal but clearly there is some impact. It might be noted that the application plot is to the north of these gardens and would not affect sunlighting or daylighting to those gardens. It also might be compared with the relationship between the building on the other side of the junction- 99 Roundhill Crescent and the building whose flank the rear faces- 1 D'Aubigny Road: here the distance is 5m whereas the distance between the proposed house and the main rear wall of 103 Roundhill Crescent is 12.5m. It is considered that protecting- specifically a view from gardens- in these circumstances would be difficult were there to be an appeal against a refusal on these grounds.

8.17 Standard of Accommodation

The City Council has a general policy on amenity for future residents set out in policy QD27 of the Brighton & Hove Local Plan but without specific space standards. The proposed house contains two double bedrooms at first floor and a single bedroom in the roofspace. The gross internal floorspace proposed is 98.2m². The Council has not, at this stage, adopted the optional 'Technical Standards for Housing' published by the DCLG but for comparison the standard for the amount of accommodation proposed over three levels is 99m². The size of the unit is considered adequate for the amount of accommodation proposed.

- 8.18 The Council's general approach to the provision of outdoor amenity space for housing is set out in policy HO5 of the Brighton & Hove Local Plan which seeks private useable amenity space where appropriate. It is considered that garden space should be provided for a 3 bedroomed house in this inner suburban location. The 27.5m² garden to the side of the proposed house is considered small but not to the extent that the application should be refused on these grounds.

- 8.19 Windows are arranged such that each room has at least one window. An exception to this is the third bedroom which has only a (conservation) rooflight, on the rear roof plane. Whilst this may provide adequate lighting for the room there would be limited outlook from this room. This is a deficiency and may be symptomatic of the applicant seeking to provide fenestration that would avoid overlooking and for heritage reasons. Although outlook is limited the room comprises secondary accommodation with the rest of the proposed dwelling providing adequate outlook and the accommodation is overall acceptable.

8.20 Landscaping

The submitted plans show the provision of a garden to the side of the proposed dwelling, separated from the retained garden area for 101 Roundhill Crescent. No

details of any landscaping for this proposed external amenity area are shown on the plans submitted however it is considered that full landscaping details could be secured via condition.

8.21 The Council's Arboriculturist has assessed the application and raised no objections; it is considered that the shrubs/tree located in neighbouring gardens should not be affected by the proposed development.

8.22 Sustainable Transport:

Policy CP9 of the Brighton & Hove City Plan Part One seeks to transfer people and freight to sustainable forms of transport and advises that subsequent guidance will, inter alia, put a priority on minimising off-street car parking in accessible locations. Policy TR7 of the Brighton & Hove Local Plan requires that new development does not increase the danger to users of adjacent pavements, cycle routes and roads. No off-street parking provision is proposed as part of the development. The site is located in an area with good accessibility by sustainable modes and where overspill parking would be constrained by the presence of the existing Controlled Parking Zone. In the circumstances a car-free development is considered acceptable.

8.23 The creation of an additional residential unit is likely to lead to a small uplift in trips to and from the site. In order to comply with policies of the Brighton & Hove Local Plan, a contribution is sought towards pedestrian improvements which would include dropped kerbs and tactile paving at the junction of Roundhill Crescent and D'Aubigny Road. Such improvements would ensure safe and attractive walking routes are provided to and from the proposed development.

8.24 The plans submitted show the provision of covered and secure cycle storage, for two cycles, within the south-western section of the site. Such provision is considered consistent with the minimum standards as set out in SPG04 and in accordance with policy TR14 of the Brighton & Hove Local Plan. The provision of such facilities can be ensured via a condition.

8.25 Ecology/Biodiversity

It is noted that a Site of Nature Conservation Importance (SNCI) lies approximately 140m to the east of the site (Woodvale, Extra-mural and Downs Cemeteries) however due to the location, scale and nature of the proposal it is considered unlikely that the proposal would have any adverse impacts on this nearby SNCI and its nature conservation value.

8.26 The site currently comprises outbuildings, hardstandings, amenity grassland and flowerbeds, which are considered to be of low ecological value. As such the County Ecologist considers that the site is unlikely to support any protected species and therefore no mitigation measures are required.

8.27 It is considered that the proposal offers opportunities for ecological/biodiversity enhancements to be made at the site such as the use of species of known value to wildlife within a landscaping scheme and the provision of bird boxes and a condition is recommended requiring details of such biodiversity enhancement measures.

8.28 Sustainability

In order to comply with policy CP8 of the City Plan Part One the proposed development is required to comply with energy and water efficiency standards, which can be ensured via conditions.

8.29 The plans submitted do not show the provision of refuse and recycling facilities for the proposed unit however it is considered that there is adequate space on site for such provision, an issue which can be ensured via the attachment of a condition.

9 CONCLUSION

9.1 It is considered that the impact of the proposed development on the listed building at 101 Roundhill Crescent and on the Round Hill Conservation Area is one that, in historic environment terms, causes some harm but that such harm is less than substantial. Where that is the case the NPPF states that the harm *should be weighed against the public benefits of the proposal, including securing its optimum use.*

9.2 Government planning guidance advises that such public benefits *could be anything that delivers economic, social or environmental progress..* Public benefits which the proposal would create directly are the additional residential accommodation that it represents and the works to improve pedestrian facilities at the Roundhill Crescent/D'Aubigny Road junction that recommended condition 15 seeks. In addition, as listed in the comments by the Heritage Team, some of the works to the existing 101 Roundhill Crescent are regarded as improvements rather than general repairs (which are part of the general responsibility that the owner has to maintain their listed building). In order that the works of improvement are carried out, a condition is proposed linking the implementation of the planning permission recommended here with the implementation of the works set out the concurrent listed building consent application (ref. BH2016/00753) prior to the commencement of development on site.

9.3 In addition to the heritage issues discussed above there are amenity issues in relation to the impact on neighbouring properties. The height of the building has been lowered, albeit by a small amount (to reflect the topography of D'Aubigny Road) in relation to the previous application and the reasoning for the refusal of the previous application- being the impact of the view from gardens in Roundhill Crescent- would of itself not be a strong reason for refusal. The building to building distances in relation to new and existing buildings are not unusual for an inner suburban location and would remain better than that between 99 Roundhill Crescent and 1 D'Aubigny Road.

9.4 In conclusion, with the appropriate conditions to mitigate amenity impacts on neighbouring properties and secure the benefits which balance the 'less than substantial harm' which the proposal would cause, it is considered that the application could be approved.

10 EQUALITIES

The topography of the site and the conservation area location militate in favour of a front stepped access. Therefore, it is not possible to provide level access to the front door of the new house.

11 PLANNING OBLIGATION / CONDITIONS / INFORMATIVES

1) 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.

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

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

Plan Type	Reference	Version	Date Received
Block plan	1415/P/001		1/3/16
Location plan	1415/P/002		1/3/16
Existing site plan	1415/E01		1/3/16
Existing section & elevations	E02		1/3/16
Proposed ground floor/site plan alteration	1415/P110		1/3/16
Proposed 1 st floor & roof plan	1415/P111		1/3/16
Proposed front elevation (without front wall)	1415/P120		1/3/16
Proposed side & rear elevations	1415/P121		1/3/16
Proposed front elevation (showing wall)	1415/P122		1/3/16
Proposed rear elevation & section AA	1415/P123		1/3/16
Contextual collage of front elevation	1415/P124		1/3/16

3) No extension, enlargement or other alteration of the dwellinghouse as provided for within Schedule 2, Part 1, Classes A and C 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 character of the area and for this reason would wish to control any future development to comply with policy QD14 of the Brighton & Hove Local Plan.

4) The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development at all times.

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

- 5) No development shall take place until the following have been submitted to and approved in writing by the Local Planning Authority:
- a) samples of all render (including details of the colour of render/paintwork to be used) and roofing materials.
 - b) samples of all hard surfacing materials
 - c) samples of all other materials to be used externally
 - d) drawings of the proposed eaves, including in section; render mouldings and proposed chimney at a scale of not less than 1:5.
 - e) drawings of the front and side doors at a scale of not less than 1:20 (general) and 1:1 (details)
 - f) the proposed front entrance steps and proposed piers at a scale of not less than 1:10
 - g) details of all new sash windows and their reveals and cills including 1:20 scale elevational drawings and sections and 1:1 scale joinery sections.

Development shall be carried out in accordance with approved details.

Reason: in order to ensure that the detail of the building hereby approved is complementary with neighbouring premises in the Round Hill Conservation Area and in order to comply with policies HE3 and HE6 of the Brighton & Hove Local Plan and policy CP15 of the Brighton & Hove City Plan Part One.

- 6) Prior to first occupation of the development hereby permitted, a scheme for landscaping shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:
- a) details of all hard surfacing;
 - b) details of all boundary treatments;
 - c) details of all proposed planting, including numbers and species of plant, and details of size and
 - d) planting method of any trees.

Reason: to ensure that the site is effectively landscaped in the interests of future occupiers and the quality of the street scene within the Round Hill Conservation Area and to comply with policy QD15 of the Brighton & Hove Local Plan.

- 7) All hard landscaping and means of enclosure shall be completed in accordance with the approved scheme prior to first occupation of the development. All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the building or the completion of the development, whichever is the sooner; and 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, unless the Local Planning Authority gives written consent to any variation.

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Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD1 and QD15 of the Brighton & Hove Local Plan.

- 8) Prior to first occupation of the development hereby permitted, dropped kerbs and tactile paving shall have been installed to the eastern and western footways on Roundhill Crescent at the junction of D'Aubigny Road.
Reason: To ensure that suitable footway provision made to and from the development and to comply with policies TR7 of the Brighton & Hove Local Plan and CP9 of the City Plan Part One.
- 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 SU2 of the Brighton & Hove Local Plan and policy CP8 of the Brighton & Hove Submission City Plan Part One.
- 10) None of the residential units hereby approved shall be occupied until each residential unit built has achieved a water efficiency standard using 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 City Plan Part One.
- 11) No development shall take place until a scheme for nature conservation enhancement, which details the location and specification of bird boxes has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall be fully implemented in accordance with approved details prior to the first occupation of the building and shall be retained thereafter.
Reason: To ensure that the scheme makes appropriate provision for ecological enhancements in the form of bird boxes in order to comply with policy CP10 of the Brighton & Hove City Plan Part One.
- 12) The window in the south elevation (dwg. 1415.P/121) 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. The lower panes of the first floor east elevation window shall be obscure glazed and thereafter 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.
- 13) The development hereby permitted shall not commence until such time as a scheme has been submitted to and approved in writing by the Local Planning Authority 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.
Reason: This pre-commencement condition is imposed in order to allow the Traffic Regulation Order to be amended in a timely manner prior to first

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occupation to ensure that the development does not result in overspill parking and to comply with policies TR7 & QD27 of the Brighton & Hove Local Plan and CP9 of the City Plan Part One.

- 14) Prior to first occupation of the development hereby permitted a scheme for the storage of refuse and recycling shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in full as approved 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.
- 15) Development shall not commence until such time as the works to 101 Roundhill Crescent as itemised in the annotations to drawing P/122 approved in listed building consent reference BH2016/ 00753 have been implemented in full.
Reason: The implementation of the itemised works is fundamental as the means by which to satisfy the requirement of para. 134 of the NPPF that harm to a heritage asset may be mitigated by the provision of public benefits.
- 16) The rooflight hereby approved shall be of a 'conservation' style and have steel or cast metal frames 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 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 to grant Planning Permission has been taken:
 - (i) having regard to the policies and proposals in the National Planning Policy Framework and the Development Plan, including Supplementary Planning Guidance and Supplementary Planning Documents:
(Please see section 7 of the report for the full list); and
 - (ii) for the following reasons:- the less than substantial harm to heritage assets which the proposal gives rise to is mitigated by the provision of public benefits; impacts on the amenities of adjoining occupiers are not considered to be substantial.
3. The applicant is advised that the proposed highway works as sought by condition 8 should be carried out in accordance with the Council's current Standards and Specifications and under licence from the Streetworks team

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and should contact the Council's Streetworks team (permit.admin@brighton-hove.gov.uk 01273 293366).

4. 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.
5. The water efficiency standard required under condition 8 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.
6. The applicant is advised that the scheme required to be submitted by Condition 14 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 that the development is car-free.

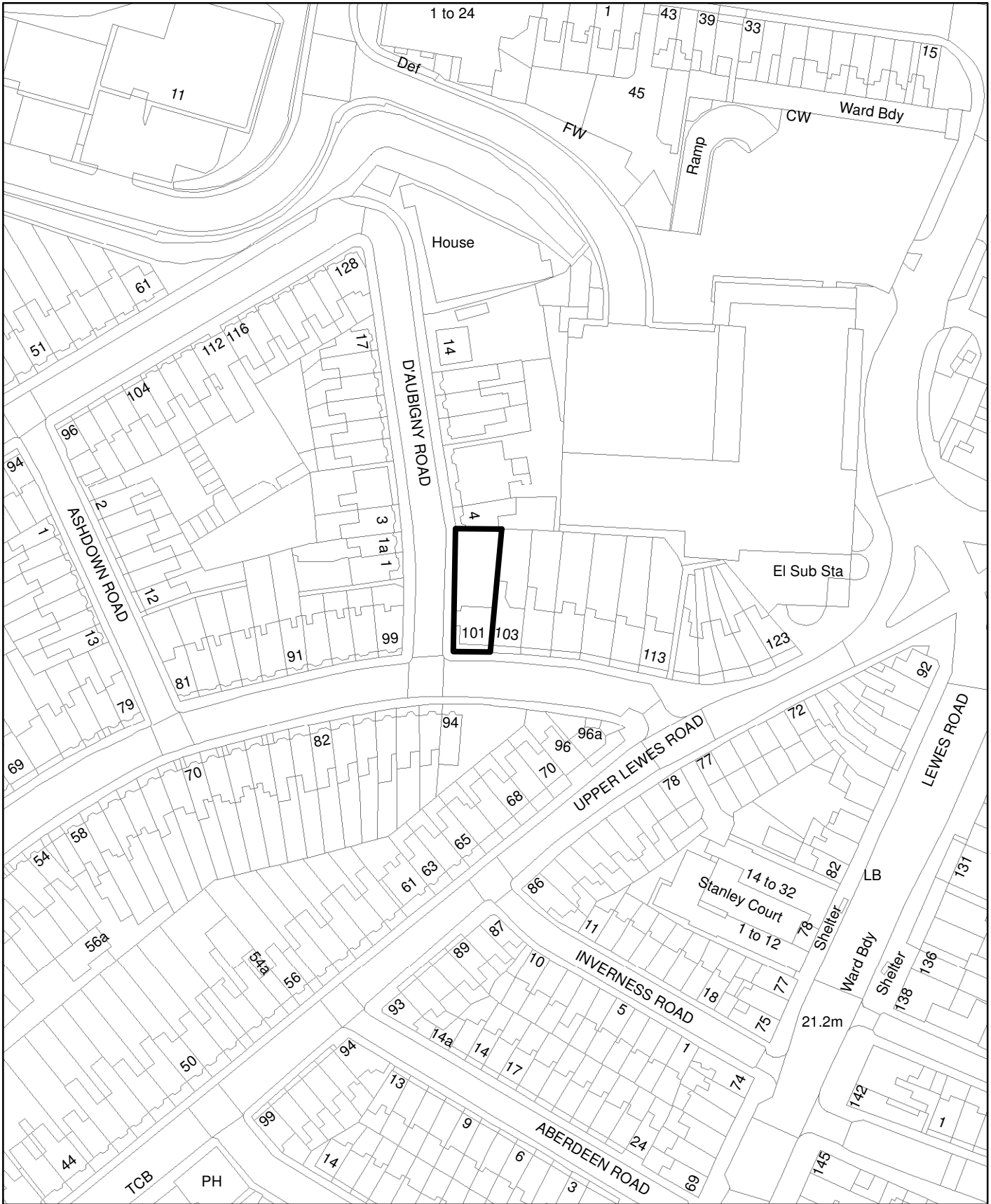
ITEM L

101 Roundhill Crescent, Brighton

**BH2016/00753
Listed Building consent**

14th SEPTEMBER 2016

BH2016/00753 101 Roundhill Crescent, Brighton



Scale: 1:1,250

<u>No:</u>	BH2016/00753	<u>Ward:</u>	ST. PETER'S & NORTH LAINE
<u>App Type:</u>	Listed Building Consent		
<u>Address:</u>	101 Roundhill Crescent Brighton		
<u>Proposal:</u>	External alterations including repair works, alterations to boundary wall including installation of a new gate, reinstatement of cast iron window guards to second floor windows, alterations to fenestration and associated works.		
<u>Officer:</u>	Mark Dennett Tel 292321	<u>Valid Date:</u>	05/04/2016
<u>Con Area:</u>	Round Hill	<u>Expiry Date:</u>	31 May 2016
<u>Listed Building Grade:</u>	II		
<u>Agent:</u>	ZSTA, 3 Dorset Place Brighton BN2 1ST		
<u>Applicant:</u>	Ms Wendy Jamieson, 101 Roundhill Crescent Brighton BN2 3GP		

1 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 and the policies and guidance in section 7 and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in section 11.

2 SITE LOCATION & DESCRIPTION

- 2.1 The application site is the rearmost part of the rear garden to 101 Roundhill Crescent, a 4 storey residential building comprising four flats on the corner (north-east quadrant) of Roundhill Crescent and D'Aubigny Road. The depth of the existing garden to the rear of 101 Roundhill Crescent is 18m. The far end of the garden is abutted by the flank wall of the house at 4 D'Aubigny Road. The proposed site boundary is the last 8.8m of this garden; back to front the site has a depth of 10.5m.
- 2.2 The property and related land is located within the Round Hill Conservation Area; 101 Roundhill Crescent is a Grade II Listed Building. Nos. 103 to 113 Roundhill Crescent are also Listed. Round Hill Conservation Area is largely in residential use, with larger houses on Roundhill Crescent and Richmond Road, mostly now flats, and predominantly smaller individual family houses in the other roads. There is a noticeable incline on D'Aubigny Road and within the site down from north to south. Roundhill Crescent in front of the terrace at nos.101-113 slopes down from west to east, but there is no noticeable change of levels within the site.

3 RELEVANT HISTORY

- BH2015/02786** Erection of two storey, three bedroom dwelling. Refused
26/11/15

BH2015/02796 Alterations to boundary wall Refused 26/11/15- for reason of loss of historic fabric unacceptable in absence of acceptable development scheme for site.

BH2015/00322 Erection of two storey building comprising x5 flats Refused 7/4/15

BH2011/02420 – 101 Roundhill Crescent - Erection of shed and decked area to land to rear of 101 Roundhill Crescent. (Retrospective). Approved 20/10/2011.

BH2011/02259 - 101B Roundhill Crescent - Listed Building Consent for erection of first floor side extension. Refused 12/10/2011.

BH2011/02257 - 101B Roundhill Crescent - Erection of first floor side extension. Refused 12/10/2011.

4 THE APPLICATION

- 4.1 Listed building consent is sought for alterations to the boundary wall to D'Aubigny Road which comprise the removal of a 1.85m length of it in order to create a pedestrian access to the proposed house at the rear (application ref. BH2016/00752). Additionally the height of that part of the boundary wall between this access point and the boundary with 4 D'Aubigny Road, a length of 3.7m would be lowered by between 0.7 and 1m. The gate in the same wall just behind 101 Roundhill Crescent would be replaced by a 1.7m timber gate (there is an existing (20th c) gate of approximately 1m. The cast iron 'window guards' that would have originally been atop the windowsills of the three second floor front elevation windows are proposed to be replaced (these are present on other premises in the terrace). The stuccoed flank wall of the building to D'Aubigny Road will be painted.
- 4.2 The applicant additionally proposes a number of works of repair and restoration which do not of themselves require listed building consent.

5 PUBLICITY & CONSULTATIONS

External

5.1 Neighbours:

One (1) letters of representation have been received from **101 Roundhill Crescent** supporting the application for the following reasons: the alterations to the wall and 101 Roundhill Crescent can only serve as an improvement to this historic building.

- 5.2 **One (1)** letter of representation has been received from 4 D'Aubigny Road objecting to the application for the following reasons: the wall is part of the heritage of the area and should not be lowered or cut into; will be detrimental to the character of the area; will make respondent's property vulnerable to intruders and notes that the view across back gardens to Elm Grove is a key part of the conservation area.

Internal:

Heritage do not object.

6 MATERIAL CONSIDERATIONS

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that “If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”
- 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 and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only – site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.
- 6.3 The National Planning Policy Framework (NPPF) is a material consideration.
- 6.4 Due weight should be given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.
- 6.5 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7 RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

CP15 Heritage

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

HE1 Listed buildings

HE3 Development affecting the setting of a listed building

Supplementary Planning Documents:

SPD09 Architectural Features

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main consideration in the determination of this application relates to the effect of the proposals on the character of the host listed building at 101 Roundhill Crescent.
- 8.2 **Design:**
The proposed works are those to the wall to D’Aubigny Road as detailed in 4 above plus:
- Painting of the flank and rear walls.

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- Rationalised pipework, painted to match the walls.
 - Reinstatement of the cast iron window guards to match 103.
 - Reinstatement of missing areas of red clay pavers to the basement lightwell and encaustic tiles to main pathways/steps (dependent on amount of reinstatement required).
 - Replacement ground floor front door to match door to number 103.
 - Improvements to side gates and adjacent walls.
 - Improved design to the rear basement lightwell railings.
 - Improvements to first floor rear door, including removal of the fanlight.
- 8.3 In addition to these works requiring listed building consent it is also noted that it is proposed that decking and summerhouse and a small shed in the existing garden will be removed and that an improved planting scheme would be provided.
- 8.4 The NPPF requires that when determining applications for listed building consent that the local planning authority take account of the *desirability of sustaining and enhancing the significance of the heritage assets*. These works are considered desirable works of enhancement.
- 8.5 The removal of a short length of the existing 'bungaroosh' wall along D'Aubigny Road is not integral to the significance of the listed building and that part immediately adjoining 101 Roundhill Crescent is retained. It should be noted that listed building consent application BH2015/02796 for like alterations to this wall (no other listed building works were included) was refused but only for the reason that it was not justifiable in the absence of an acceptable scheme for development of the site. As the planning application concurrent with this listed building consent (BH2016/00752) is recommended for approval the circumstances are changed and it is not considered that the works proposed to the wall are unacceptable.
- 8.6 In addition to the merits of the works under consideration per se they are also of consequence in the consideration of the concurrent planning application for the erection of a house at the rear of 101 Roundhill Crescent. In the report on that application it is concluded that the proposal is one that, in historic environment terms, causes some harm but that such harm is less than substantial. Where that is the case the NPPF states that the harm *should be weighed against the public benefits of the proposal, including securing its optimum use*. In addition to the benefit of the proposed residential accommodation and nearby highway improvements sought by condition, works forming part of this listed building consent application are regarded as improvements rather than general repairs (which are part of the general responsibility that the owner has to maintain their listed building). In order that the works of improvement are carried out, a condition is proposed for the planning application linking the implementation of the planning permission recommended here with the implementation of the works set out the concurrent listed building consent application (ref. BH2016/00753) prior to the commencement of development on site.

9 CONCLUSION

- 9.1 The proposals as a whole are positive in the context of the character of the listed building at 101 Roundhill Crescent and as such are welcomed. The alterations to the boundary wall to D'Aubigny Road are the minimum required in order to gain access to the house proposed in the concurrent planning application and whereas listed building consent was refused (BH2015/02796) for like works on the grounds that they were not acceptable in the absence of an approved scheme for the development of the site, that is no longer the case, if concurrent BH2016/00752 is approved it is thus recommended that listed building consent be granted.

10 EQUALITIES

- 10.1 None identified.

11 PLANNING OBLIGATION / CONDITIONS / INFORMATIVES

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

Plan Type	Reference	Version	Date Received
Location plan	1415.P002		1.3.16
Block plan	1415.P005		1.3.16
Proposed ground floor plan	1415.P150	A	1.3.16
Proposed wall & side elevation	1415.P151	A	1.3.16
Proposed Elevations	1415.P152		1.3.16
Existing plan	1415.P.E01	B	1.3.16
Existing elevations	1415.P.E02	D	1.3.16

- 3) No works shall take place until the following have been submitted to and approved in writing by the Local Planning Authority:
 - a) drawings of the proposed rear basement and rear first floor replacement doors at a scale of not less than 1:20 (general) and 1:1 (joinery sections)
 - b) drawings of the rear brick wall pillars and railings proposed to adjoin the rear lightwell and lightwell bridge at a scale of not less than 1:10
 - c) samples of the render proposed for the works to the walls adjoining the 'inner side walls' as annotated on drawing P/152.

The works shall be carried out in accordance with approved details.
Reason: in order to ensure that the detail of the proposed works hereby approved is complementary to this listed building and in accordance policies HE1 and HE4 of the Brighton & Hove Local Plan and policy CP15 of the Brighton & Hove City Plan Part One.

PLANNING COMMITTEE LIST- 14 SEPTEMBER 2016

- 4) The paint colour for the proposed painting of the rear elevation and side elevation to D'Aubigny Road shall exactly match the paint colour of the front elevation.

Reason: In order to ensure that the painting of the side elevation matches the front elevation and in accordance with policy HE1 of the Brighton & Hove City Local Plan and Brighton & Hove City Plan Part One.

- 5) The proposed replacement front door, as illustrated on drawing P/152, shall match in all respects the front door to 103 Roundhill Crescent.

Reason: In order that the replacement front door is complementary to original front doors in the listed terrace 101-113 (odds) Roundhill Terrace, of which the application premises forms part and in accordance with policy HE4 of the Brighton & Hove Local Plan and policy 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. This decision to grant Planning Permission has been taken:
 - (i) having regard to the policies and proposals in the National Planning Policy Framework and the Development Plan, including Supplementary Planning Guidance and Supplementary Planning Documents:
(Please see section 7 of the report for the full list); and
 - (ii) for the following reasons:- the proposals as a whole have a positive impact on the character of the listed building at 101 Roundhill Crescent and the Round Hill Conservation Area.

PLANS LIST 14 September 2016

BRIGHTON AND HOVE CITY COUNCIL

LIST OF APPLICATIONS DETERMINED BY THE HEAD OF CITY
INFRASTRUCTURE UNDER DELEGATED POWERS OR IN IMPLEMENTATION
OF A PREVIOUS COMMITTEE DECISION

PRESTON PARK

Application No: BH2016/01518

Park Court Preston Park Avenue Brighton

Group 1. Ash, Sycamore. Reduce 8no trees in height by up to 2.5m.
Reduce radial spread by no more than 2m, in order to retain a
balanced crown.

Applicant: Mr Howard Davies

Approved on 28 Jul 2016

Application No: BH2016/01866

2 Beaconsfield Villas, BRIGHTON

Fell 1no Fir tree (Tree has no public visibility)

Applicant: Mr Richard Crane

Approved on 22 Jul 2016

Application No: BH2016/02034

Park Court Preston Park Avenue Brighton

Fell 1no Ash T1. Fell 1no Cypress T2.

Applicant: Mr Howard Davies

Approved on 28 Jul 2016

Application No: BH2016/02259

9 Preston Park Avenue, Brighton

Fell 1no Almond Tree (Tree is dying)

Applicant: Mr C Jackson

Approved on 28 Jul 2016

Application No: BH2016/02414

Greenacres, 13-17 Preston Park Avenue, Brighton

1no Beech T1 - Reduce crown by 30% removing approx 1.5m of growth
evenly around the crown.

Applicant: Iain Palmer

Approved on 28 Jul 2016

Application No: BH2016/02530

Preston Mansions, Preston Park Avenue, Brighton

5no Conifer T1 - T5 Reduce height of 4 tallest trees by up to 15ft and reduce tree T1 to match new height of trees T2-T5.

Applicant: Mr Nyall Thompson

Approved on 22 Jul 2016

Application No: BH2016/02604

173 Waldegrave Road Brighton

1no Sycamore - T1 - Reduce Crown by 30%. 1no Bay T2 - Reduce crown by 30%.

Applicant: Miss V Hayward-Cripps

Approved on 05 Aug 2016

Application No: BH2016/02928

60 Beaconsfield Villas, Brighton

Fell 2no Sycamores (No public visibility)

Applicant: Mr W Paternoster

Approved on 05 Aug 2016

REGENCY

Application No: BH2016/02263

Park Royal, Montpelier Road, Brighton

1no Sycamore T1 - reduce lateral branched to south and west by 3m.

1no Elm T2 - reduce lateral branched to south and west by 4m. 1no

Elm T3 - reduce lateral branched to south and west by 5m. 1no

Sycamore T4 - reduce lateral branched to south and west by 4m.

Applicant: Ben McWalter

Approved on 28 Jul 2016

Application No: BH2016/02314

21-22 Montpelier Place Brighton

1no Sycamore T1. Reduce lateral spread by up to 2m. Reduce height by up to 1.5m.

Applicant: Mr Howard Davies

Approved on 29 Jul 2016

Application No: BH2016/02412

Clifton Terrace Communal Garden, Brighton

1no Elm T1- Remove 6 lowest limbs. 1no Elm T2 - Remove 5 lowest limbs. 1no Elm T3 - Remove 2no large lowest limbs at 5m and 3m from ground level. 1no Lime T4 - Thin crown by 25%. 1no Sycamore T5 - Remove 4 lowest limbs and crown thin by 25%. 1no Elm T6 - Remove lowest limb on the north side growing over garden. 1no Sycamore T7 - Remove 5 lowest limbs and 25% crown thin. 1no Elm T8 - Cut back 4 lowest limbs 6m to suitable growth points and crown thin by 20%. 1no Elm T9 Remove 4 lowest branches and 20% crown thin. 1no Elm T10 - Remove branch that forks at 4m and grows over garden.

Applicant: Mr Henry Mason

Approved on 12 Aug 2016

Application No: BH2016/02509

25 Montpelier Crescent BRIGHTON

Fell 1no Sycamore. (Tree has no significant visible defects; no fungal defects were found; tree has potential to remain for a period of upto 40+ years; however due to constraints of space, this tree will require constant maintenance to keep at or about present size. The park opposite has a large population of mature trees. This tree is much larger than other trees/bushes in adjoining gardens. CONCLUSION: To place a TPO on this tree will place an unreasonable maintenance burden upon the owner; the tree detracts from the character of the crescent; the loss of the tree will not substantially reduce the arboricultural amenity of the area)

Applicant: Miss Tanya Lszyk

Approved on 31 Aug 2016

ST. PETER'S & NORTH LAINE

Application No: BH2016/01989

15 Crown Gardens, BRIGHTON

Fell 1no Bay Laurel - Only tree in front garden (Whilst tree has public visibility thus has amenity value it is unsustainable in the long term. It is causing structural damage to adjacent wall and would require a disproportionately high level of maintenance which would be unreasonable)

Applicant: Mr Daniel Boyall

Approved on 28 Jul 2016

Application No: BH2016/02072

36 Richmond Road Brighton

Fell 2no Cherry. Removal of Sycamore stump. (Trees have no public amenity)

Applicant: Miss LK Roe

Approved on 28 Jul 2016

Application No: BH2016/02120
Flat 2 11 Roundhill Crescent Brighton
2no Sycamore T1 & T2- Crown lift to 8m.
Applicant: Mr Matthew Haynes
Approved on 05 Aug 2016

Application No: BH2016/02544
GFF, 98 Buckingham Road, Brighton
1no Paulonia - Cut back to boundary with St Nicholas Road
Applicant: Mr N Thompson
Approved on 22 Jul 2016

Application No: BH2016/02558
43 Park Crescent, Brighton
Fell 1no Beech (Tree is unsustainable in such a small garden space. Tree has no public amenity value as not visible from a public space)
Applicant: Mrs V Taylor
Approved on 31 Aug 2016

Application No: BH2016/02646
Flat 2 11 Roundhill Crescent Brighton
Fell 1no Sycamore T3 (Tree is causing structural damage to wall and not sustainable in the long term. Also lacks public visibility)
Applicant: Mr Matthew Haynes
Approved on 05 Aug 2016

Application No: BH2016/02914
126 Dyke Road, Brighton
1no Red Chestnut T1 - Crown lift 3m above ground. 1no Sycamore T2 - Remove epicormic growth to 3.5m. 1no Elm T3 - Remove epicormic growth to 3.5m. 1no Poplar T4 - Reduce crown to within 1m of previous pollard points. 2no Sycamore T5 & T6 - Crown lift with a 3m clearance from ground.
Applicant: Mr Nick Goodman
Approved on 05 Aug 2016

WITHDEAN

Application No: BH2016/01388
26 Clermont Terrace, Brighton
1no Tree of Heaven - 3m crown reduction
Applicant: Mr W Paternoster
Approved on 22 Jul 2016

Application No: BH2016/01855

10 Varndean Holt Brighton

Fell 1no Sycamore (Tree has a number of significant structural defects thus of short term potential only)

Applicant: Mr Shah

Approved on 27 Jul 2016

Application No: BH2016/02060

3 Friar Close, Brighton

Fell 1no Horse Chestnut

Applicant: Mr William Paternoster

Approved on 21 Jul 2016

Application No: BH2016/02270

32 Dyke Road Avenue, Hove

Fell 1no Birch. Fell Group of 2no Conifers and 1no Oak.

Applicant: Mr B Vary

Refused on 21 Jul 2016

Application No: BH2016/02311

6 Elms Lea Avenue Brighton

T1 Beech - A large mature tree located in rear garden.

Reduce in size by removing approximately 2 metres of growth evenly all over crown leaving a tree with approx 7 metre radius whilst retaining overall character and shape of the tree.

Remove lowest limbs raise the crown to a height of 7 metres over neighbours side.

Applicant: Ann Ahmad

Approved on 05 Aug 2016

Application No: BH2016/02319

7 Varndean Road, BRIGHTON

1no Silver Birch (T1) - Crown Thinning 25% . 1no

Yew (T3) - Crown Thinning 25% & Crown Lifting up to a maximum of 1 metre. 1no

Holly (T4) - Crown thinning 25%

Applicant: Mr Ian Hill

Approved on 29 Jul 2016

Application No: BH2016/02416

38 Clermont Terrace, Brighton

1no Ash T1 - Reduce size of crown by approx 2.5m to where reduced previously approx 1.5m from old pollard points.

Applicant: Mr I Palmer

Approved on 28 Jul 2016

Application No: BH2016/02520

17 Towergate Mews, Towergate, Brighton

4no Sycamore - Reduce height by approx. 3m. 1no Beech - Reduce height by approx. 3m.

Applicant: Mr P Fuller

Approved on 22 Jul 2016

Application No: BH2016/02653

Leahurst Court, Leahurst Road, Brighton

4no Lawson Cypress T1-T4 - Reduce tallest tree by 5m and reduce remainder to the same height.

Applicant: Ms L Baker

Approved on 21 Jul 2016

Application No: BH2016/02826

Regency Court, Withdean Rise, Brighton

1no Ash T1 - cut back 3m from flats and lift crown to 5m over parking spaces. 1no Sycamore T2 - cut back 3m from flats and lift crown to 5m over parking spaces.

Applicant: Ms Lesley Baker

Approved on 29 Jul 2016

Application No: BH2016/02909

Lydstep, Cornwall Gardens, Brighton

Fell 5no Conifer (Trees deprive garden of reasonable levels of sunlight/daylight. Trees also in very poor form)

Applicant: Mr Jon Lee

Approved on 05 Aug 2016

ROTTINGDEAN COASTAL

Application No: BH2016/02218

Coppers, The Green, Rottingdean

1no Holm Oak- T1- Trim all around into a tight domed form.

Applicant: Mr Mark Clark

Approved on 29 Jul 2016

Application No: BH2016/02248

22 Burnes Vale, Rottingdean, Brighton

Fell 1no Sycamore

Applicant: Stephen Goldsmith

Approved on 17 Aug 2016

Application No: BH2016/02275

Rectory Cottage, Greenways, Brighton

1no Sycamore - Reduce and reshape crown by up to 3m to growth points and selective crown thin.

Applicant: Mr R Green

Approved on 28 Jul 2016

Application No: BH2016/02798
Coppers, The Green, Rottingdean

1no Sycamore- T2 - Crown reduce by approx. 2m in height .Prune back laterals all around by approx. 2-2.5m Prune back from roof to give a clearance of approx. 3m.

Applicant: Mr Mark Clark
Approved on 29 Jul 2016

BRUNSWICK AND ADELAIDE

Application No: BH2016/02142
26 Sylvia Court Wilbury Road Hove

Fell 1no Elder - Dead- T1. Fell 1no Conifer T2. (Conifer is dying)

Applicant: Ms Clare Roberts
Approved on 27 Jul 2016

Application No: BH2016/02401

24 Wilbury Road, Hove

1no Horse chestnut tree. Reduce height by 2.5m, 20% crown thin.

Applicant: Miss Natasha Deadman
Approved on 12 Aug 2016

Application No: BH2016/02665

24 Wilbury Road Hove

Sycamore (T1) - crown thinning by not more than 30% to allow more light into garden and crown reduction to reduce height and spread of tree in line with surrounding trees.

Applicant: Ms Buckler
Approved on 12 Aug 2016

CENTRAL HOVE

Application No: BH2016/02541

194 Church Road, Hove

1no Sycamore - cut back in line with eastern boundary, reduce away from buildings on northern side to leave a 10ft gap, reduce limb on southern side (approx. 20ft high), by 12ft, thin out south western crown by 20%.

Applicant: Mr N Thompson
Approved on 21 Jul 2016

GOLDSMID

Application No: BH2016/01801

44 Cromwell Road Hove

1no Unknown tree - Reduce by 40%

Applicant: Mrs Geraldine Miles
Approved on 27 Jul 2016

Application No: BH2016/02138

4 Eaton Villas Hove

1no Sycamore - Reduce over-hang on neighbours side number 19 and 17 .

Applicant: Mrs bradstock

Approved on 21 Jul 2016

Application No: BH2016/02437

Flat 1, 51 Cromwell Road, Hove

2no Elm G1 - Reduce back from property by 4-5m. Remove low branches to give 5-6m clearance from ground level. 1no Sycamore T2 - Reduce back from property by 4m. Remove low branches to give 6m clearance from ground level.

Applicant: Mr G O'Flanagan

Approved on 27 Jul 2016

SOUTH PORTSLADE

Application No: BH2016/01750

Land Adjacent 10 Foredown Road Portslade

5no Sycamores T1 - T5 -located outside the western boundary of the development site (BH2014/02488). Each tree requiring pruning has been numbered on site using pink spray paint and are numbered from the north tree to the south tree.

T1 - Remove lowest limb overhanging site with bark damage to main stem (80mm diameter)

T2 - Remove lowest limb over site directed towards site entrance to main stem (70mm diameter)

T3 - Remove lowest lateral limb over new house to main stem (80mm diameter)

T4 - Remove 2x lowest lateral limbs over new house to main stem (80mm and 40mm diameter)

T5 - Remove lowest secondary branch overhanging corner of building footprint to parent branch (40mm)

Applicant: Mr Richard Crane

Approved on 28 Jul 2016

HOVE PARK

Application No: BH2016/02236

6 The Spinney, Hove

1no Wheatley Elm (T9)- Reduce the canopy by up to 3m in radial spread, to previous pruning points.

Applicant: Ms Margaret Rignall

Approved on 22 Jul 2016

Application No: BH2016/02309

44 Tongdean Avenue Hove

T1 Copper Beech in rear garden - Reduce size of crown by 40% and remove lowest limb on south side of stem to raise crown..

Applicant: Mark Walters
Approved on 05 Aug 2016

WESTBOURNE

Application No: BH2016/02182

2 Westbourne Place Hove

1no ASH T1 - REDUCE AND RESHAPE CROWN BY 2M

Applicant: Margaret Parkes

Approved on 27 Jul 2016

Application No: BH2016/02237

38 Hove Street, HOVE

Bay Tree (T1)- Fell due to excessive shading and poor form with a view to replanting..(Tree has no public visibility thus does not qualify for a TPO)

Applicant: Mrs Denise Johnson

Approved on 29 Jul 2016

**INFORMATION ON HEARINGS / PUBLIC INQUIRIES**

14 September 2016

**Brighton & Hove
City Council**

This is a note of the current position regarding Planning Inquiries and Hearings

Planning application no:	BH2015/04273
Description:	Public Inquiry
Decision:	
Type of appeal:	Public Inquiry Non Determination
Date:	Inquiry - tbc
Location:	Wanderdown Road , Ovingdean, East Sussex BN2 7AB

Planning application no:	BH2014/03394
Description:	Public Inquiry
Decision:	
Type of appeal:	Public Inquiry Against Refusal
Date:	Inquiry - tbc
Location:	Land adjacent 6 Falmer Avenue Saltdean

Planning application no:	BH2013/0323
Description:	Public Inquiry
Decision:	
Type of appeal:	Public Inquiry Against Enforcement
Date:	Inquiry - 20/12/2016 Brighton Town Hall
Location:	34 Freshfield Road

APPEAL DECISIONS

	Page
A – 11 BALSDEAN ROAD, BRIGHTON – WOODINGDEAN	279
<p>Application BH2015/04453 – Appeal against refusal to grant planning permission for increase in size of cladding to existing roof dormers (following construction of roof dormers) following notification that the works did not comply with permitted development class as had been assumed APPEAL DISMISSED (delegated decision)</p>	
B – 21 WARREN AVENUE, BRIGHTON - WOODINGDEAN	283
<p>Application BH2015/04318 – Appeal against refusal to grant planning permission for single storey flat/pitched roof rear extension APPEAL DISMISSED (delegated decision)</p>	
C – FLAT 3, 4 CLARENDON PLACE, BRIGHTON – QUEEN’S PARK	287
<p>Application BH2016/00137 – Appeal against refusal to grant planning permission for erection of a new mansard roof to replace the existing pitched roof APPEAL DISMISSED (delegated decision)</p>	
D – 9 FAIRLIGHT PLACE, BRIGHTON – HANOVER & ELM GROVE	291
<p>Application BH2015/03799 – Appeal against refusal to grant planning permission for change of use from C3 (dwelling house) to mixed class C3/4 (dwelling house/ house in multiple occupation) APPEAL DISMISSED (delegated decision)</p>	
E – 2 ROEDALE ROAD, BRIGHTON – HOLLINGDEAN & STANMER	297
<p>Application BH2016/01052 – Appeal against refusal to grant planning permission for refurbishment of existing outbuilding into annexe to the rear of 2 Roedale Road APPEAL DISMISSED (delegated decision)</p>	
F – 2 MERTON CLOSE, BRIGHTON - WOODINGDEAN	301
<p>Application BH2016/00427 – Appeal against refusal to grant planning permission for the proposed development described as ‘room in roof with front dormer’. APPEAL DISMISSED (delegated decision)</p>	

G – 3 WAYLAND AVENUE, BRIGHTON – WITHDEAN 303

Application BH2015/03679 – Appeal against refusal to grant planning permission for roof extension and conversion. Extension to front (on existing patio) to create porch and utility room **APPEAL ALLOWED**(delegated decision)

H – 20 BENETT DRIVE, HOVE – HOVE PARK 307

Application BH2015/02962 – Appeal against refusal to grant planning permission for conversion of single dwelling house (C3) into two flats **APPEAL DISMISSED** (delegated decision)

I – 213 GOLDSTONE CRESCENT, HOVE – HOVE PARK 311

Application BH2015/03611 – Appeal against refusal to grant planning permission for the single storey rear extension **APPEAL ALLOWED** (delegated decision)

J – 99 BLATCHINGTON ROAD, HOVE – CENTRAL HOVE 313

Application BH2015/03519 – Appeal against refusal to grant planning permission for prior approval for change of use of part of first floor retail unit (A1) to residential (C3) to form 1 no self-contained flat with associated creation of first floor terrace **APPEAL ALLOWED** (delegated decision)

K – 8 PRINCES SQUARE, HOVE, – WESTBOURNE 317

Application BH2016/00218 – Appeal against refusal to grant planning permission to an increase in height of the boundary wall between 8 Princes Square and the footpath leading to Westbourne Place **APPEAL ALLOWED** (delegated decision)

L – 60 WORCESTER VILLAS, HOVE – WISH 321

Application BH2015/00721 – Appeal against refusal to grant planning permission for demolition of existing single garage and part of an extension and the erection of a two bedroom detached dwelling **APPEAL DISMISSED** (delegated decision)

M – 22 WINDMILL CLOSE, HOVE – HANGLETON & KNOLL 325

Application BH2016/00106 – Appeal against refusal to grant planning permission for proposed single storey side extension works, garage alterations, external landscaping changes to suit and internal modifications with new glazing throughout and external decorative changes to the main building **APPEAL ALLOWED** (delegated decision)

N - 71 HILL BROW, HOVE – HOVE PARK 329

Application BH2015/03334 - Appeal against refusal to grant planning permission for the reduction and reconfiguration of ground floor to the rear and remodelling of the roof in order to incorporate habitable space.

APPEAL ALLOWED (delegated decision)

O - 22 NEWARK PLACE, BRIGHTON – HANOVER & ELM GROVE 333

Application BH2016/00741 - Appeal against refusal to grant planning permission for a loft conversion with rear dormer, including raising ridge height to provide adequate headroom internally.

APPEAL DISMISSED (delegated decision)

P - 2 CLARENCE SQUARE, BRIGHTON – REGENCY 335

Application BH2015/03648 - Appeal against refusal to grant planning permission for a rear roof terrace.

APPEAL DISMISSED (delegated decision)

Q - WINDSOR COURT CAR PARK, WINDSOR STREET, BRIGHTON – ST PETER’S & NORTH LAINE 339

Application BH2015/03708 – Appeal against refusal to grant planning permission for the change of use of the car park to residential and the erection of a new three storey building with seven apartments in total.

APPEAL DISMISSED (delegated decision)

R - 30 NEWMARKET ROAD, BRIGHTON – HANOVER & ELM GROVE 343

Application BH2015/04196 - Appeal against refusal to grant planning permission for the change the use from a six bedroom small house in multiple occupation (Use Class C4) to a seven bedroom house in multiple occupation (Sui generis).

APPEAL DISMISSED (delegated decision)



Appeal Decision

Site visit made on 8 July 2016

by Timothy C King (BA Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 August 2016

Appeal Ref: APP/Q1445/D/16/3150084

11 Balsdean Road, Brighton, BN2 6PG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs S Ashley against the decision of Brighton & Hove City Council.
 - The application Ref BH2015/04453, dated 9 December 2015, was refused by notice dated 29 February 2016.
 - The development proposed is stated by the appellant as *'Increase in size and cladding to existing roof dormers (following the construction of roof dormers – we have been notified that the works do not comply Permitted development Class B as was assumed).'*
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The development for which the appeal has been made is retrospective in that it has already taken place. Nonetheless, in determining this appeal I must treat the works undertaken as a development proposal.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the host dwelling and its surrounding area.

Reasons

4. The appeal dwelling is a detached bungalow with timber clad, flat-roofed dormer structures installed on its four roof planes although, whilst the front dormer constitutes a separate entity, the rear dormer wraps around to both side elevations, thereby attached to the both the flank roof extensions. The Council indicates that, prior to the works being carried out, tile hung dormers with uPVC fascia boarding existed on each of the four roof slopes. The modifications involved the front dormer being raised in height by 0.4m, the wrap-around structure erected to the rear and sides, with all four dormers being re-clad in cedar wood.
 5. A significant factor in this appeal is the extent of any permitted development entitlement available to the appellant or, in other words, any fallback position that needs to be taken into account as a material consideration. Both main
-

- parties accept that the front dormer extension does not qualify in this respect and, although there is some common ground regarding the rear and side dormers, there is also a dispute as to their appearance relating to a particular proviso under Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) Order 2015.
6. Both parties agree that the rear and side dormers do not cumulatively amount to an additional volume of 50 cubic metres and, in terms of volume alone, the development is of insufficient size to warrant a requirement for planning permission. However, a further requirement is that the materials used in the exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse. In this connection the appellant remarks that the use of the cedar wood cladding was assumed to meet permitted development as the timber gives a 'similar appearance' in colour and tone as the existing concrete tiles which weather and change colour when wet and dry. To this end the appellant comments that, similar to the concrete tiles, cedar cladding also weathers and changes grey and brown dependent on the weather and time of year. The Council, for its part, considers that the cladding used clashes with the existing tiled roof, the type of which is characteristic of the street.
 7. Notwithstanding any other Class B provisos which might be of relevance I must agree with the Council's assessment in this respect. Irrespective of the design and form of the dormer structures the cedar seemed to me to have weathered poorly and appears as anomalous to the street scene in general, particularly on the northern side of Balsdean Road. As such, I find that the proposal fails the legislative requirement and, in the absence of any proposal to re-clad the dormers in more sympathetic material, I must conclude that there is no fallback position currently available to the appellant.
 8. For development proposals relating to householder extensions such as this design advice is provided by the Council in the form of a Supplementary Planning Document (SPD12). Apart from perhaps the rear roof extension I do not consider that the front and side dormers, especially when taken together, represent subordinate additions to the roof. All three are readily visible from the street and, compounded by the general incongruity resulting from the cedar cladding, the proposal fails to accord with the general principles set out in SPD12.
 9. I have had regard to the fact that dormer structures were previously present at the bungalow but the modifications made have required that the planning merits, or otherwise, of the roof extensions, be assessed and I cannot agree with the appellant that the materials used have enhanced the appearance of the property. Indeed, more appropriate cladding would likely temper the current impact. Although the appellant mentions that the dormers are contemporary in style and materials I consider that the erection of such has not, in itself, brought about a cohesive, contemporary design approach.
 10. In light of the above factors I do not consider that this development is encouraged by Policy QD1 of the Brighton & Hove Local Plan (LP) in terms of constituting innovative and distinctive design. Instead, I am of the view that LP Policy QD14 is more pertinent indicating, amongst other things, that extensions and alterations should be well designed with regard to both the

property itself and its surroundings, requiring for the use of materials sympathetic to the parent building.

11. Finally, I have also had regard to the appellant's examples of other dormer roof extensions that exist within the locality. However, each development has its own particular characteristics which must be weighed against the respective individual circumstances. Whilst, therefore, the existence of such is a consideration it does not confirm the acceptability of the appeal proposal and does not outweigh the harm that I have identified has resulted from the development.
12. I thereby conclude that the development is harmful to the character and appearance of both the host dwelling and the surrounding area and this conflicts with the aims and requirements of LP Policy QD14 and also relevant guidance within SPD12.
13. For the above reasons, and having taken into account all matters raised, the appeal does not succeed.

Timothy C King

INSPECTOR



Appeal Decision

Site visit made on 8 July 2016

by Timothy C King (BA Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 August 2016

Appeal Ref: APP/Q1445/D/16/3147548

21 Warren Avenue, Brighton, East Sussex, BN2 6BJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr M Naeem against the decision of Brighton & Hove City Council.
 - The application Ref BH2015/04318, dated 30 November 2015, was refused by notice dated 4 February 2016.
 - The development proposed is '*single storey flat/pitched roof rear extension.*'
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) the effect of the proposal on the character and appearance of the host dwelling; and
 - ii) the effect of the proposal on the living conditions of neighbouring occupiers, with particular regard to No 19 Warren Avenue.

Reasons

Character and appearance

3. The appeal dwelling appears to have already been markedly extended and the proposal, although involving the removal of an existing rear addition and small central conservatory, would substantially increase the habitable floor area with a new partial width, brick-built extension, running to a maximum 6m depth on the dwelling's projected south flank wall. The new extension would have a table-top roof which, given its width and depth, would be substantial in splay and extent.
 4. The Council's design guidance, by way of its Supplementary Planning Document (SPD12), sets out certain principles relating to single storey rear extensions which, amongst other things, require that they should normally be no deeper than half the main body of the original building. It would seem apparent from the submitted plans that the proposal would fail in this regard. Another requirement is that, where a pitched roof is proposed, the ridge height
-

must be visibly lower than the cill of the first floor windows. Although, in this instance, the extension's roof would be flat-topped the submitted plans show proposed pitched roof sections rising from the eaves to the roof top which would appear to reach up to first floor cill level. The appellant's point that the existing first floor windows are actually sliding doors, thereby negating the applicability of the relevant SPD proviso is a fallacious argument. I accept that the existing rear extension and conservatory are to a similar height, but given their comparatively shallow depths and roof profiles the impact is much less pronounced.

5. My argument is, therefore, with the proposal's extent and form and I consider that such an arrangement would be excessive in the circumstances, accentuating the extension's bulk. Indeed, in its context, the extension would relate poorly to the existing dwelling, being positioned awkwardly, showing little subordination to the host dwelling and appearing more as an immodest add-on. The use of matching external materials would not mitigate in this regard. Given my findings I would suggest that little consideration seems to have gone into how such a development could best integrate with the dwelling having proper regard to its existing physical features.
6. On the first main issue I conclude that the proposal would be harmful to the character and appearance of the host dwelling, contrary to Policy QD14 of the Brighton & Hove Local Plan (LP) and the Council's SPD12.

Living conditions

7. No 19, the neighbouring property southwards, is a detached bungalow. Compared to the appeal dwelling it is a significantly smaller building and the difference is accentuated by the fact that it is positioned at a markedly lower level than No 21 due to the sloping ground level. However, the common boundary, which comprises a brick wall and a substantial, mature, evergreen hedgerow forms an effective screen between the two properties ensuring almost complete privacy between the properties when noting that No 19's side and rear windows sit considerably below the hedge top as, indeed, does the flat roof of the bungalow's rear extension.
8. I note the proposed flank wall window in the extension which would face directly towards No 19. Nonetheless, this would be secondary to the two main rear windows and, were I minded to allow the appeal a condition requiring for the side window to be obscurely glazed could be potentially imposed. However, as my findings dictate that the appeal turns on other substantive matters I need not explore this point further.
9. I have mentioned that the height of the proposed extension would differ little from the existing rear addition and, although projecting deeper, the significant drop in land levels along with the abundant screening and the possibility of obscured glazing would ensure that the occupiers of No 19 need not be compromised by any resultant loss of privacy or overlooking.
10. On the second main issue I conclude that the proposal would not be harmful to the living conditions of the neighbouring occupiers, and there would be no material conflict with the aims and requirements of LP Policy QD27.

Conclusion

11. Although I have found that the proposal would not be significantly harmful to the occupiers of No 19, I consider that this is outweighed by the extension's design and its resultant effect on the character and appearance of No 21 itself, which is compelling.
12. For the above reasons, and having taken into account all matters raised, the appeal does not succeed.

Timothy C King

INSPECTOR

Appeal Decision

Site visit made on 19 July 2016

by **H Porter BA(Hons) MSc IHBC**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3 August 2016

Appeal Ref: **APP/Q1445/W/16/3148982** **Flat 3, 4 Clarendon Place, Brighton BN2 1JD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Anthony Allen against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/00137, dated 14 January 2016, was refused by notice dated 24 March 2016.
 - The development proposed is a new mansard roof to replace existing pitched structure.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since issuing its decision, Brighton & Hove City Council (the Council) has adopted the City Plan Part One, 24 March 2016 (the City Plan). Policies HE6 and QD14 from the Brighton & Hove Local Plan 2005 (the Local Plan), as cited in the Council's Reasons for Refusal, have been retained. Policy CP15 of the City Plan is also of relevance. However, as reference to this Policy formed part of the Council's initial appeal documents, I am satisfied the appellant has seen this and been given an opportunity to comment. I am therefore satisfied that the adoption of the City Plan does not materially affect this appeal.

Main Issue

3. The main issue in this appeal is the effect of the proposed development on the character and appearance of the host dwelling and the East Cliff Conservation Area.

Reasons

4. The significance of the East Cliff Conservation Area lies in the evolution of streets and buildings that reflect the area's development during the late 18th and 19th centuries. The character and appearance of the area is informed by the regular pattern of residential streets fronted by Regency-style terraces, and unified by a broadly consistent palette of light-coloured stucco render. At roof level, many of the terrace frontages have their roof forms concealed behind a continuous parapet. These are unifying features that give definition to terrace groups and add character and visual interest to the street scene.
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5. Numbers 2 – 6 Clarendon Place form a grouped terrace frontage, united by a broadly consistent scale, materials and architectural treatment. A continuous front parapet unites the terrace and adds definition to the group. A relatively recent roof extension at 5 Clarendon Place (No 5) is just visible above the front parapet, in spite of which the front parapet line remains as a characteristic feature of the group. It is owing to the integrity of the composition and contribution to the local street scene that the appeal building and the wider terrace make a positive contribution to the character and appearance of the East Cliff Conservation Area.
6. The appeal proposal would replace the existing pitched roof structure with a mansard-style extension. While the form and scale of the proposed extension may be similar to that at No 5, it would nevertheless introduce a significant addition to the host building. The extension would introduce an additional built form above the front parapet, which would be prominent when viewed from College Place. The impact of the proposed extension would be read in the context of the existing roof alteration at No 5, and the two together would contribute to a harmful erosion of the front parapet line, to the detriment of the unity and integrity of the terrace frontage.
7. The appeal proposal would also be highly visible from the secondary rear access route as well as from neighbouring properties. Despite the use of sympathetic materials, the increase in bulk and massing to the rear of the property would amplify the roof form and make it appear an over-dominant addition to the host dwelling. As the roof form to the rear is not characteristic of the area and differs from the neighbouring property, the appeal proposal would stand out as incongruous and further harm would arise from introducing a non-traditional roof form to the locality.
8. I do not know the planning considerations that led to the neighbouring development; however it pre-dates the adoption of SPD 12¹. In any event, I must consider the appeal proposal under the current policy context and on its own merits, and the existence of the neighbouring roof extension does not justify the harm I have identified.
9. Overall, the appeal proposal would have a harmful impact on the host dwelling, as well as a cumulative impact on the wider terrace. Through diminishing unacceptably the integrity of the group and introducing an atypical roof form, the proposed roof extension would harm the character and appearance of the surrounding East Cliff Conservation Area.
10. Given the size of the development proposed and the context of the appeal site, the degree of harm would be less than substantial. Having found harm to the designated heritage asset, I must give that harm, albeit less than substantial, considerable importance and weight. I consider the benefits of the proposal to be the introduction of slate tiles, more in keeping with the appearance of the Conservation Area, and the benefits of securing an improved standard of accommodation. In balancing the harm against these beneficial aspects of the proposal, however, the harm is not outweighed.

¹ Supplementary planning document 12 'Design guide for extensions and alterations' Brighton & Hove City Council Local Development Framework, Adopted 20 June 2013

11. I conclude that the proposed roof extension would fail to preserve or enhance the character or appearance of the East Cliff Conservation Area. The appeal scheme would thereby run contrary to the guidance contained within SPD 12 as well as the principles of the National Planning Policy Framework, 2012 (the NPPF), and fail to accord with Saved Policies QD14 and HE6 of the Local Plan and Policy CP15 of the City Plan, insofar as they seek to ensure that development preserves or enhances the character or appearance of a Conservation Area, and is well designed, sited and detailed in relation to the property to be extended, adjoining properties and the surrounding area.

Conclusion

12. For the above reasons and taking account of other matters raised I conclude that the appeal should be dismissed.

H Porter

INSPECTOR

Appeal Decision

Site visit made on 12 July 2016

by Andrew Steen BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 03 August 2016

Appeal Ref: APP/Q1445/W/16/3147094

9 Fairlight Place, Brighton, East Sussex, BN2 3AH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Patrick Spiers of DataFast Limited against Brighton & Hove City Council.
 - The application Ref BH2015/03799, is dated 19 October 2015.
 - The development proposed is the change of use from class C3 (dwelling house) to mixed class C3/C4 (dwelling house/house in multiple occupation).
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Decision

1. The appeal is dismissed and planning permission for the change of use from class C3 (dwelling house) to mixed class C3/C4 (dwelling house/house in multiple occupation) is refused.

Application for costs

2. An application for costs was made by Mr Patrick Spiers of Datafast Limited against Brighton & Hove City Council. This application is the subject of a separate Decision.

Procedural Matters

3. The development has been completed and the property is occupied by students as a small house in multiple occupation.
4. There is an Article 4 Direction in place in this part of Brighton that restricts changes of use such that planning permission is required for the change of use from dwelling under use class C3 to small house in multiple occupation under use class C4.
5. The Brighton & Hove City Plan Part One (CP) was adopted during the course of this appeal and policies within this plan supersede a number of policies contained within the Brighton & Hove Local Plan (LP). The Council provided a list of policies in their draft report, along with copies of CP Policies that superseded LP Policies, with the appeal questionnaire. Policies QD27 and HO14 of the LP, which have been drawn to my attention, were not superseded and remain part of the adopted development plan. Policy CP21 of the CP submission document, referred to in the Council's reason for refusal, has been adopted and now forms part of the development plan. I have based my

decision on the current adopted development plan policies contained within the LP and CP.

Main Issue

6. The main issue in this appeal is whether the development and any associated increase in noise and disturbance would undermine the provisions of the development plan aimed at providing healthy and mixed communities across the city.

Reasons

7. It is alleged by the Council that the over-concentration of houses in multiple occupation in an area leads to increased noise and disturbance for other residents and they present government research justifying that concern, alongside other evidence including a summary of Environmental Health records of noise complaints. I understand that these were the reasons given for introducing the Article 4 Direction in this part of the city.
8. In order to address these issues, Policy CP21 of the CP, at section ii), seeks to restrict changes of use to houses in multiple occupation where more than 10% of dwellings within 50m of the site are in that use. In this case, there is no dispute that the proposed development would result in around 25% of dwellings within 50m of the site being houses in multiple occupation, such that the proposal is contrary to that policy. I understand the proportion in the policy is considered too low by the appellant, but has been tested at examination and now forms part of the adopted policy.
9. Construction of the house was completed shortly prior to occupation by students in September 2015 and the planning application was submitted shortly after that date to regularise that use. The previous use of the site was as a commercial yard, which suffered from various forms of anti-social behaviour that ceased during construction of the houses. Whilst the development and current use of the property may be an improvement over that situation, this would not outweigh the policy conflict identified.
10. The character of the area is informed by the relatively high proportion of student properties, which are generally well kept and in most cases it is not obvious which properties are in use as houses in multiple occupation, such that they do not have a distinct character. I agree that not all such properties create noise and disturbance and that the number of residents of a dwellinghouse within use class C3 can be similar to the number in a house in multiple occupation. I note that the owners of such properties have a responsibility to ensure they are occupied by suitable tenants and instances of noise and disturbance should be correctly dealt with and I have no reason to consider the appellant would not do so.
11. A previous appeal decision¹ has been provided that was issued prior to adoption of the CP, although then draft Policy CP21 of the CP was given significant weight in that decision. In that case, the proportion of houses in multiple occupation was around 11%. Consequently, the higher proportion of houses in multiple occupation in this case, combined with the statutory weight to be given to the development plan policy, means that case is not comparable and I have considered the proposed development on its own merits.

¹ Appeal reference APP/Q1445/A/14/2213817

12. However, based on the evidence presented by the Council and summarised above, the use of this property results in a proliferation of houses in multiple occupation and this proliferation cumulatively results in an unacceptable increase in noise and disturbance for surrounding residents.
13. For these reasons, I conclude that the use of this property as a house in multiple occupation has an adverse effect upon the living conditions of surrounding residents and would not lead to a healthy and mixed community in this part of the city. As such, the development is contrary to Policy CP21 of the CP which seeks to provide for a range of housing needs within the city and Policy QD27 of the LP that seeks to protect the living conditions of neighbouring occupiers.

Other matters

14. Occupiers of the house in multiple occupation support the services and facilities on Lewes Road aimed at the student market and the property contains high quality accommodation that provides adequate living conditions for its residents. It is suggested that there is a shortage of suitable student accommodation to which this property contributes, although I have been provided with limited information as to this demand.
15. Policy HO14 of the LP remains part of the adopted development plan and seeks to protect non-self-contained accommodation, such as houses in multiple occupation, that are of acceptable standard and meet the need for this type of accommodation within the city. As the property does not benefit from planning permission for this use, the refusal of planning permission would not lead to the loss of such accommodation so would not be contrary to this policy.
16. The Council request that dropped kerbs and tactile paving be provided outside the site should this appeal be allowed. It is unclear why these are required to provide for a small house in multiple occupation rather than the permitted single dwellinghouse use. Consequently, I conclude that such provision is not necessary or relevant to the development to be permitted.
17. The National Planning Policy Framework (the Framework) sets out a presumption in favour of sustainable development, defined as development in accordance with the Framework as a whole. This confirms that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
18. Sustainable development has three dimensions that must be considered together, being economic, social and environmental. Residents of the property would bring economic benefits to the local area and the development would contribute to the need to provide student accommodation in a location accessible by a range of transport choices and close to services and facilities, including the Universities of Brighton and Sussex. The construction of this dwelling appears to have had a positive effect on the appearance of the area and removed the anti-social behaviour prevalent on the site prior to redevelopment. However, the social and environmental harm arising from the noise and disturbance to living conditions of neighbouring occupiers and the adverse effect on the healthy and mixed community of the area would significantly and demonstrably outweigh these benefits.

Conclusion

19. On the basis of the above considerations, I conclude that the appeal should be dismissed.

Andrew Steen

INSPECTOR

Costs Decision

Site visit made on 12 July 2016

by **Andrew Steen BA (Hons) DipTP MRTPI**

Decision date: 03 August 2016

Costs application in relation to Appeal Ref: APP/Q1445/W/16/3147094 9 Fairlight Place, Brighton, East Sussex BN2 3AH

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Patrick Spiers of DataFast Limited for a full award of costs against Brighton & Hove City Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for the change of use from class C3 (dwelling house) to mixed class C3/C4 (dwelling house/house in multiple occupation).
-

Decision

1. The application for an award of costs is refused.

Reasons

2. The national Planning Practice Guidance (the PPG) advises that costs may be awarded against a party who has behaved unreasonably and also caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The appellant alleges that the Council did not determine the application in a timely manner, at least partly due to problems with the neighbour consultation process, and that this was unreasonable. I understand that this has had an impact on planning the letting of the property that is currently let to students as the property would no longer be available to that market should planning permission be refused. An earlier decision on the application would have given more certainty as to whom the property could be marketed once the existing tenants have left.
4. I accept that this was a relatively straightforward application that the Council should have determined sooner. The National Planning Policy Framework (the Framework) confirms that Councils should approve development proposals that accord with the development plan without delay.
5. As set out in my main decision, the Brighton & Hove City Plan Part One (CP) was adopted during the course of the appeal, including Policy CP21 that was quoted in the reason for refusal. It is not clear to me what stage the CP was at on submission of the application. However, it would have carried some weight and, given the Council's decision on the earlier case referred to by the

- appellant¹, I believe the Council would have determined to refuse the planning application for the reason given within the Council's draft report.
6. I note that the appellant considers the Council have not substantiated their claim that houses in multiple occupation cause harm to the living conditions of neighbouring occupiers. However, for the reasons given in my main decision, I consider that the evidence presented is sufficient to demonstrate harm to those living conditions. I note that other policies encourage provision of high quality student accommodation, but relevant policies in combination seek to balance that provision with the living conditions of other residents.
 7. The Council have sought road improvements as part of the development. Whilst I do not accept they are necessary or relevant to the development to be permitted, I do not consider that the request was unreasonable behaviour that led to unnecessary or wasted expense in the appeal process.
 8. Whilst the Council has noted the sloping ceilings in the room within the roofspace, they have concluded that rooms within the dwelling provide adequate living conditions for occupiers of the dwelling. I note that there were limited objections to the development and that a licence has been granted for use of the building as a house in multiple occupation. The licencing system is separate from the planning system and it is not unreasonable for a Council to come to a decision independent of such licences. I consider that the Council have provided fair and balanced evidence in support of their case in the appeal.
 9. For the reasons set out above I therefore find that, although the planning application was not determined in a timely manner, planning permission would have been refused such that an appeal would have been necessary and, as such, this did not result in unnecessary or wasted expense in the appeal process as described in the PPG. As such, the application for an award of costs must fail.

Andrew Steen

INSPECTOR

¹ Appeal reference APP/Q1445/A/14/2213817

Appeal Decision

Site visit made on 2 August 2016

by **S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9th August 2016

Appeal Ref: APP/Q1445/D/16/3151556

2 Roedale Road, Brighton BN1 7GB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr John Crookes against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/01052, dated 24 March 2016, was refused by notice dated 19 May 2016.
 - The development proposed is refurbishment of existing outbuilding into annex accommodation to the rear of 2 Roedale Road.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - a) the effect of the proposed development on the character and appearance of the area;
 - b) whether the proposal would provide satisfactory living conditions for future occupants of the site;
 - c) the effect of the proposed development on the living conditions of adjoining occupiers in relation to noise and disturbance.

Reasons

Character and appearance

3. No 2 Roedale Road is an end terrace, two-storey dwelling that appears to date from the early 20th century. No 2 is a larger dwelling than the rest of the terrace. It has a wider frontage which incorporates an integral garage through which there is access to rear of the house. At the back of the site there is a two-storey outbuilding which has been built into the rising ground. It is believed that this was the builder's workshop when the terrace was first built. The houses have good-sized paired rear projections but small rear gardens, some of which appear to have been terraced to accommodate the change in levels. No 2's private amenity space consists of a courtyard to the rear of the garage and a small raised terrace adjacent to the outbuilding. The ground floor of the outbuilding is currently used as a workshop/ storage area, but is not habitable. The room above, which the plans indicate is a bedroom, appears to be used on an occasional basis for recreational purposes.
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4. The proposal would replace the mono-pitched corrugated iron roof with a tiled pitched roof. The ridge would be approximately the same height as the rear of the existing roof, but its overall bulk would be increased in order to incorporate two dormer windows facing the rear elevation of No 2. Internally new floors would be inserted enabling rooms to be provided on three floors. The upper floors would each have a bedroom and bathroom. The garage workshop would be extended forward into the courtyard and would have large, glazed bi-folding doors opening out on the courtyard.
5. The existing outbuilding is the only such structure in a rear garden of this particular terrace of houses. It is therefore unusual and has a semi-domestic appearance. However, the addition of two dormer windows and the introduction of fully glazed doors and windows on the other two floors would fundamentally alter the appearance of the building. In my view, it would appear to be a three storey dwelling located in the back garden of No 2.
6. This would be totally out of keeping with the pattern and scale of development along this stretch of Roedale Road, where other dwellings have direct frontage onto the street. It would also appear incongruous when viewed from Dudley Road and Upper Hollingdean Road where its isolated form would stand out and appear unconnected with any of the surrounding residential development. Even if it was being used as an annexe to the host property, its scale and siting would not be subservient to the main dwelling. It would dominate the rear of the site more than the existing building and would be out of proportion with the host property. Consequently, the site as a whole would appear cramped.
7. I therefore conclude that the proposal would be harmful to the character and appearance of the area, contrary to Policy CP12 of the Brighton & Hove City Plan Part One and saved Policy QD14 of the Local Plan, which require development, amongst other things, to be high quality and respect its setting. It would also be contrary to the advice and guidance set out in the Council's Supplementary Planning Document: *Design Guide for Extensions and Alterations* (SPD12), which states that residential annexes will only be acceptable when the scale and appearance of the building is modest and in proportion to the site.

Living conditions of future occupants

8. I note the appellant's wish to provide for his extended family by allowing them to occupy the annexe, and his willingness to accept a condition that it could not be used as a separate dwelling. However, in order for such a condition to be precise and enforceable it would be necessary to demonstrate a functional link between the main house and the annexe. In this case I have no evidence to convince me that there would be effective links with the host property. No details of the internal layout in the main building were provided with the appeal and no shared facilities were brought to my attention.
9. On the contrary, I consider that the size and scale of the annexe, including the room on the ground floor which would be large enough to function as a kitchen/living area, make it more likely that it could operate as a separate dwelling in the future. The site can already be accessed via the garage without the need to go through the house, so it would be simple to establish an independent entrance. In addition the existing external garden space within the site is already very limited, both in terms of its quantity and quality. In my view it would be too small to be adequate for an extended family.

10. SPD12 sets out requirements in relation to the acceptability of detached annexes. In addition to being of modest proportions in relation to the site, a clear dependency must be retained with the main building. This can be achieved through the sharing of garden space, kitchen/bathroom facilities, access to the site, or other internal links. In the absence of confirmation of such inter-dependencies, I share the Council's concern that the enlarged annexe could be occupied as a separate dwelling in the future. If the building were used as a separate dwelling, it would occupy a very cramped site in close proximity to the host property, with little or no private amenity space. It would therefore fail to provide adequately for the needs of potential occupants. It would also result in the loss of amenity space for the occupiers of the host property.
11. Taking all these factors into consideration I conclude that the proposed development would provide unsatisfactory living conditions for future occupants of the site as a whole. It would therefore fail to comply with saved Policies QD27 and HO5 of the Brighton and Hove Local Plan (Local Plan), which require development to provide adequate living conditions for existing and future occupiers. It would also be contrary to the advice and guidance set out in SPD12 referred to above.

Living conditions of neighbours

12. The ground floor of the existing building can be used as a workshop and the upper floor can be used as a bedroom or recreational room for the occupants of No 2. Activities within the existing building could therefore cause noise and disturbance for adjoining occupiers. In this context it seems to me that the use of the larger building either as an annexe or as a separate dwelling would be unlikely to generate significantly more noise and disturbance for adjoining occupiers. The Council is satisfied that there would be no additional harmful overlooking of neighbouring properties that would give rise to unacceptable loss of privacy. I see no reason to come to a different view.
13. I therefore conclude that the proposal would not be harmful to the living conditions of adjoining occupiers arising from an unacceptable increase in noise and disturbance. In this respect the proposal would comply with saved Policy QD27 of the Local Plan.

Conclusion

14. Notwithstanding my findings in relation to the effects of the scheme on adjoining occupiers, I have concluded that the proposal would be harmful to the character and appearance of the area. It would also provide unsatisfactory living conditions for the occupants of the annexe and the host property.
15. For these reasons, I conclude that the appeal should be dismissed.

Sheila Holden

INSPECTOR

Appeal Decision

Site visit made on 16 August 2016

by Cullum J A Parker BA(Hons) MA MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 August 2016

Appeal Ref: APP/Q1445/D/16/3152919

2 Merton Close, Woodingdean, Brighton

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Carl Sedge against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/00427, dated 29 January 2016, was refused by notice dated 15 April 2016.
 - The development proposed is described as 'room in roof with front dormer'.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the street scene.

Reasons

3. The appeal site is a semi-detached house located within a short cul-de-sac comprising five pairs of similar designed properties. Nearby properties; Nos 3 and 4 benefit from large box style dormers on their front elevations. The proposed development in this case seeks the insertion of a dormer style window in the front roof slope with a Juliet style balcony. However, such roof extensions are the exception rather than the norm within the street scene.
4. Whilst it is unclear as to when the dormers at Nos 3 and 4 obtained planning permission, I understand that they predate existing planning policy. What is more those dormers are of a very different design to that proposed in this case, covering a larger area of the front roof slopes, but retaining a sense of balance and proportion to the semi-detached properties as they broadly mirror each other; at least in size.
5. There is no dormer in the front roof slope at No 1 Merton Close. Moreover, dormers are not a typical feature within the wider street scene and where they do exist their form interrupts the overall architectural flow of the street scene, as can be seen by the jarring examples at Nos 3 and 4 when looking at the cul-de-sac as a whole.
6. The proposed development would therefore result in the introduction of a feature that would not only unbalance the visually balanced semi-detached properties of Nos 1 and 2, but would also introduce an incongruent feature

within the front roof slope at odds with the prevailing pattern of development within the area. Whilst it is not for local planning authorities to impose architectural styles or tastes, it is proper to seek to promote or reinforce local distinctiveness. In this case, through the inappropriate siting, the design, appearance, scale and its visually unbalancing effect the proposal would result in material harm to the character and appearance of the street scene.

7. I acknowledge the appellant's point that visibility of the proposed extension would be limited by the cul-de-sac location, where visits by people walking or driving for example are less likely. However, it would be hard to miss the prominent intrusion proposed into the front roof slope that faces out to the highway, and I do not find that the location of the appeal site provides justification for it to be permitted.
8. I therefore conclude that the proposed development would have an adverse impact on the street scene. Accordingly, it would be contrary to Policy QD14 of the Brighton and Hove Local Plan 2005, as supported by SPD12 - Design guide for extensions and alterations 2013, which amongst other aims seeks to ensure that planning permissions for extensions or alterations will only be granted if the proposed development is well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area.
9. For the reasons given above, and having taken in to account all matters raised, including the comments of support from neighbours, I conclude that the appeal should be dismissed.

Cullum J A Parker

INSPECTOR



Appeal Decision

Site visit made on 8 July 2016

by Timothy C King (BA Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 August 2016

Appeal Ref: APP/Q1445/D/16/3145692

3 Wayland Avenue, Brighton, East Sussex, BN1 5LW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs M Leeming against the decision of Brighton & Hove City Council.
 - The application Ref BH2015/03679, dated 16 October 2015, was refused by notice dated 11 December 2015.
 - The development proposed is '*Roof extension and conversion. Extension to front (on existing patio) to create porch and utility room. Sympathetic to local vernacular (material & comments) on light blocking taken into account on previous decision BH2015/01987.*'
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Decision

1. The appeal is allowed and planning permission is granted for 'Alterations to roof including raised ridge height, roof extensions, Juliet balcony to rear and rooflights to side and rear. Erection of single storey front extension, alterations to fenestration and associated works' at 3 Wayland Avenue, Brighton, East Sussex, BN1 5LW in accordance with the terms of the application Ref BH2015/03679, dated 16 October 2015, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos. 3715/01A and 3715/02B.
 - 3) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.

Procedural Issue

2. I have altered the proposal's description, using the Council's title on its decision notice which better focusses on the development involved.

Main Issue

3. The Council has not raised objections in terms of the design or appearance of the proposed extensions and alterations proposed to the appeal dwelling. I agree with this approach and the main issue is therefore the effect on the living
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conditions of neighbouring occupiers, with particular regard to No 33 Withdean Road.

Reasons

4. The appeal dwelling is a detached, hip-ended, bungalow and the proposal would involve its heightening by means of gabled ends created to form an additional storey. Land levels fall to the east and, as such, the relative height of No 33 Withdean Road, the two-storey dwellinghouse beyond, is diminished. The Council provides design guidance in the form of a Supplementary Planning Document (SPD12) which advises that additional storeys or raised roofs may be permitted on detached properties where they respect the general appearance of the streetscene, including its topography, whilst respecting the design of the host building. However, such alterations should obviously not have an overbearing impact to neighbouring occupiers by blocking light or outlook.
5. The proposed development involves several elements but, in the particular circumstances, the overriding issue in this appeal is the formation of the gable to the bungalow's eastern flank wall. The spread of this proposed gable end, facing No 33, would obviously add bulk to the appeal dwelling, raising the roof's height and infilling the hip. However, the existing rear building line would not be extended beyond its current depth.
6. The Council in its reason for refusal cites overshadowing and a resultant loss of light and an increased sense of enclosure to the detriment of the occupiers of No 33. However, apart from mention of the difference in land levels, facing windows and the enjoyment of its garden there is little explanation in its case report to illustrate such and provide a compelling case to this end.
7. From my site visit I assessed the existing physical relationship between the two dwellings in the context of an approximate 8m distance between the facing elevations. I considered also the extent of the proposal, the windowless, flank elevation and also the heightened ridgeline of some 0.8m. The resulting relationship would not be particularly unusual between dwellings in such proximity and, with the mature, vegetative screening at the common boundary, planted in the rear garden of No 33, I do not consider that the development would adversely affect the occupiers' internal or external enjoyment of their residence.
8. I thereby consider that the proposed development would not be so significant a change as to constitute an oppressive, unneighbourly alteration. In this assessment I am also mindful that, under householder, permitted development entitlement, alterations can be made to the roof allowing for the hip-end to change to that of a gabled feature. The height increase in this instance would not be unacceptable
9. I have had regard to the representations made by the occupiers of Nos 5 and 7 Wayland Avenue, further westwards but, given that the proposed gable on this flank would be stepped back and there would be no increase in the property's depth, I am in agreement with the Council that there would be no consequential harm to the detriment of the occupiers thereto.

10. I conclude that the proposal would not be harmful to the living conditions of neighbouring occupiers and there would be no material conflict with Policies QD14 and QD27 of the Brighton and Hove Local Plan or the Council's SPD12. In terms of conditions, apart from the statutory time limit I impose a condition requiring that matching materials be used. Also, in the interests of good planning, and for the avoidance of doubt, I have included a condition requiring that the development be implemented in accordance with the approved plans.
11. For the above reasons, and having had regard to all matters raised, the appeal succeeds.

Timothy C King

INSPECTOR

Appeal Decision

Site visit made on 9 August 2016

by Alex Hutson MATP CMLI MArborA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 August 2016

Appeal Ref: APP/Q1445/D/16/3152232
20 Bennett Drive, Hove, Brighton and Hove BN3 6UT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr T O'Connor against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/00325, dated 29 January 2016, was refused by notice dated 3 May 2016.
 - The development proposed is erection of ground floor extension to existing garage, roof extension above and new dormer to front roof slope.
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Decision

1. The appeal is allowed and planning permission is granted for erection of ground floor extension to existing garage, roof extension above and new dormer to front roof slope at 20 Bennett Drive, Hove, Brighton and Hove BN3 6UT in accordance with the terms of the application, Ref BH2016/00325, dated 29 January 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1283 01A; and 1283 02.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Preliminary matter

2. Subsequent to the date of the Council's Decision Notice, the Brighton and Hove City Plan Part One (City Plan) was formally adopted by the Council in March 2016. Nevertheless, the saved policies of the Brighton and Hove Local Plan 2005 (Local Plan) referred to in the reasons for refusal have not been superseded by the policies contained within the City Plan and therefore continue to form part of the development plan for the City. I am therefore satisfied that the adoption of the City Plan does not materially alter the reasons for refusal as set out on the Council's decision notice and I have determined the appeal on this basis.
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Main issues

3. The main issues are the effect of the proposal on the character and appearance of the area and the effect of the proposal on the living conditions of the occupiers of 18 Bennett Drive with particular regard to outlook and daylight.

Reasons

Character and appearance

4. The appeal property is single storey dwelling with additional living accommodation within the roofspace. It is located on the southern side of Bennett Drive within a wider residential area. Dwellings along this side of the road are typically tightly spaced, single storey dwellings, with many displaying rooms in the roofspace and front dormers. The roofscape of dwellings along this side of the road, comprising predominantly of hipped roofs, though not particularly uniform, is a notable feature, given that dwellings tend to be set at a lower level to that of the road due to the sloping topography of the area. The hipped roof form of these dwellings provides a balance to their built form. It also provides regular break in the roofscape and affords a level of openness between built form and a rhythm to the streetscape. These factors positively contribute to the character and appearance of the area.
5. The appeal property has a planning history and has been subject to alterations in the past, including a front dormer extension and hip to gable roof extensions which were previously granted on appeal¹. The roof form of the appeal property is therefore something of an anomaly within the wider roofscape along this side of the road. In addition, the relationship between the eastern gable roof extension and a single storey garage element that is set considerably back from the front elevation, displays, in my opinion, an overall unbalanced appearance to the appeal property.
6. The proposal seeks to extend the garage element forward to match the building line and appearance of an existing front bay, to incorporate a roof extension above in a similar form to the existing eastern gable end and to incorporate a dormer window to the front roofslope.
7. Whilst the overall bulk and massing of the appeal property would be increased, the proposal would provide a greater level of balance to the appearance of the appeal property. In addition, whilst the proposal would reduce the spacing at roof level between the appeal property and 18 Bennett Drive, it would replicate the existing relationship between the western gable end of the appeal property and the hipped roof of No 22, which the previous Inspector clearly considered to be an acceptable relationship. In the context of the alterations that the appeal property has already been subject to that noticeably differentiates it from other dwellings along this side of the road, and given the existing relationship between the appeal property and No 22, I consider the relationship between the proposal and No 18 would, in this instance, be acceptable.
8. Consequently, whilst the proposal would result in a level of change to the appearance of the appeal property and would reduce the spacing with No 18, I do not consider that this change or reduction in spacing would result in any significant disruption to the sense of rhythm of the streetscape and would not, in my judgement, result in harm to the character and appearance of the area.

¹ Ref APP/Q1445/D/12/2179794

9. The proposal would therefore comply with saved Policy QD14- Extensions and Alterations, of the Brighton and Hove Local Plan 2005 (Local Plan), that requires, amongst other things, extensions and alterations to be well designed, sited and detailed in relation to the property to be extended, to adjoining properties and to the character of the surrounding area. This policy is consistent with the broad aims and principles of the National Planning Policy Framework (the Framework) that seek planning to take account of the different roles and character of different areas.
10. The proposal would also comply with the guidance set out in Supplementary Planning Document 12- Design Guide for Extensions and Alterations 2013 (SPD), which advises that extensions should not dominate or detract from the original building or the character of an area.

Living conditions

11. A kitchen window is located within the western elevation of No 18. Whilst this window faces the existing driveway and the main side elevation of the appeal property, an obscure glazed lean-to that runs along the side of No 18 extends across a considerable proportion of this window. In addition, the side elevation of the garage of the appeal property is located within close proximity to the south-west of this window. As a result, any existing level of outlook from this window is likely to be very limited. Moreover, whilst the Council states that this is the primary window to the kitchen, a large kitchen window on the southern side of No 18 that looks out into a glass conservatory and the rear garden beyond, is likely to provide the main outlook in respect of this room.
12. The proposal would bring built form closer to the kitchen window on the western side of No 18. Nevertheless, due to the limited level of outlook that the existing occupiers of No 18 are likely to experience from this window, combined with the presence of another window that would be unaffected and is likely to provide the primary outlook from the kitchen, I do not consider that the proposal would result in any material harm to the outlook of the occupiers of No 18. Furthermore, the kitchen is unlikely to be one of the main habitable rooms of No 18 and therefore outlook from this room is likely to be less important for the occupiers of this property than outlook from other habitable rooms in the house which are more likely to be used for sitting down and relaxing.
13. Turning to matters of light, having regard to the presence of a large south facing kitchen window, the kitchen window on the western elevation of No 18 is unlikely to be the main source of daylight for the kitchen of No 18. Furthermore, the presence of the lean-to, the existing side elevation of the garage of the appeal property and, as I observed, some met curtains that were hanging in this window, the level of daylight that reaches the kitchen through this window is already likely to be limited. Whilst the proposal may reduce the level of daylight entering this window further, in light of the above factors, I do not consider this would result in any material harm to light levels within the kitchen.
14. I therefore consider that the proposal would maintain acceptable living conditions for the occupiers of No 18 in respect of outlook and daylight. The proposal would therefore comply with saved Policy QD 27- Protection of Amenity, of the Local Plan, that requires, amongst other things, development not to cause loss of amenity to adjacent occupiers. This policy is consistent

with the broad aims and principles of the Framework that seek planning to secure a good standard of amenity for all existing occupants of land and buildings.

15. The proposal would also comply with the guidance set out in the SPD which advises that extensions should respect neighbour amenity including in respect of outlook and daylight.

Conditions

16. I have had regard to the conditions suggested by the Council. In addition to the statutory time limit condition, a condition specifying the relevant drawings is necessary as this provides certainty. I also agree that a condition relating to materials is necessary in the interests of character and appearance.

Conclusion

17. For the reasons set out above and having regard to all other matters, I conclude that the appeal should be allowed.

Alex Hutson

INSPECTOR



Appeal Decision

Site visit made on 8 July 2016

by Timothy C King (BA Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 August 2016

Appeal Ref: APP/Q1445/D/16/3149007

213 Goldstone Crescent, Hove, BN3 6BD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Wayne Andrews against the decision of Brighton & Hove City Council.
 - The application Ref BH2015/03611, dated 7 October 2015, was refused by notice dated 1 February 2016.
 - The development proposed is '*single storey rear extension.*'
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Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension at 213 Goldstone Crescent, Hove, BN3 6BD in accordance with the terms of the application Ref BH2015/03611, dated 7 October 2015, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No. PBP0397/01, Block Plan and Site Location Plan.
 - 3) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.

Procedural Issue

2. Subsequent to the site visit itself, in accordance with a prior formal request, I viewed the appeal site from the rear gate at No 211 which enabled me to look across this property's rear building line towards the existing conservatory at No 213.

Main Issue

3. The main issue is the effect on the living conditions of neighbouring occupiers.

Reasons

4. The appeal dwelling has already been extended at ground floor level. There exists a partial width ground floor addition which runs alongside a side garage positioned close to the common boundary with No 215, and also a conservatory
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to a slightly lesser depth, attached to the extension and set just back from side boundary with No 211. It is proposed to demolish the conservatory and create an addition which would allow for a flush rear building line, but stopping short of the common boundary with No 211. The separation distance between would accord with that of the existing conservatory.

5. In its reason for refusal the Council cites the proposal's impact on No 211 although, whilst I agree that this is the only property that could be potentially affected by the development, having gauged the existing relationship between the two properties, my findings are somewhat different from the Council's assessment.
6. Although the land slopes down gently eastwards, meaning that No 211's ground level is slightly lower than No 213's, the conservatory is set back from the boundary and, in terms of natural light, No 211 lies favourably to the south east. From my observations I do not consider that the existing conservatory adversely affects its immediate neighbour. The proposal would increase the depth of the rear projection to some 5m and, although the extension's eaves level facing No 211 would be slightly higher the roof height would be significantly lower than the conservatory's existing ridge. It is proposed that the extension would have a plain flank wall with an obscurely glazed high level window, as is annotated on the proposed elevational and floor plans.
7. Although the Council considers that the solid finish, contrasting with the glazed conservatory, would increase the degree of bulk and massing I consider that the height reduction combined with the mature vegetative screening planted in No 211's garden would serve to mitigate any effects arising from the additional depth. No 211's French windows would be unlikely to suffer from additional overshadowing to that which is currently the case and, with the above factors in mind, I am not convinced that the proposal would amount to an overbearing development giving rise to an unacceptable sense of enclosure.
8. I have had due regard to the relevant policies, QD14 and QD27, from the Brighton & Hove Local Plan (LP) and also design guidance for the Council provided in the form of a Supplementary Planning Document (SPD12). I can, though, find no compelling reasons in the various provisos thereto, relevant to the circumstances involved in this particular case, which would suggest that the proposed extension would be unacceptable in its contextual setting. I thereby conclude that the proposal would not be harmful to the living conditions of neighbouring occupiers and there would be no material conflict with LP Policies QD14 and QD27 or SPD12.
9. For the above reasons, and having taken into account all matters raised, the appeal succeeds.

Timothy C King

INSPECTOR

Appeal Decision

Site visit made on 24 May 2016

by Alex Hutson MATP CMLI MArborA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 4th August 2016

Appeal Ref: APP/Q1445/W/16/3142668
99 Blatchington Road, Hove, East Sussex BN3 3YG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class M of the Town and Country Planning (General Permitted Development (England) Order 2015.
 - The appeal is made by Mr Keith Bryden against the decision of Brighton & Hove City Council.
 - The application Ref BH2015/03519, dated 29 September 2015, was refused by notice dated 25 November 2015.
 - The development proposed is prior approval for change of use of part of first floor retail unit (A1) to residential (C3) to form 1no self-contained flat with associated creation of first floor terrace.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class M of the Town and Country Planning (General Permitted Development (England) Order 2015 for the prior approval for change of use of part of first floor retail unit (A1) to residential (C3) to form 1no self-contained flat with associated creation of first floor terrace at 99 Blatchington Road, Hove, East Sussex BN3 3YG in accordance with the terms of the application Ref BH2015/03519, dated 29 September 2015, subject to the following conditions:
 - 1) The development hereby permitted must be completed within a period of three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 15076 S0; 150706 S1; 150706 S2; 150706 S3; 150706 S4; 150706 S5; 150706 S6; 150706 S7; 150706 S8; 150706 P1; 150706 P2; 150706 P3; 150706 P4; 150706 P5; 150706 P6; 150706 P7; and 150706 P8.

Preliminary matters

2. I have used the description of the proposed development on the Council's decision notice as it provides a simpler and more comprehensive description than that provided on the application form.
 3. I note that the Council adopted the Brighton and Hove City Plan Part 1 (City Plan) in March 2016, subsequent to the date of their decision notice. However, given that the proposal relates to prior approval under the Town and Country Planning (General Permitted Development (England) Order 2015 (GPDO), the
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policies of the City Plan are not a determining factor in my consideration of the appeal.

Main issue

4. The main issue is whether the proposal would be permitted development, having regard to whether the creation of the proposed terrace would constitute building operations reasonably necessary to convert the building to a dwellinghouse.

Reasons

5. The appeal property comprises a retail unit on the ground and part of the first floor of a three storey building. There is an existing maisonette on part of the first floor and the second floor of the building which is accessed from a separate front door at ground floor level.
6. The proposal seeks prior approval for the change of use of part of the first floor retail unit, that currently contains a storage area, bathroom and an office, to residential, to form a self-contained flat with the associated creation of a first floor terrace. The creation of the first floor roof terrace would involve the demolition of part of a flat roof structure, the erection of a new external wall with patio doors and alterations to the existing rear kitchen window of the existing maisonette.
7. The Council considers the proposal would meet the conditions required under Paragraph M.2.(1)(a-e) of Schedule 2, Part 3, Class M of the GPDO. These conditions relate to transport and highway impacts, contamination risks, flood risks, retail impacts and design and appearance. Based on the evidence before me and my own observations, I have no substantive reasons to consider otherwise.
8. Paragraph M(b) of Schedule 2, Part 3, Class M of the GPDO, sets out that for a change of use from A1 to C3 to constitute permitted development, any building operations must be reasonably necessary to convert the building to a dwellinghouse. Paragraph M.1(f) of Schedule 2, Part 3, Class M of the GPDO sets out that development is not permitted if it consists of demolition, other than partial demolition which is reasonably necessary to convert the building to a dwellinghouse. The Council considers that the works required to create the proposed first floor terrace, notably the demolition of the flat roofed structure, would go beyond those reasonably necessary for the conversion to a dwellinghouse and would therefore not constitute permitted development. The Council support their argument with reference to the clarification of the term 'reasonably necessary' in the Planning Practice Guidance (PPG) in respect of Schedule 2, Part 3, Class Q of the GPDO in respect of the conversion of agricultural buildings to dwellinghouses.
9. The Council does not fully articulate why, in their opinion, the scope of the proposed works would not be reasonably necessary. However, in my mind, the scope of the works would be minor in nature and would be reasonably necessary to provide a quality home and reasonable living conditions for any future occupiers, given that access would be provided to a private amenity space. In addition, even if the clarification of the term 'reasonably necessary' in the PPG could be applied to conversions under Schedule 2, Part 3, Class M of the GPDO, the scope of proposed works appears to me to fall well within those

permitted, that allows, amongst other things, for the installation or replacement of windows, doors, roofs and exterior walls and partial demolition to the extent reasonably necessary to carry out these building operations.

10. I therefore consider that the proposed partial demolition and building operations to create a first floor terrace would be reasonably necessary for the conversion of part of the first floor of the appeal property to a dwellinghouse and would satisfy the provisions of M(b) and M.1(f) of the GPDO.

Conditions

11. I have considered the planning conditions suggested by the Council. However, given that there would be no ground disturbance, I do not consider a condition relating to ground contamination investigations and remediation is relevant or necessary.
12. The location of the appeal property near to local shops, services, facilities and public transport links would likely reduce the reliance of any future occupiers on a private motor vehicle. I have also not been provided with any substantive evidence that resident parking space in the local area is deficient. Furthermore, it has not been demonstrated that even if there was a material deficiency, it would be bound to have a harmful effect on highway safety. Therefore, based on the evidence before me, I do not consider that a condition restricting the entitlement of any future occupiers to a parking permit is necessary. Moreover, such a condition would be difficult to enforce given there would be no effective mechanism in place to inform any subsequent future occupiers of the restriction if the appeal property were to change ownership.
13. Whilst not specified by the Council, I consider that a planning condition in respect of a time limit is necessary, in accordance with Paragraphs M.2(3)(a) of the GPDO. In addition, I consider a condition specifying the relevant drawings is necessary as this provides certainty.

Conclusion

14. For the reasons set out above and having regard to all other matters, I conclude that the appeal should be allowed and approval granted.

Alex Hutson

INSPECTOR

Appeal Decision

Site visit made on 2 August 2016

by **S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5th August 2016

Appeal Ref: APP/Q1445/D/16/3151693

8 Princes Square, Hove BN3 4GE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Rustom Irani against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/00218, dated 21 January 2016, was refused by notice dated 17 March 2016.
 - The development proposed is an increase in the height of the boundary wall between 8 Princes Square and the footpath leading to Westbourne Place.
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Decision

1. The appeal is allowed and planning permission is granted for an increase in the height of the boundary wall at 8 Princes Square, Hove BN3 4GE between 8 Princes Square and the footpath leading to Westbourne Place, in accordance with the application Ref: BH2016/00218, dated 21 January 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The materials to be used to increase the height of the wall hereby permitted shall match those used in the existing wall.
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan: 141010/S100, Block plan: 141010/P100, Existing Plan and Elevation: 141010/S101 and Proposed Plan and Elevation 141010/P101.
 - 4) The development hereby permitted shall not commence until after the tree in the garden of No 8 has been felled in accordance with application Ref: BH2016/000097 and vegetation overhanging the path along No 8's boundary has been removed.

Main Issue

2. The main issue is the effect of the increased height of the wall on public safety on the footpath between Princes Square and Westbourne Place.

Reasons

3. No 8 Princes Square is a large detached house set in a substantial plot enclosed by brick walls. The property is currently being extended following the granting of
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- planning permission, Ref: BH2015/02552. However, at the time of my site visit the garden was partially inaccessible and significantly overgrown.
4. The wall on the northern boundary of the site encloses a public footpath which runs in a straight line between Princes Square and Westbourne Place. The path is approximately 70m in length. Whilst the wall up to the front elevation of No 8 is only 1.3m tall, towards the rear of the site its height increases to 1.7m for approximately 43m. The path's northern side is enclosed by a wall in excess of 2m high, which forms the side boundary to the garden of No 10. It is possible for anyone walking through the passageway to see daylight at the far end. Nevertheless, the path feels enclosed not only in part because of the existing walls, but also because of the extensive vegetation that overhangs it.
 5. The proposal seeks to raise the height of the wall to 2.2m along part of the depth of the house. It would then gradually be increased in height to a maximum of 2.5m at the rear end of the garden. On my site visit I stood at the end of the garden and was able to see that the ground level on the garden side of the wall is above that of the public footpath and in some places it is less than 1m below the height of the wall.
 6. Increasing the height of the wall would reduce the natural light that could reach the path to a limited extent. It would also make the path feel a little more enclosed. However, it already has a tunnel-like appearance due to its restricted width. This is exacerbated by the extensive overhanging vegetation which results in it being almost totally enclosed through a short section.
 7. It would appear that the path is a popular cut-through. A number of local residents have therefore expressed concerns about any additional loss of daylight which could make the passageway less pleasant to use. They fear that this would adversely affect their safety. However, I note that permission has been granted to fell a substantial tree in the rear garden of No 8 which currently overhangs and shades the footpath, Ref: BH2016/00097. It seems to me that any loss of daylight arising from increasing the height of the wall would be adequately compensated for by the increased sense of openness that would be created by the removal of the tree and its associated vegetation. Furthermore, the appellant stated an intention to ensure that the passageway is also cleared of other vegetation that overhangs from his garden.
 8. There was evidence to suggest that there had previously been a fence erected within No 8's garden, adjacent to the wall. This would have resulted in a similar sense of enclosure to that which would occur with the proposal. I am therefore not convinced that the increased height of the wall, if combined with the removal of vegetation, would result in an increased sense of enclosure or a materially harmful loss of light along the path. Consequently, the proposal would not result in a significant threat to the safety of those using the passageway.
 9. There is a lamp column approximately halfway between Princes Square and Westbourne Place. The path is therefore already lit at night and the removal of the excess vegetation would also improve the penetration of light from this lamp into the passageway during the hours of darkness. It has been suggested that a lantern change would also be appropriate, the need for which could be assessed by Council officers following the alterations to the wall. This should ensure that the path would appear safe to users at night.
 10. In considering the proposal I have also had regard to the alternative fallback positions available to the appellant. Firstly, the wall could be increased in height to 2m as permitted development. Secondly, a new wall of up to 2m above the

existing ground levels could be constructed within the garden immediately adjacent to the existing one. It would seem that this could be as high as 2.8m given the rising ground towards the end of the garden.

11. I consider it to be highly likely that the appellant would implement one of these options, given the serious concerns that he has about the security of his property. He provided specific evidence relating to a recent burglary where intruders had climbed into the garden over the wall. There was also evidence of anti-social behaviour resulting in litter being thrown into the garden.
12. In these circumstances, the right of the appellant to protect the safety, privacy and security of his home is a material consideration to which I attribute some weight. It seems to me that the proposal is a proportionate response to the sense of risk that he has experienced arising from the proximity of his property to this public footpath. The appearance of the path would be improved with the removal of vegetation, which the appellant has indicated would be done if the scheme were to proceed. This would benefit everyone using the footpath and could be secured by the imposition of an appropriate condition. I therefore consider that the benefits of the proposal for the appellant would outweigh the understandable perceptions of danger expressed by local people who use this short passageway on a regular basis.
13. I conclude that, subject to the removal of the existing overhanging vegetation, the proposal would not adversely affect public safety on the footpath between Princes Square and Westbourne Place. It would therefore comply with saved Policies TR8 and QD27 of the Brighton and Hove Local Plan which requires development, amongst other things, to provide for the needs of pedestrians by creating short, safe, attractive and direct walking routes.

Other Matter

14. Princes Square lies in the Pembroke and Princes Conservation Area. I therefore have a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of that Area. The Council is satisfied that the proposal would preserve the appearance of the conservation area. I see no reason to come to a different view, provided that the development is constructed using appropriate materials, which can be secured by condition.

Conditions

15. In addition to the standard time limit a condition specifying the plans is necessary in the interests of certainty. A condition requiring matching materials is justified in order to ensure that the development can be satisfactorily integrated with its surroundings. I have also imposed a condition requiring that the tree and other vegetation which currently overhangs the passageway is removed prior to commencement of the works to increase the height of the wall. This will ensure that the proposal does not result in an additional sense of enclosure along the footpath.

Conclusion

16. For the reasons set out above, I conclude that the appeal should be allowed, subject to conditions.

Sheila Holden

INSPECTOR

Appeal Decision

Site visit made on 12 July 2016

by Andrew Steen BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 03 August 2016

Appeal Ref: APP/Q1445/W/16/3147518

60 Worcester Villas & 430 Portland Road, Hove BN3 5SJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs John White against the decision of Brighton & Hove City Council.
 - The application Ref BH2015/00721, submitted to the Council on 2 March 2015, was refused by notice dated 19 January 2016.
 - The development proposed is demolition of existing single garage and part of an extension and the erection of a two bedroom detached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Brighton & Hove City Plan Part One (CP) was adopted during the course of this appeal and policies within this plan supersede a number of policies contained within the Brighton & Hove Local Plan (LP). The Council provided a policy update along with copies of CP Policies that superseded LP Policies during the course of the appeal and the appellant had the opportunity to comment. Policies QD1, QD2, QD3 and HO4 of the LP that were referred to in the reasons for refusal have been superseded by Policies CP8, CP12 and CP14 of the CP. Policies QD5, QD14, QD27 and HO5 of the LP referred to in the reasons for refusal have not been superseded and remain part of the adopted development plan. I have based my decision on the current adopted policies.

Main Issues

3. The main issues are:
 - the effect of the proposed dwelling on the character and appearance of the surrounding area;
 - the effect of the proposed dwelling on the living conditions of neighbouring occupiers at 62 Worcester Villas with particular regard to outlook and light; and
 - whether prospective occupiers would enjoy satisfactory living conditions.
-

Reasons

Character and appearance

4. The area surrounding 60 Worcester Villas and 430 Portland Road comprises a mix of commercial and residential development. Properties on the junction of the two roads comprise commercial uses on the ground floor with residential uses to the rear and above. Worcester Villas comprises predominantly Victorian brick semi-detached or terraced houses with canted bay windows. Development along Portland Road in the vicinity of the site is of similar character and appearance, although the terrace of shops from 430 Portland Road have flat roofs.
5. By contrast, the proposed development would comprise a detached modern design of building, with rendered and timber clad walls and zinc roof, and solar panels over the flat roofed section. The proposed dwelling would not reflect the scale of surrounding development, the limited depth and size of the site resulting in a proposed building that would be noticeably shallower than surrounding buildings. The differing roof forms and variety of features, such as square bay window and flat roofed projection with sloping solar panels on one side, would make the building appear prominent within the street scene. Consequently, the proposed building would be incongruous and out of character with surrounding development.
6. Whilst I accept that the principle of a modern design of building in this location may be acceptable and has been allowed on a similar site along Portland Road, it is the combination of factors regarding the scale and appearance of the proposed building that would not reflect the surrounding character and appearance and would draw particular attention to the proposed building.
7. For the above reasons, the proposed dwelling would harm the character and appearance of the surrounding area, contrary to Policy QD5 of the LP and Policy CP12 of the CP that seek to raise the standard of architecture and design in the city and provide interesting and attractive street frontages.

Living conditions of neighbouring occupiers

8. The proposed development would provide a two storey building on the site, in close proximity to the boundary with 62 Worcester Villas. That property is close to the boundary and contains windows in the elevation facing toward the proposed building.
9. I note that there is development on the boundary at present, comprising a pitched roof garage and link between that and the rear of the café at 60 Worcester Villas. Whilst this is closer to the boundary than the development proposed, it is single storey, lower and does not extend so far along the boundary as the proposed development. As such, the proposed development would be more visible and would dominate windows and the modest garden area of that neighbouring property, harming the occupiers' living conditions.
10. Whilst the outlook of those neighbouring occupiers would be harmed by the overbearing effect of the proposed development, the small gap to the boundary would ensure that there would be limited additional shadowing of that neighbouring property. Consequently, the proposed development would not result in a material loss of daylight and sunlight to the neighbouring property at 62 Worcester Villas.

11. Consequently, I conclude that the proposed dwelling would harm the outlook of the occupants of 62 Worcester Villas, such that the development would be contrary to Policy QD27 of the LP that resists development causing material nuisance or harm to the living conditions of neighbouring occupiers. The Council also refer to Policy QD14 of the LP that relates specifically to extensions and alterations, so would not be directly relevant to the proposed detached dwelling.

Living conditions of prospective occupiers

12. The proposed dwelling would be provided with modest outside amenity space to the front and rear. That to the rear is small and would be dominated by the proposed building, such that it would provide limited usable space. However, taking account of the additional space to the front and that the development would be a modest two bedroom dwelling, I consider that the amount of space is sufficient in this instance.
13. My attention has been drawn to other planning permissions that have been granted in the vicinity and that similarly sized flats may not have the amount of living space proposed in this instance. However, I have been provided with limited details of those developments. Consequently, I have reached my conclusion on the merits of the development proposed.
14. For the above reasons, I conclude that the proposed development would provide sufficient outside amenity space to ensure adequate living conditions for prospective occupiers of the proposed development. As such, the proposal complies with Policy HO5 of the LP and Policies CP12 and CP14 of the CP that seek to provide private useable amenity space in new residential development that is an integral element of the overall design.

Other matters

15. My attention has been drawn to a lack of a 5 year housing land supply. I understand that this should have been addressed with adoption of the CP, but relevant policies relating to the supply of housing land that may address that deficiency have not been provided. However, whilst the proposed development would contribute a single house to the supply of housing land, this would not outweigh the harm that would arise from the particular scheme before me in terms of the character and appearance of the area and the living conditions of neighbouring occupiers.

Conclusion

16. While I have found that the proposal would provide adequate living conditions for occupiers of the proposed development, that is not sufficient to outweigh the harmful effect the works would have on the character and appearance of the area and the living conditions of neighbouring occupiers. As such, I conclude that the appeal should be dismissed

Andrew Steen

INSPECTOR

Appeal Decisions

Site visit made on 2 August 2016

by **S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5th August 2016

Appeal Ref: APP/Q1445/D/16/3151258

22 Windmill Close, Hove BN3 7LJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr J Scrase against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/00106, dated 12 January 2016, was refused by notice dated 23 March 2016.
 - The development proposed is described as 'proposed single storey side extension works, garage alterations, external landscaping changes to suit and internal modifications with new glazing throughout and external decorative changes to the main building'.
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Decision

1. The appeal is allowed and planning permission is granted for erection of single storey rear extension, alterations to landscaping front and rear, revised fenestration and other associated works at 22 Windmill Close, Hove BN3 7LJ, in accordance with the application Ref: BH2016/00106, dated 12 January 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos 257WC22/01, 02, 03, 04 ,05.
 - 4) The rooms in the side extension of No 22 Windmill Way shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling.

Procedural Matter

2. The Council's decision notice, the appeal form and the appellant's statement all refer to the proposal as: 'erection of single storey rear extension, alterations to landscaping front and rear, revised fenestration and other associated works'. As this is an accurate and adequate description of the scheme, I have used it in this decision.
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Main Issue

3. The main issue is the effect of the proposed extensions on the character and appearance of the host property.

Reasons

4. Windmill Close is a cul-de-sac characterised by a mix of semi-detached two-storey houses and detached bungalows set in well-proportioned plots. The properties date from the mid-20th century. No 22 is a semi that is paired with No 21; both have substantial side facing dormer windows in their catslide roofs. There is a garage which is well set back from the front elevation and is sited along the shared boundary with No 23. Set further back is a utility room which has been constructed to link the garage with the dwelling. The front entrance to the house is in the side elevation. To the rear there is a glazed conservatory which is close to the shared boundary with No 21. The garage/playroom alongside the boundary with No 23 extends beyond the rear elevation of the main dwelling and its existing extensions.
5. The proposal would replace the existing conservatory with a single-storey extension that would occupy almost the full width of the original dwelling. This would increase the overall floor area by approximately 12m². It would be set in from the shared boundary with No 21 and would not project so far from the rear elevation as the existing conservatory. The utility room would be reconstructed on its current footprint. The garage/playroom would be more effectively integrated into the house with the addition of French doors in the rear elevation.
6. I accept that the cumulative additional floor area arising from the existing and proposed extensions would be significant. However, the bulk and style of the rear extension in this scheme would be subservient to the host property. The enlargement would not project more than half the depth of the original house or occupy more than half the depth of the garden. It would neither project beyond the original flank elevation nor be seen from the public realm. The distances between No 22 and the surrounding properties, combined with its single-storey height, would ensure that it would not appear intrusive or dominant in this context. On the contrary, the proposal would improve or remove the existing unsympathetic, poor quality extensions and would reduce the cluttered appearance at the rear of the existing house.
7. The Council has not raised any concerns in relation to the infill extension at the front of the house which would provide an enlarged hallway from a single front entrance. The revised elevation for the garage and the newly sited front door would not protrude beyond the front elevation. These amendments would resolve the rather disjointed appearance to the front of the house and in this respect would be acceptable.
8. Taking all these factors into consideration I conclude that the proposal would not be harmful to the character and appearance of the host property. It would therefore comply with saved Policy QD14 of the Brighton and Hove Local Plan which requires development, amongst other things, to respect its setting. It would also accord with the relevant advice set out in the Council's Supplementary Planning Document 12: *Design Guide for Extensions and Alterations*.

Other Matter

9. I note that the Council expressed concerns about the layout of the utility room, bedroom and shower-room, presumably because of the risk of this part of the house being capable of being used as accommodation independent of the main house. However, the appellant stated that there would be no intention for this area to be used as a separate dwelling, but it would be used by relatives when they come to stay with the family. I have therefore imposed a condition to ensure that the accommodation within the existing and proposed side extension is only used as ancillary to the dwelling.

Conditions

10. In addition to conditions relating to the use of the side extension and the standard time limit, it is necessary to impose a materials condition in the interests of the appearance of the development. A condition specifying the plans is required for the avoidance of doubt and in the interests of proper planning.

Conclusion

11. For the reasons set out above I conclude that the appeal should be allowed, subject to conditions.

Sheila Holden

INSPECTOR

Appeal Decision

Site visit made on 16 August 2016

by Cullum J A Parker BA(Hons) MA MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 August 2016

Appeal Ref: APP/Q1445/D/16/3150678

71 Hill Brow, Hove, Brighton and Hove, BN3 6DD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Alexander Preece against the decision of Brighton & Hove City Council.
 - The application Ref BH2015/03334, dated 14 September 2015, was refused by notice dated 18 March 2016.
 - The development proposed is reduction and reconfiguration of ground floor to the rear and remodelling of the roof in order to incorporate habitable space.
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Decision

1. The appeal is allowed and planning permission is granted for the reduction and reconfiguration of ground floor to the rear and remodelling of the roof in order to incorporate habitable space at 71 Hill Brow, Hove, Brighton and Hove, BN3 6DD in accordance with the terms of the application, Ref BH2015/03334, dated 14 September 2015, subject to the conditions set out in Appendix A.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the street scene.

Reasons

3. The appeal site is located within a residential area of Hove. The street scene is characterised by a mixture of dwelling types, styles and sizes. I saw during my site visit that there are a number of nearby properties that have a contemporary style similar to that proposed in this case, with smooth rendered finishes, balconies to their fronts and gabled roof forms – some of the latter of which include overhanging roofs, such as that found at No 69 Hill Brow.
4. The appeal scheme seeks a number of extensions and alterations, including an enlarged roof space by raising the ridge height and provision of 'shed' dormers to provide additional living accommodation in the roof. The proposal also seeks a visually radical overhaul of a mid to late 20th Century property with a finish and use of materials more similar to the nearby contemporary style houses. For example, the use of painted smooth render and articulated features. The appeal site is not within a conservation area, nor is there complete uniformity within the nearby built form. Both are factors that permit variety within the design and style of the street scene's character and appearance. What is more, aspects of the proposed design are found within the local area. As such,

the proposed development would both promote and reinforce local distinctiveness.

5. I therefore conclude that the proposed development would not have a materially harmful impact on the character or appearance of the street scene. It would therefore accord with Policy QD14 of the Brighton and Hove City, as supported by the Design guidance for extensions and alterations SPD 12, which amongst other aims seek to ensure that developments are well designed, sited and detailed in relation to the property to be extended, adjoining properties and the surrounding area. It would also accord with the Policies of the National Planning Policy Framework (the Framework), which include that planning should not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives.

Other Matters

6. A number of concerns have been raised by neighbouring occupiers; I now consider these before coming to an overall conclusion. Neighbours have concerns over a potential loss of light, overshadowing and overlooking arising from the proposed increase in roof height and the mass of the building. However, such assertions are unsupported by any detailed analysis of what degree or type of light would be lost as a result of the proposal or the relationship between side windows or openings on both No 71 and No 73 Hill Brow. What is more, the angles and location of new windows and openings are in places where any overlooking would be at oblique angles and some light is already lost through the mixture of high close boarded fence and walls along the shared boundaries.
7. I also acknowledge that whilst the roof would be increased in height, it slopes away from the shared boundaries which would further mitigate any impact in respect of loss of light. In terms of the balcony, this is to the front of the building and would replace an existing balcony, so any harm in this respect already exists. What is more, the balcony overlooks the public realm rather than a rear garden for example. As a result, I do not consider that the proposal would result in undue overlooking, loss of light or privacy.
8. In terms of damage relating to excavation, building works, the Animal Welfare Act and property values these are not a specific planning matters. I have not considered these further; given that they are principally private matters between various parties.
9. I have considered comments received in terms of highway safety and parking. No objection or comments have been made by the local highways authority in this respect. Furthermore the proposal seeks modest extensions to an existing dwelling, where it would be unusual for additional traffic to equate to a severe residual cumulative impact.
10. I have been referred to Planning Policy Statements PPS1: Delivering Sustainable Development and PPS3: Housing. However, these were essentially replaced by the Framework in 2012, and therefore it is the Framework that is the relevant document. It is also mentioned in the same letter of objection that the site is an *'inappropriate form of development in Green Belt, detrimental to its open, rural and undeveloped character.'* There is no evidence before me that the site is located within the Green Belt. What is more, it was clear at my site visit that the appeal site is not located within an open, rural

and undeveloped area. Instead, I have considered the proposal on the basis of its own planning merits and after having visited the appeal site and the surrounding area.

11. I do not find that these other matters, whether considered individually or in combination, provide justification for the dismissal of the appeal.

Conditions

12. I have considered Paragraph 206 of the Framework and the Planning Practice Guidance in respect of the use of planning conditions. A condition requiring the proposed development to be carried out in accordance with the submitted drawings is necessary for the avoidance of doubt. In terms of materials, these are not shown on the submitted drawings and limited information is provided on the application form. Given the significant external changes as part of the overall design, a condition requiring the submission of details of materials and finishes is necessary and reasonable in this case.
13. Given the residential nature of the area, the suggested condition relating to hours of operation in this case would be reasonable in order to protect neighbouring occupiers from undue noise in the late evening, early mornings and weekends/bank holidays. However, a condition similar to a full construction method statement, as suggested by a third party, would be onerous given the scale of the alterations sought in this case.

Overall Conclusion

14. For the reasons given above, and having taken into account all matters raised, I conclude that the appeal should be allowed.

Cullum J A Parker

INSPECTOR

Appendix A – List of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Block Plan 1, Location Plan 1, S1, S2, S4, S5, S6, S7, S8, S9, P1A, P2A, P3A, P4, P5B, P6A, P7, P8, P9A, P10, P11A, P12 and P13.
- 3) Demolition or construction works shall take place only between 08:00 to 18:00 on Monday to Friday, between 08:00 and 13:00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 4) No development shall commence until details of the materials and finishes to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Appeal Decision

Site visit made on 16 August 2016

by Cullum J A Parker BA(Hons) MA MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 August 2016

Appeal Ref: APP/Q1445/D/16/3150994

22 Newark Place, Brighton, Brighton and Hove, BN2 9NT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Nancy Howard against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/00741, dated 29 February 2016, was refused by notice dated 22 April 2016.
 - The development proposed is loft conversion with rear dormer, including raising ridge height to provide adequate headroom internally.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the street scene.

Reasons

3. The appeal site is part of a long row of terraced properties roughly running on a north-east to south-westerly axis. The street scene nearest the appeal site is characterised by two-bay wide houses with a short pavement to their front. I saw during my site visit that there are views of the roof form along the terrace when viewed from the highway. It is clear to see that there are some party wall ridges along the terrace roof scape and some of the roofs are slightly higher than that at No 22, whereas others, including that at No 22a, matches the height and form.
4. I was able to see that there are some dormers within the wider street scene. However, these are typically either set in from the eaves and/or ridges, or at an oblique angle that means that they are not viewed straight-on. It is unclear as to which of these may (or may not) benefit from permitted development rights or planning permission approved before the adoption of the local development plan. Nonetheless, they provide part of the overall context of the street scene in which the appeal site lies within.
5. The Council's concerns over the appeal scheme can be divided into two main areas; the raising of the ridge height and the rear dormer. Turning to the first matter, the ridge would be raised so that its projects higher than the roofs at both Nos 22a and Nos 20/21. Visually this would look odd within the street scene. With the exception of the roof at No 19 (which is slightly higher than

that at Nos 20/21), the general trend is for the roofs to reduce in relative height from highest part at the Southover Street end to a lower visual height at the Albion Hill end of Newark Place. This visual reduction or stepping down in roof heights is due in part to the fact that Newark Place slopes down to the south west end. What this means in practice is that the higher ridge height proposed at No 22, which is not subtle in height and would require a much steeper pitch, would look an odd and incongruent feature within its immediate context and when viewed within the wider street scene.

6. In terms of the rear dormer, this would be incorporated within the raised ridge. However, when looking at drawings PBP0454/01 and the sections it is unclear as to why on the drawings entitled 'proposed section', showing the 2 metre internal height, there is a discrepancy when compared to the 'proposed south west elevation' and the 'proposed north east elevation' drawings. Put another way, the flat roof proposed on the first drawing meets the ridge, whereas on the second and third drawings it is set lower.
7. Setting aside the inconsistencies within the drawings themselves, it is clear that the 'proposed rear elevation' drawing shows a large box dormer that would span across the entire rear roof slope of the building. In practice, this would result in an extension that would appear as a second floor addition to the rear of the property rather than a dormer window. This would be at odds with the prevailing pattern of development within the area, where rear dormers are generally set in within the side and eaves, or their detailed planning history is unknown.
8. I note the appellant's view in that they consider the proposal to represent a 'sustainable development'. However, the proposal would have a materially harmful impact on the built environment and would not be able to achieve this part of the three mutually dependent roles of sustainable development; social, economic, and environmental. Nor would the social and economic benefits suggested in this case outweigh the environmental harm identified.
9. I therefore conclude that the combination of the incongruent raising of the ridge height and the large flat roof rear extension at second floor level results in a proposal that would lead to material harm to the character and appearance of the street scene. It would therefore be contrary to Policy DQ14 of the *Brighton and Hove Local Plan 2005*, as supported by the *Design guide for extensions and alterations SPD 12* (adopted 2013), which amongst other aims seeks to ensure that proposals for extensions and alterations will only be granted if the proposed development is well designed, sited and detailed in relation to the property to be extended, adjoining properties and the surrounding area.
10. For the reasons given above, and having taken into account all matters raised, I conclude that the appeal should be dismissed.

Cullum J A Parker

INSPECTOR

Appeal Decision

Site visit made on 9 August 2016

by Alex Hutson MATP CMLI MArborA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 August 2016

Appeal Ref: APP/Q1445/W/16/3149148

2 Clarence Square, Brighton, Brighton and Hove BN1 2ED

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs A M Taheri-Kadkhoda and Mr and Mrs A Abrahams against the decision of Brighton & Hove City Council.
 - The application Ref BH2015/03648, dated 10 October 2015, was refused by notice dated 1 April 2016.
 - The development proposed is rear roof terrace.
-

Decision

1. The appeal is dismissed.

Preliminary matters

2. Subsequent to the date of the Council's decision notice, the Council adopted the Brighton and Hove City Plan Part One in March 2016 (the City Plan). Nevertheless, the policies of the City Plan do not supersede the saved policies of the Brighton and Hove Local Plan 2005 (Local Plan) referred to on the Council's decision notice and these saved policies continue to form part of the development plan for the City. I have considered the appeal on this basis.
3. The description of the proposed development on the Council's decision notice includes, in addition to the creation of a roof terrace, the replacement of an existing window with a new door to access the roof terrace. This is reflected on the submitted plans. I have therefore considered the appeal on this basis.

Main Issues

4. The main issues are whether the proposal would preserve or enhance the character or appearance of the Regency Square Conservation Area; and the effects on the living conditions of the occupiers of neighbouring properties with particular regard to privacy and noise.

Reasons

Conservation area

5. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that with respect to development affecting buildings or other land in a conservation area, "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that
-

- area.” In addition, Paragraph 132 of the National Planning Policy Framework (the Framework) requires that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation.
6. Clarence Square lies on the eastern edge of the Regency Square Conservation Area (RSCA) and terraced dwellings, including 2 Regency Square, which date from around 1850, are laid out formally around a central public garden. Dwellings are typically three storeys in height with basements and display a strong level of uniformity within the streetscape.
 7. No 2 lies on the eastern side of Clarence Square and backs onto a prominent concrete ramp that leads to a rooftop car park associated with a large shopping centre. The Council accepts that the presence and appearance of the ramp has greatly compromised the setting of the rear of the terraces that No 2 forms part of. From my observations, I would concur with the Council on this matter. I also observed that the rear elevations of some of the terraced dwellings along this part of Clarence Square that back onto the ramp, have been subject to alterations in the past and display little coherence or uniformity.
 8. The exception to this is the rear elevation of Nos 2 and 3 which share a distinctive, traditional rear outrigger which incorporates a pitched roof and a gable end. Whilst not an original part of these dwellings, the rear outrigger, dating from the late 19th century, forms part of the historical development of these dwellings. The rear outrigger is a prominent feature in views from the east when approaching the RSCA and maintains a good level of uniformity between Nos 2 and 3. Whilst part of the pitched roof nearest the rear elevation of No 2 has been removed in the past, I do not consider that this alteration substantially changes the prominence or the uniformity of the rear outrigger in views from the public realm. The prominence and uniformity of the rear outrigger therefore positively contributes to the character and appearance of the host buildings and the RSCA.
 9. The proposal seeks to remove the remainder of the pitched roof and most of the gable end to create a roof terrace with a surrounding parapet. Access would be provided to the roof terrace by the replacement of a non-historic window with a door. The Council raises no concerns in respect of the replacement of this window with a door given it is not an original feature of the house. I would concur with the Council on this matter.
 10. Nevertheless, the loss of the pitched roof and traditional gable end profile and the formation of a parapet would considerably unbalance the appearance of the rear outrigger of Nos 2 and 3. This would fail to maintain the important level of uniformity that exists between these two dwellings and would be clearly apparent in views from the public realm. I therefore consider that the proposal would fail to preserve or enhance the character or appearance of the RSCA. However, in the context of the RSCA as a whole, I consider the harm arising to the significance of the RSCA designated heritage asset would be less than substantial.
 11. As required by paragraph 134 of the Framework, I must therefore consider whether there are any public benefits that outweigh the less than substantial harm identified above. However, I have not been presented with any compelling evidence from the appellant to this effect. I acknowledge the appellant’s argument that a level of private amenity space would enhance the

overall living conditions of any occupiers of No 2. Nevertheless, whilst this may be the case, this would not be a matter that would provide any significant benefit for the wider public.

12. I therefore conclude that the proposal would fail to preserve or enhance the character or appearance of the RSCA contrary to the requirements of s72(1) of the Act and that the harm identified, albeit less than substantial, would not be outweighed by public benefits as required by paragraph 134 of the Framework. The proposal would also be contrary to saved Policies QD14- Extensions and Alterations and HE6- Development Within of Affecting the Setting of Conservation Areas, of the Local Plan. These policies require, amongst other things, development to be well designed in relation to the host property and adjoining properties, to respect the character of the surrounding area and to preserve or enhance the character or appearance of the conservation area, including in respect of its development pattern, townscape and roofscape.
13. The proposal would also be contrary to the guidance of the Brighton and Hove Design Guide for Extensions and Alterations Supplementary Planning Document No. 12 adopted 2013 (SPD) which advises that development should not detract from the original building or the character of an area and that roof terraces will in most cases be unacceptable in prominent locations visible from the street because of their negative impact on the appearance of the building and streetscape.

Living conditions

14. I observed that the rear outrigger of No 1 has two windows that face in a southerly direction towards the rear outrigger of No 2. Nevertheless, these windows do not appear to serve the main habitable rooms of the flats within No 1 and therefore privacy requirements in respect of these rooms is likely to be substantially reduced. Furthermore, any overlooking of these windows by users of the proposed terrace would be from a higher level and therefore from an angle that would be unlikely to allow any significant views into these rooms.
15. In addition, the angle of view obtained from the proposed roof terrace towards any windows to main habitable rooms on the eastern elevation of No 1, combined with the generous separation distance between the proposed roof terrace and these windows would, in my opinion, limit any opportunity for any users of the roof terrace to obtain any significant views into these windows.
16. The generous separation distance between the proposed roof terrace and any windows in the eastern elevation of No 1, would, in my opinion substantially limit any harmful effects in respect of noise and disturbance for the occupiers of the flats within No 1.
17. I therefore conclude that the proposal would maintain acceptable living conditions for the occupiers of flats within No 1 in respect of privacy and noise and disturbance.
18. The proposal would therefore comply with saved Policies QD14 and QD27- Protection of Amenity, of the Local Plan. These policies require, amongst other things, development to respect the amenities of neighbouring properties including in respect of privacy and noise and disturbance.

Other matters

19. I acknowledge third party concerns in respect of loss of light. Nevertheless, the Council did not raise any concerns on living conditions grounds beyond those matters relating to privacy and noise and disturbance. Based on the evidence before me and my own observations, I am satisfied that the proposal, given the modest height of the proposed parapet, would not cause any undue loss of either sunlight or daylight to neighbouring properties.

Conclusion

20. Whilst I have not found harm to neighbour living conditions, I have found that the proposal would fail to preserve or enhance the character or appearance of the RSCA. The harm so caused would not be outweighed by public benefits. Therefore, for the reasons set out above and having regard to all other matters, I conclude that the appeal should be dismissed.

Alex Hutson

INSPECTOR

Appeal Decision

Site visit made on 10 August 2016

by **R M Pritchard MA PhD MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23rd August 2016

Appeal Ref: APP/Q1445/W/16/3147925

Windsor Court Car Park, Windsor Street, Brighton, BN1 1RS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms Nazila Blencowe (Baron Homes) against the decision of Brighton & Hove City Council.
 - The application Ref BH2015/03708, dated 15 October 2015, was refused by notice dated 15 February 2016.
 - The development proposed is the change of use of the car park to residential and the erection of a new three storey building with seven apartments in total.
-

Decision

1. The appeal is dismissed.

Main Issues

2. I consider the main issues to be the effect of the proposed development on -
 - i. The living conditions of both its future occupants and those of an adjacent building, Windsor Court;
 - ii. The character and appearance of the surrounding area, especially the setting of the North Laine Conservation Area; and
 - iii. The archaeological value of the site.

Reasons

Background

3. The appeal site is within Brighton City Centre on the west side of a road that links the city's principal shopping street, North Street, to the Laines area to the north. Windsor Street is characterised by a mix of residential and commercial uses. The appeal site is currently occupied by a car park that serves Windsor Court, a modern, seven to eight storey block of flats that is immediately to the west. There is a second, more recently permitted (Council Ref BH2015/00742) block of flats, of only three to four storeys in height, Windsor Lodge, to the north of the site. The boundary of the car park was landscaped and is dominated by a mature sycamore tree that is the subject of a Tree Preservation Order (TPO). None of the surrounding buildings is locally or nationally listed and the site is not in a Conservation Area, although the northern part of Windsor Street is in the North Laine Conservation Area.

4. The appeal proposal would redevelop the southern part of the car park and erect a four-storey building, including accommodation in a mansard roof. In practice, the new building would form an eastward extension to Windsor Court. That property's eastern windows at first and second floor levels would thereby have to be removed. A courtyard area, enclosed on three sides, would be formed to the north of the new building, which would be open to Windsor Street. The TPO protected sycamore tree would be removed.
5. The Council admits that at present it cannot demonstrate a five-year supply of deliverable housing sites. As set out in paragraph 49 of the National Planning Policy Framework ('the Framework'), policies for the supply of housing in the city thereby have to be considered out of date. Furthermore, paragraph 14 of the Framework emphasises that, in such circumstances, there is a general presumption in favour of sustainable development unless any adverse impacts of a development would significantly and demonstrably outweigh its benefits when assessed against the policies of the Framework taken as a whole.

The living conditions of both its future occupants and those of an adjacent building, Windsor Court

6. 'Saved' Policy QD27 of the adopted Brighton and Hove Local Plan adopts the position that permission will not be granted where proposals would cause material nuisance and loss of amenity to proposed, existing and/or adjacent occupants. In respect of the living conditions of the occupants of new development, Policy QD27 is reinforced by Policy HO13 that requires all new residential proposals to meet the so-called lifetime homes standard whereby they could be adapted to meet the needs of people with disabilities without major structural alteration.
7. The proposed building would comprise six, one bedroom flats all with floor areas of around 38m² and a seventh two bedroom flat with a floor area of around 62m². All the flats would thereby meet the national space standards for one bedroom, one person flats and, in the case of the last, for a two bedroom, two person flat. However, the Council has suggested that the size of the bedrooms for the six, one-bedroom flats is sufficiently large that it could be reasonable to expect them to be occupied by two persons. However, the accommodation would then be well below the space standard for one bedroom, two person flats. The Council comments that this is exemplified by the small size of the communal lounge and kitchen and the lack of private amenity space. There are also issues with Policy HO13 in respect of the width of commonways in some of the flats as well as in the bedrooms were a double bed to be introduced and in respect of the size of the shower rooms.
8. The appellants counter these criticisms by pointing out that the Council did not adopt the national space standards in its 2016 City Plan and that there are no alternative locally adopted standards. In those circumstances, any space standards should be applied flexibly. Moreover, they also point out that whether or not in the future the one bedroom flats are occupied by two persons is a matter of choice. Finally, they comment that the so-called Lifetime Homes Standards are now incorporated in the Building Regulations and therefore that the proposed development should not be judged against Policy HO13.
9. In respect of the last point, I am unclear whether the appellants are conceding that the proposed residential units do not, in at least some aspects, meet the Lifetime Homes Standards, but would have to be modified to meet the current

Building Regulations. However, more generally, although I accept that the proposed development conflicts in some aspects with both Policies QD27 and HO13, I am not persuaded that were this the only issue in dispute it would be sufficient to warrant the dismissal of the appeal.

10. I am more concerned with the effect of the proposed development on the apartments on the lower floors of the adjacent Windsor Court. These are studio flats with windows on their southern and eastern elevations but the windows on the eastern elevations of the first and second floor flats would have to be blocked up. The appellants claim that since the eastern elevation windows light kitchen spaces, they should not warrant the same protection as 'habitable rooms'. But open-plan studios are usually dependent on all their windows.
11. Furthermore, I noted at my site visit that the lower floor windows on the southern elevation of Windsor Court face a taller building on the opposite side of the access lane. Contrary to the appellants' claims, I was far from persuaded that these southern windows would, on their own, provide sufficient sunlight and natural light to these properties. By contrast, the distance between Windsor Court's eastern elevation and the buildings on the opposite side of Windsor Street should mean that these eastern windows are more significant for lighting these properties. In this respect, the loss of the eastern windows at first and second levels of Windsor Court and the interference with light entering the third floor window would, in my view, constitute significant and demonstrable material harm to the living conditions of the occupants of these properties. This would represent substantial conflict with the provisions of Policy QD27.

The character and appearance of the surrounding area, especially the setting of the North Laine Conservation Area

12. The proposed development clearly replicates in height, massing, scale and broad design that recently adopted for Windsor Lodge and, as such, represents an appropriate response to the character and appearance of the area. The Council's concerns focus on the loss of the protected Sycamore tree. I agree with the Council that the visibility of this tree both from the north and south give it a significance in the wider street scene that exceeds its immediate impact on the appeal site and its surroundings. When looking north, the tree provides an introductory frame for the Laines area and I have no doubt that its loss would represent significant material harm both to the street scene and to the setting of the North Laine Conservation Area. When looking south, the trees provides a moderating influence on what is otherwise a somewhat harsh urban environment.
13. Policy HE6 of the Local Plan deals with development within or affecting the setting of conservation areas. In respect of the latter, the policy reflects the requirements of section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 that special attention should be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. The policy lays particular emphasis on a high standard of detailing that reflects the character or appearance of the area, and the retention and protection of trees, gardens, spaces between buildings, and other open areas which contribute to that character or appearance.

14. The appellants comment that the sycamore is causing damage to the low walls that provide an important element in the current boundary treatment. I saw this for myself but I would suggest that repair of the walls would be preferable to the loss of the sycamore tree. They would also provide two replacement trees within the new courtyard. This is to be welcomed in the context of the site but would do nothing to replace the role of the large and mature sycamore tree in the wider street scene as the replacement trees would be visible only from that stretch of Windsor Street immediately adjacent to the appeal site and would be likely to be smaller and less significant in appearance at least initially
15. Although I consider the proposed development to conflict Policy HE6 in respect of the loss of an important tree, I do not consider that the effect of its loss would amount to substantial material harm to the setting of the heritage asset represented by the North Laine Conservation Area. In such circumstances, paragraph 134 of the Framework advises that the material harm should be weighed against the public benefits of the proposed development. Those public benefits focus on the additional housing that would be provided in circumstances where there is an agreed lack of a five year supply of deliverable housing sites. In itself, it could be sufficient to outweigh the material harm to the setting of the conservation area.

The archaeological value of the site

16. The archaeological value of the appeal site apparently relates to the fact that it has been part of the built-up area of Brighton since at least the early 19th century and is now situated in an Archaeological Notification Area. No heritage information was submitted with the application and this caused the County Archaeologist to object to the proposal. However, I agree with the appellants that this matter could be satisfactorily resolved through the imposition of an appropriate condition requiring pre-development archaeological survey of the site were the appeal to be allowed.

The planning balance

17. The proposed development is clearly in a highly sustainable location, as reflected in the acceptable loss of the existing parking. It would also make a small but not insignificant contribution to housing supply in an area where there is not currently a five year supply of sites. Those are significant factors in its favour. It would produce material harm to the street scene and to the setting of the southern edge of the North Laine Conservation Area and were these the only factors weighing against the proposed development, they would, in my view, be insufficient to lead to the dismissal of the appeal. However, I afford substantially more weight to the proposal's effects on the living conditions of the occupants of the first and second floor flats in Windsor Court. That impact would represent substantial material harm in my view and, on balance, I therefore conclude that there is sufficient significant and demonstrable evidence of an adverse impact to outweigh the benefits I have acknowledged.

Conclusion

18. For the reasons given above I conclude that the appeal should be dismissed.

R M Pritchard INSPECTOR

Appeal Decision

Site visit made on 10 August 2016

by **R M Pritchard MA PhD MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23rd August 2016

Appeal Ref: APP/Q1445/W/16/3149843

30 Newmarket Road, Brighton, BN2 3QF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms Angela Gail Brooks against the decision of Brighton & Hove City Council.
 - The application Ref BH2015/04196, dated 20 November 2015, was refused by notice dated 19 April 2016.
 - The development proposed is to change the use from a six bedroom small house in multiple occupation (Use Class C4) to a seven bedroom house in multiple occupation (*Sui generis*).
-

Decision

1. The appeal is dismissed.

Main Issues

2. I consider the main issues to be whether the proposed change of use would -
 - i. Contribute to too great a concentration of Houses in Multiple Occupation (HMOs) in the surrounding area; and
 - ii. Provide an adequate standard of accommodation for its future occupants.

Reasons

3. The appeal site is a mid-terrace, two storey property but with additional accommodation in the loft and basement. It currently comprises six bedrooms – two on each of the three upper floors - two shower rooms on the ground and first floors and a kitchen, living and dining rooms in the basement. The property is located in a residential area to the north of Brighton city centre. Surrounding properties are a mix of family dwellings and what, in recent years, has been an increasing proportion of Houses in Multiple Occupation (HMOs). The latter appears to be related to the appeal site's proximity to Brighton University which is around a ten minute walk away.
4. The appeal property is currently in use as a 'small' six bedrooed HMO (Use Class C4), although at the time of my visit, it had recently been refurbished to a good standard but was unoccupied. The proposed development would change the use of the basement living room to a seventh bedroom thereby converting the property to a large HMO (Use Class *Sui generis*).

5. Policy CP21 of the Brighton and Hove City Plan deals with the issue of changes of use to HMOs, including those HMOs, as proposed here, which fall outside a specific Use Class Order and are thereby *sui generis*. The policy will not permit such changes of use where more than 10% of dwellings within a radius of 50 metres of the application site are already in HMO use. Policy CP21 has been reinforced by an Article 4 Direction, adopted in April 2012, which requires such proposals to obtain planning permission, and which applies to the appeal site. Both Policy CP21 and the Article 4 Direction are aimed at securing balanced communities and have been accompanied by the objective of locating student housing in those areas of the city which are most suitable in terms of accessibility and its impact on the amenity of surrounding area.
6. The Council has undertaken a survey of the area adjacent to the appeal site. It found that 38% of properties within 50 metres are already in use as HMOs. The proposed development is thereby contrary to Policy CP21.
7. Notwithstanding this conflict, the appellant emphasises the convenience of the appeal site's location, the good quality of the conversion and the marginal nature of the increase in occupation proposed. However, the Council argues that it is exactly this type of incremental intensification that eventually leads to an over-concentration of HMOs with associated problems of more activity, increased noise and disturbance, and greater pressures on parking and refuse collection. These issues are among those matters which Policy QD27 of the Local Plan identifies as among the criteria against which proposals for development must be assessed.
8. Furthermore, the Council has directed me to a recent appeal decision (PINS Ref APP/Q1445/C/16/3145546) at a property very close to the appeal site where a colleague dismissed an appeal against an enforcement notice. Among her principal grounds for dismissing the appeal were '*...that the siting of HMOs in Newmarket Road is not well balanced with existing single family dwellings*'.
9. In addition to its issue with the greater concentration of HMOs in the surrounding area, the Council has also raised the quality of accommodation that would result from the loss of the basement living room. The effect of that loss would be to restrict the communal living area to the single dining room. This has a floor area of under 14m² but its practical area is restricted by factors such as the stairs and access to the galley kitchen – which is too narrow for a table and chairs. The Council questions whether such a room can be sufficient for a property housing seven adults.
10. I agree and I also accept the Council's argument that, whilst the property may meet the minimum space and other environmental health standards for HMOs, the planning system has a wider responsibility towards ensuring that the quality of accommodation will provide more than the bare minimum for its occupants. The appellant claims that the second living room in the basement is rarely used but that claim runs somewhat counter to the emphasis on letting the property to a group of friends, whom I would suggest may often wish to eat and socialise together. The remaining dining room will be tight in accommodating all the occupants of the house at the same time. I therefore conclude that the additional bedroom would lead to a deterioration in living conditions sufficient to be contrary to Policy QD27.
11. I give some weight to the marginal impact of the proposal such as might cause me to consider that this factor alone could be insufficient to warrant the

dismissal of the appeal. However, when combined with the inadequate standard of accommodation that would result, I conclude that the proposal's conflict with both Policies CP21 and QD27 is sufficient to justify dismissing the appeal.

Conclusion

12. For the reasons given above I conclude that the appeal should be dismissed.

R M Pritchard

INSPECTOR

