





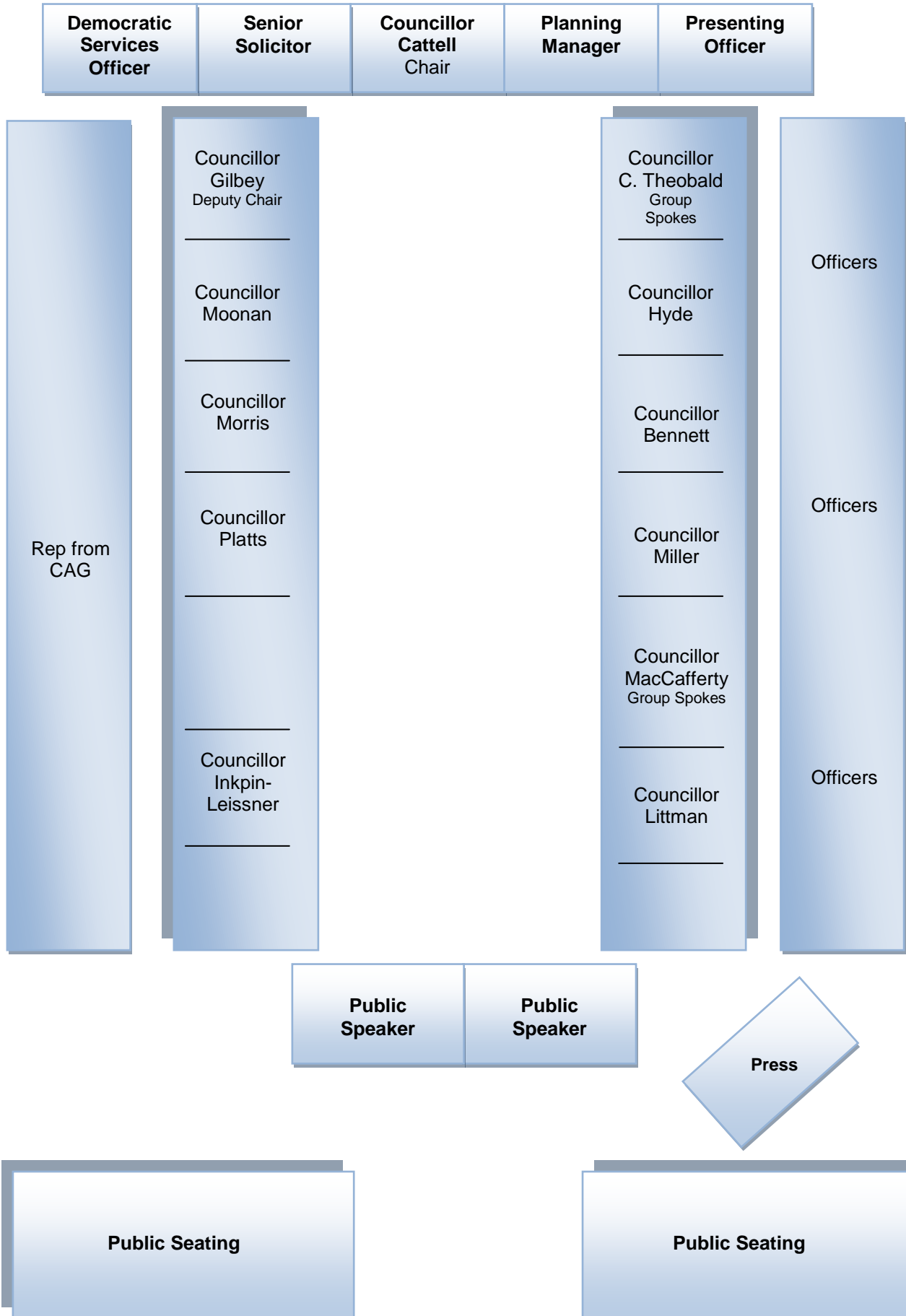
**Brighton & Hove  
City Council**

# Planning Committee

Title:	<b>Planning Committee</b>
Date:	<b>4 April 2018</b>
Time:	<b>2.00pm</b>
Venue	<b>Council Chamber, Hove Town Hall</b>
Members:	<p><b>Councillors:</b> Cattell (Chair), Gilbey (Deputy Chair), C Theobald (Opposition Spokesperson), Mac Cafferty (Group Spokesperson), Bennett, Hyde, Inkpin-Leissner, Littman, Miller, Moonan, Morris and Platts</p> <p><b>Co-opted Members:</b> Conservation Advisory Group Representative</p>
Contact:	<p><b>Penny Jennings</b> Democratic Services Officer 01273 29-1065/29-1354 planning.committee@brighton-hove.gov.uk</p>

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	<b>An Induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter and infra red hearing aids are available for use during the meeting. If you require any further information or assistance, please contact the receptionist on arrival.</b>
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# Democratic Services: Planning Committee



## AGENDA

### 116 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

### 117 MINUTES OF THE PREVIOUS MEETING

Minutes of the meeting held on 7 March 2018 (circulated separately).

### 118 CHAIR'S COMMUNICATIONS

### 119 PUBLIC QUESTIONS

**Written Questions:** to receive any questions submitted by the due date of 12 noon on Tuesday 27 March 2018.

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

### 121 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

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

#### MINOR APPLICATIONS

- |          |  |                |
|----------|--|----------------|
| <b>A</b> | <b>BH2017/03299, 82 Southover Street, Brighton - Full Planning</b>   | <b>1 - 14</b>  |
|          | Change of use from three bedroom dwelling (C3) to five bedroom small house in multiple occupation (C4) (Retrospective).<br><b>RECOMMENDATION – GRANT</b><br><i>Ward Affected: Hanover and Elm Grove</i>                                      |                |
| <b>B</b> | <b>BH2017/04139, 9 The Upper Drive, Hove - Full Planning</b>   | <b>15 - 30</b> |
|          | Creation of additional storeys to existing block D to provide an enlarged two bedroom flat at first floor level and 2no additional flats at second and third floor level.<br><b>RECOMMENDATION – GRANT</b><br><i>Ward Affected: Goldsmid</i> |                |
| <b>C</b> | <b>BH29018/00210, Flat 51, 4 Grand Avenue, Hove</b>  | <b>31 - 40</b> |
|          | Installation of glass balustrading to existing balcony railings.<br><b>RECOMMENDATION – GRANT</b><br><i>Ward Affected: Central Hove</i>  |                |
| <b>D</b> | <b>BH2018/00209, Flat 51, 4 Grand Avenue, Hove - Listed Building Consent</b>   | <b>41 - 50</b> |
|          | Installation of glass balustrading to existing balcony railings.<br><b>RECOMMENDATION – GRANT</b><br><i>Ward Affected: Central Hove</i>  |                |

## PLANNING COMMITTEE

- E BH2018/00294, 33 Oriental Place, Brighton - Full Planning 51 - 66**

Internal and external alterations incorporating new mansard roof to create additional floor with associated alterations to layout and other works.

**RECOMMENDATION – REFUSE**

*Ward Affected: Regency*

- F BH2018/00295, 33 Oriental Place, Brighton - Listed Building Consent 67 - 78**

Internal and external alterations incorporating new mansard roof to create additional floor with associated alterations to layout and other works.

**RECOMMENDATION – REFUSE**

*Ward Affected : Regency*

- G BH2017/03076, 2-4 Sackville Road, Hove - Full Planning Permission 79 - 94**

Conversion of care home (C2) into residential apartment building comprising 4no flats at 2 Sackville Road and a nine bedroom house in multiple occupation (Sui Generis) at 4 Sackville Road with associated alterations including infilling of window to northern elevation and installation of sliding doors to western elevation.

**RECOMMENDATION – GRANT**

*Ward Affected: Westbourne*

- 122 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

- 123 INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS 95 - 96**

(copy attached).

- 124 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE 97 - 102**

(copy attached).

- 125 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES 103 - 104**

(copy attached).

## PLANNING COMMITTEE

### 126 APPEAL DECISIONS

105 - 170

(copy attached).

### 127 NON-PUBLIC MINUTES

Non-Public Minutes of the meeting held on 7 March 2018 – Exempt  
Category 5  
(to be circulated to members separately)

Members are asked to note that plans for any planning application listed on the agenda are now available on the website at:

<http://www.brighton-hove.gov.uk/index.cfm?request=c1199915>

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

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

Agendas and minutes are published on the council's website [www.brighton-hove.gov.uk](http://www.brighton-hove.gov.uk). Agendas are available to view five working days prior to the meeting date.

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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 29-1065/29-1354, email [planning.committee@brighton-hove.gov.uk](mailto:planning.committee@brighton-hove.gov.uk)) or email

**PLANNING COMMITTEE**

democratic.services@brighton-hove.gov.uk.

Date of Publication – Friday 23 March 2018





# **ITEM A**

**82 Southover Street, Brighton**

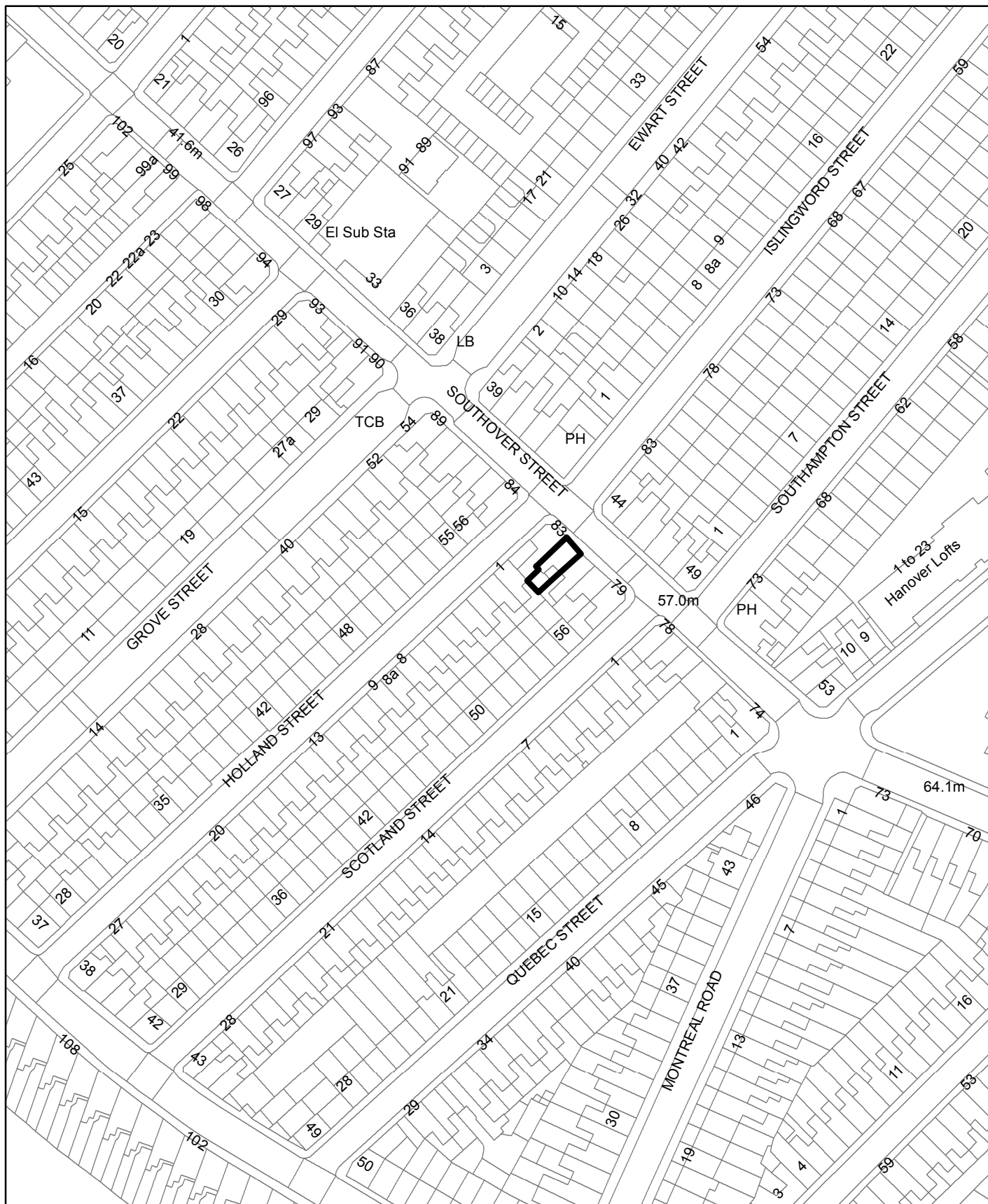
**BH2017/03299**

**Full planning**

**DATE OF COMMITTEE: 4<sup>th</sup> April 2018**



# BH2017/03299 82 Southover Street, Brighton



**Brighton & Hove  
City Council**



**Scale: 1:1,250**



<b><u>No:</u></b>	<b>BH2017/03299</b>	<b><u>Ward:</u></b>	<b>Hanover And Elm Grove Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>82 Southover Street Brighton BN2 9UE</b>		
<b><u>Proposal:</u></b>	<b>Change of use from three bedroom dwelling (C3) to five bedroom small house in multiple occupation (C4) (Retrospective).</b>		
<b><u>Officer:</u></b>	Charlotte Bush, tel: 292193	<b><u>Valid Date:</u></b>	29.09.2017
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	24.11.2017
<b><u>Listed Building Grade:</u></b>	<b>N/A</b>	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Dowsettmayhew Planning Partnership 63A Ship Street Brighton BN1 1AE		
<b><u>Applicant:</u></b>	John Glare C/O Dowsettmayhew Planning Partnership 63A Ship Street Brighton BN1 1AE		

Councillor Gibson has requested this application is determined by the Planning Committee.

## 1. RECOMMENDATION

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

### Conditions:

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location and block plan	01R		29 September 2017
Existing Floor Plans	01R		29 September 2017

2. The ground floor rooms annotated as living room and kitchen as set out on plan 01R submitted on the 29 September 2017 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 and to comply with policy QD27 of the Brighton & Hove Local Plan.
3. The development hereby approved shall only be occupied by a maximum of five persons.  
**Reason:** To ensure a satisfactory standard of accommodation for future occupiers and to comply with policy QD27 of the Brighton & Hove Local Plan.

4. No extension, enlargement, alteration or provision within the curtilage of the dwellinghouse as provided for within Schedule 2, Part 1, Classes A - E of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.

**Reason:** The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and to the character of the area and for this reason would wish to control any future development to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

Informatives:

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

**2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1 The application relates to a two storey terraced house located on the southern side of Southover Street.
- 2.2 The property is not located in a conservation area but there is an Article Four Direction present which restricts the change of use from C3 single dwellinghouse to C4 small house of multiple occupation.
- 2.3 The application is for retrospective change of use from a C3 single dwelling house to a C4 small house of multiple occupation for five individual occupants.

**3. RELEVANT HISTORY**

- 3.1 No relevant planning history.

**4. REPRESENTATIONS**

- 4.1 One (1) letter has been received objecting to the proposed development for the following reasons:
- 4.2 The proposal does not comply with Part 2 of Policy CP21, concerning HMO properties as over 10% of the properties in a 50m radius are in use as HMOs.
- 4.3 **Councillors David Gibson and Dick Page** object to the application (comments attached)

**5. CONSULTATIONS**

- 5.2 **Planning Policy:** No comment

- 5.3 **Sustainable Transport:** No objection  
The applicant is not proposing changes to pedestrian access arrangements onto the adopted (public) highway.
- 5.4 The pedestrian and vehicle trip generation is forecast to be similar to the existing permitted residential use.
- 5.5 The Highway Authority does not wish to request cycle parking as the site appears to be constrained and unlikely to be able to accommodate policy compliant cycle parking spaces. It is also noted that there is secure cycle parking available to the general public on-street in the vicinity of the site.
- 5.6 There are opportunities in the form of free on-street disabled parking bays in the vicinity of the site and 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. The lack of dedicated disabled parking is therefore considered acceptable in this instance.
- 5.7 The applicant is not proposing any significant alteration to their current servicing and delivery arrangements.
- 5.8 For this development of 5 bedrooms the maximum car parking standard is 2 spaces when rounded up (0.25 spaces per bedroom). Therefore the proposed level of car parking (zero space) is in line with the maximum standards and is therefore deemed acceptable in this case. The site is located within the recently created Controlled Parking Zone V and the site should not be made "car free" by restriction of parking permits.

## 6. MATERIAL CONSIDERATIONS

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

- 6.1 The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016);
  - Brighton & Hove Local Plan 2005 (retained policies March 2016);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
- 6.2 Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

## 7. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

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

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

- TR4 Travel plans
- TR14 Cycle access and parking
- SU9 Pollution and nuisance control
- SU10 Noise Nuisance
- QD14 Extensions and alterations
- QD27 Protection of amenity

Supplementary Planning Documents:

- SPD12 Design Guide for Extensions and Alterations
- SPD14 Parking Standards

**8. CONSIDERATIONS & ASSESSMENT**

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

**8.2 Principle of Development:**

The application relates to a retrospective 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 5 unrelated individuals (in this case 5 bedspaces) 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 96 neighbouring residential properties within a 50m radius of the application property. Five (5) neighbouring properties have been identified as being in HMO use within the 50m radius i.e. 5.2%. During the lifespan of the application



another five (5) houses were identified in representations received as possibly being in use as unauthorised HMO's. These properties are being investigated by the Planning Enforcement team, but it is noted that one of the identified houses, if it was in use as an HMO, has already returned to use as a single dwelling house. Even if the remaining four HMO's were subsequently found to be immune from enforcement action and the overall number of HMO's within a 50m radius of the application site were 9 (nine), the percentage of neighbouring properties in HMO use within the radius area would be 9.37% and therefore below the 10% threshold.

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 **Standard of Accommodation:**

Policy QD27 of the Brighton and Hove Local Plan aims to secure a good standard of living accommodation for current and future occupiers. Accommodation should therefore provide suitable circulation space within bedrooms once the standard furniture for an adult has been installed (such as a bed, wardrobe and desk), as well as good access to natural light and air in each bedroom. The communal facilities should be of a sufficient size to allow unrelated adults to independently cook their meals at the same time, sit around a dining room table together, and have sufficient space and seating to relax in the communal lounge.

8.7 The 'Nationally Described Space Standards' were introduced by the Department for Communities and Local Government in 2015 to establish acceptable minimum floor space for new build developments. Although these space standards have not been formally adopted into the Brighton and Hove City Plan and relate to new build developments, they provide a useful guideline on acceptable room sizes that would offer occupants useable floor space. The 'Nationally Described Space Standards' establishes the minimum floor space for a single bedroom as measuring at least 7.5m<sup>2</sup>, and a double bedroom should measure at least 11.5m<sup>2</sup>.

8.8 The layout is comprised of:

Ground floor:

Bedroom measuring 10.6m<sup>2</sup>

Bedroom measuring 8m<sup>2</sup>

Kitchen measuring 5.4m<sup>2</sup>

Livingroom measuring 14.3m<sup>2</sup>

Courtyard measuring 6.9m<sup>2</sup>

First floor:

Bedroom measuring 9.3m<sup>2</sup>

Bedroom measuring 8.3m<sup>2</sup>

Bedroom measuring 14m<sup>2</sup>

Bathroom

Separate w.c

- 8.9 The bedrooms are all considered to be of adequate size with good circulation space and levels of natural light and outlook.
- 8.10 The kitchen would not be large enough to accommodate more than 1 or 2 people at any one time, and the lounge leads directly off the kitchen and provides the only communal living space for the occupants. The lounge could accommodate the occupants, although the circulation space is limited.
- 8.11 **Impact on Amenity:**  
Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 8.12 The occupancy will be restricted to 5 unrelated persons residing within the property. It is therefore considered that any increased impact to adjoining occupiers in regards to noise and disturbance would not be of a magnitude which would warrant the refusal of planning permission.
- 8.13 It is also noted that the property has been in use as a small HMO since 2009, and there are no records of noise complaints made to the Environmental Health Department.
- 8.14 The overall percentage of HMO's within a 50m radius is 9.37% which is within the 10% limit specified within policy CP21. As such, the cumulative impact of the proposed HMO on the area is not considered to cause harm to local amenity.
- 8.15 **Sustainable Transport:**  
The proposal is not considered to result in a significant uplift in trips or on-street parking. Due to the constraints of the site, it would not be possible to install secure cycle storage facilities.

## 9. EQUALITIES

- 9.1 None identified

Planning application – BH2017/03299 82 Southover Street

Sender's details  
Cllr Dick Page

Please register my objections to these 2 HMO applications. I imagine there are more than 10% of HMOs near 19 Arnold St., and (living nearby, etc.) I *know* there are near 82 Southover St. Hence both contravene the balanced communities policy of our Article 4 Direction. In particular we need to apply this robustly in cases of late (“retrospective”) applications, such as the latter, where there appears to be no good reason for landlords continuing to disregard our policy, sometimes for years.

Thanks,

***Dick (Page),***  
Councillor, Hanover & Elm Grove.





PLANNING COMMITTEE LIST  
Planning Committee 7<sup>th</sup> March 2018  
COUNCILLOR REPRESENTATION

Planning application – BH2017/03299 82 Southover Street

Sender's details  
Cllr David Gibson

I object to approval of the approval of 19 Arnold St and 82 Southover St as HMOs as this goes against our desire to achieve a balanced community with not more than 10% HMOs. Should officers recommend approval please can you notify me of the committee date for decision.  
Thank you

All the best,

David Gibson



# **ITEM B**

## **9 The Upper Drive Hove**

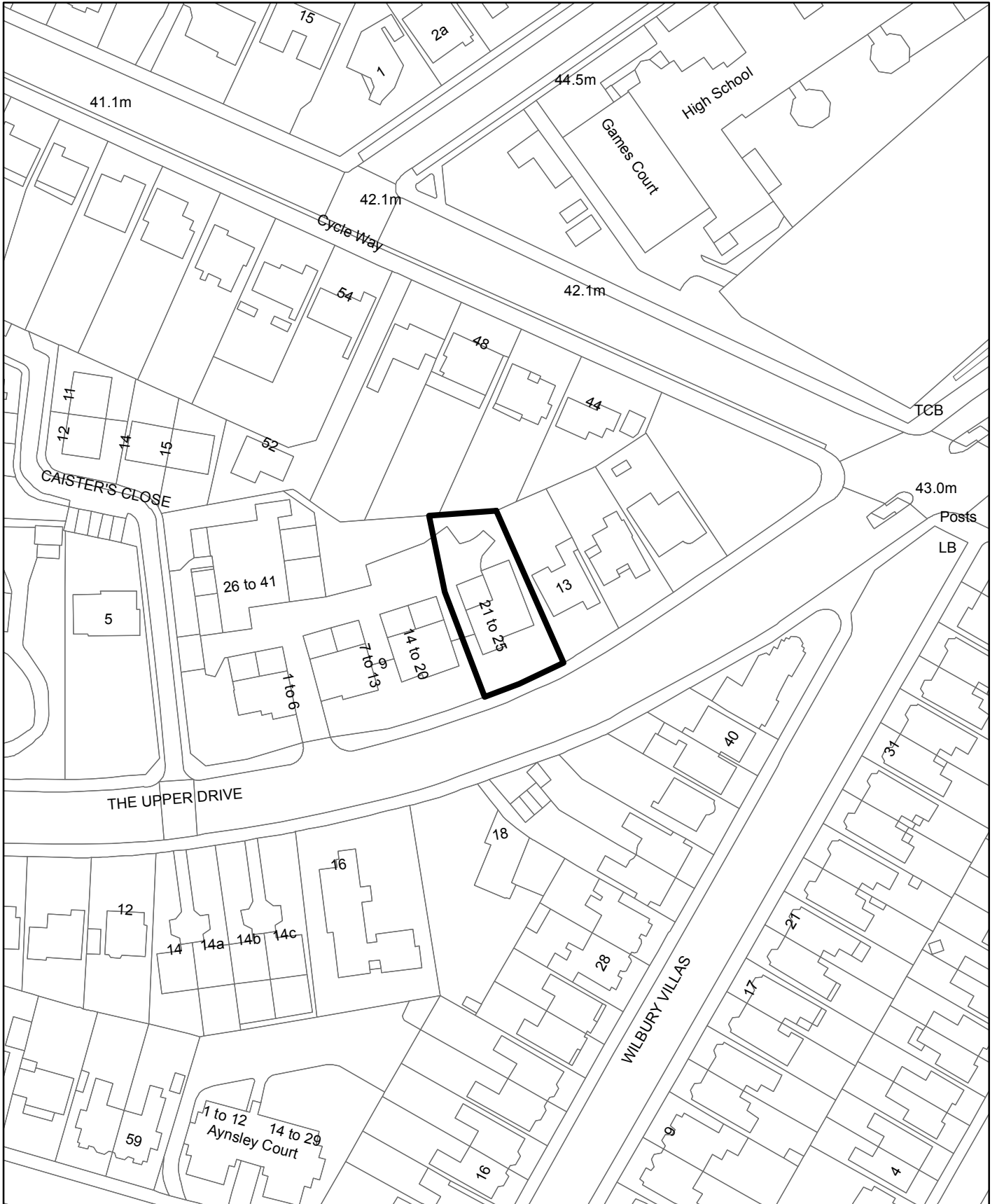
**BH2017/04139**

**DATE OF COMMITTEE: 4<sup>th</sup> April 2018**





# BH2017/04139 9 The Upper Drive Hove



**Brighton & Hove  
City Council**



**Scale: 1:1,250**



<b><u>No:</u></b>	<b>BH2017/04139</b>	<b><u>Ward:</u></b>	<b>Goldsmid Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>9 The Upper Drive Hove BN3 6GR</b>		
<b><u>Proposal:</u></b>	<b>Creation of additional storeys to existing block D to provide an enlarged two bedroom flat at first floor level and 2no additional flats at second and third floor level.</b>		
<b><u>Officer:</u></b>	Sonia Gillam, tel: 292265	<b><u>Valid Date:</u></b>	15.12.2017
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	09.02.2018
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	DowsettMayhew Planning Partnership 63A Ship Street Brighton BN1 1AE		
<b><u>Applicant:</u></b>	Copsemill Properties Ltd C/o DowsettMayhew Planning Partnership 63A Ship Street Brighton BN1 1AE		

### 1.1 RECOMMENDATION

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

Conditions:

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

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Existing Floor Plans	01		15 December 2017
Existing Floor Plans	02		15 December 2017
Existing Floor Plans	03		15 December 2017
Existing Floor Plans	04		15 December 2017
Existing Floor Plans	05	Roof plan	15 December 2017
Existing Elevations	06		15 December 2017
Existing Elevations	07		15 December 2017
Existing Elevations	08		15 December 2017
Existing Elevations	09		15 December 2017
Floor Plans Proposed	11		15 December 2017
Floor Plans Proposed	12		15 December 2017
Floor Plans Proposed	13		15 December 2017
Floor Plans Proposed	14		15 December 2017
Floor Plans Proposed	15		15 December 2017
Elevations Proposed	16		15 December 2017
Elevations Proposed	17		15 December 2017
Elevations Proposed	18		15 December 2017

Elevations Proposed	19		15 December 2017
Roof Plan Proposed	20		15 December 2017
Site Layout Plan	21		15 December 2017
Location Plan	23		15 December 2017
Streetscene elevation proposed	22		15 December 2017
Site Layout Plan	09		15 December 2017

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.  
**Reason:** To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
  
3. The external finishes of the development hereby permitted shall match in material, colour, style, bonding and texture those of the existing building.  
**Reason:** To ensure a satisfactory appearance to the development in the interests of the visual amenities of the area and to comply with policies QD14 of the Brighton & Hove Local Plan and CP12 of the City Plan Part One.
  
4. The three windows in the eastern elevation 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.
  
5. Access to the flat roof area to the rear of the gated third floor roof terrace (indicated on drawing no. 15 received on 15 December 2017) hereby approved shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area.  
**Reason:** In order to protect adjoining properties from overlooking and noise disturbance and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
  
6. The vehicle parking area shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles and motorcycles belonging to the occupants of and visitors to the development hereby approved.  
**Reason:** To ensure that adequate parking provision is retained and to comply with policy CP9 of the City Plan Part One.
  
8. The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been 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.
  
9. 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.

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

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

#### Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The applicant is advised that 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.
3. The water efficiency standard required is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.

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

- 2.1 The application relates to a part two, part three storey block of 4no. two-bed flats and 1no. one-bed flat on the northern side of The Upper Drive. The block is one of 5 similar blocks on a wider site providing a total of 41 flats. The existing blocks vary in height between three and four storeys. The three blocks to the west of the application site are finished in a mix of render and timber cladding.

The application building is finished in mainly painted render with some minor timber clad detailing.

2.2 This stretch of The Upper Drive has been developed to the extent that the prevailing character on this section of the northern side is flatted development with fewer traditional dwellinghouses remaining.

2.3 The application seeks permission for the creation of additional storeys to existing block D to provide an enlarged two bedroom flat at first floor level, 1 no. two bed flat at second floor level, and 1 no. three-bed flat at third floor level, with off-street car and cycle parking.

### 3. RELEVANT HISTORY

#### 9 and 11 The Upper Drive

**BH2004/01708/FP** - 41 New residential apartments within 5 blocks with undercroft parking. Approved - 04.04.2005.

**BH2003/02082/FP** - Demolition of 9 and 11 The Upper Drive and development of 4 blocks of 25 private flats and 1 block providing 16 affordable homes. Single access drive from The Upper Drive and four pedestrian gates. Refused - 13.04.2004

#### 13 The Upper Drive

**BH2011/00455** - Application to extend time limit for previous approval

**BH2008/00278** - for demolition of existing house and erection of no. 7 self contained flats. Approved - 07.04.2011

**BH2008/00278** - Demolition of existing house and erection of no. 7 self contained flats. Approved - 07.05.2008.

#### 15 The Upper Drive

**BH2016/01393** - Demolition of existing dwelling and erection of 3no one bedroom flats, 2no two bedroom flats and 1no three bedroom flat (C3). Minded to Grant pending s106 legal agreement.

**BH2015/03228** - Demolition of existing dwelling and erection of 4no one bedroom flats and 4no two bedroom flats (C3). Refused - 11.11.2015.

### 4. REPRESENTATIONS

4.1 Sixteen (16) letters has been received objecting to the proposed development. The main grounds for objection are as follows:

- Height
- Overdevelopment of site
- Design out of keeping with houses
- Boxy design
- Change in character of area
- Loss of privacy
- Loss of light
- Overshadowing
- Parking issues

- Increased traffic and congestion
- Highway safety concerns
- Increased noise and disturbance
- Building work noise, dust, pollution detrimental to health
- Building works affect driveway
- Buildings unfinished and remedial work required
- Previous developer left suppliers in debt
- Impact on property values
- Set a precedent for further development
- Potential impact on wildlife
- No investment in infrastructure to support more housing
- Previous scheme prohibited building above second floor
- Discrimination against disabled person
- Original planning permission conditions not complied with
- No affordable housing proposed
- Misleading statements in submission documents
- Timing of the application submission

**4.2 Hove Civic Society:** Objects to the proposal on the grounds of overdevelopment of the site and impact upon the adjacent property.

## **5. CONSULTATIONS**

**5.1 Sustainable Transport:** No comment received.

**5.2 Environmental Health:** No comment received.

**5.3 Private Sector Housing:** No comment received.

## **6. MATERIAL CONSIDERATIONS**

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

The development plan is:

Brighton & Hove City Plan Part One (adopted March 2016);

Brighton & Hove Local Plan 2005 (retained policies March 2016);

East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);

East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);

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

## 7. **POLICIES**

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development  
CP1 Housing delivery  
CP8 Sustainable buildings  
CP9 Sustainable transport  
CP12 Urban design  
CP14 Housing density  
CP19 Housing mix

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

TR7 Safe Development  
TR14 Cycle access and parking  
SU9 Pollution and nuisance control  
SU10 Noise Nuisance  
QD5 Design - street frontages  
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  
SPD12 Design Guide for Extensions and Alterations  
SPD14 Parking Standards

## 8. **CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations in the determination of this application relate to the impact of the development on the character and appearance of the existing building, site and streetscene, the impact on residential amenity, the standard of accommodation provided and highways and sustainability issues.
- 8.2 Matters relating to the timing of the submission of the application, impact on property values, potential inconvenience to nearby residents during the build and the behaviour of the previous developers towards suppliers are not material planning considerations.
- 8.3 The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually. The most recent land supply position was published in the 2016 SHLAA Update (February 2017) which demonstrates a



5.6 year supply position. The Council can therefore demonstrate an up to date housing supply position in accordance with the NPPF.

**8.4 Design and Appearance:**

The proposed new units would be sited on Block D to the far east of the wider site; this block is currently lower in height than the two neighbouring blocks to the west. The reason for this part of the building being lower was due to potential concerns regarding neighbouring amenity rather than there being an objection to the visual amenity of the street of there being a taller building.

8.5 The proposed extensions to accommodate the additional two units would result in a block which would now be almost identical in terms of scale and appearance to the adjoining blocks to the west. Given the distances between the application site and its neighbours, it is considered that the increased height of the block would not appear out of context with the neighbouring properties or within the prevailing streetscene. It is noted that in recent years this stretch of the Upper Drive has been developed to such an extent that most of the properties on this section of the northern side are flatted development with fewer traditional dwellinghouses remaining.

8.6 The proposed works would match the design and appearance of Block D and a condition is recommended to ensure that the proposed materials match the existing property.

8.7 Accordingly, it is considered that the works are appropriate in terms of the impact upon the host building and the wider streetscene.

**8.8 Standard of accommodation:**

Policy QD27 seeks to ensure a good standard of amenity for future occupiers of the proposed development and this requirement is one of the core planning principles of the NPPF (para 17). The Council does not at present have an adopted policy to require minimum unit sizes. Government has however published room and unit sizes which they consider to represent the minimum acceptable size for rooms and units, in the form of their 'Technical housing standards - nationally described space standard', March 2015.

8.9 Whilst the Council does not seek to enforce these standards, they do clearly provide a useful and highly relevant reference point in assessing standard of accommodation in new residential units. Rooms and units which would provide cramped accommodation and sub-standard levels of amenity often fall below the minimum acceptable sizes set out by Government.

8.10 Apartment no. 23 on the first floor would be extended from a one-bed to a two-bed flat. As a point of reference, Government's minimum size for a two-bedroom four-person unit is 70m<sup>2</sup> and the proposed unit would measure 84m<sup>2</sup>, well in excess of this standard.

8.11 The proposed two-bed Apartment 26 on the second floor would measure 86m<sup>2</sup> and the proposed three bed Apartment 27 on the third floor would measure 139m<sup>2</sup>. Again the size of these units would be well in excess of Government's

minimum size for a two-bedroom four-person unit of 70m<sup>2</sup> and for a three-bedroom six-person unit of 95m<sup>2</sup>. The individual bedrooms all meet the government's minimum standards too.

8.12 All three units would benefit from a good standard of light and circulation space and all have provision of private amenity space in the form of a front balcony. Unit 27 additionally has a good size outside terrace area which is considered appropriate for a three bed family unit.

8.13 The two new units would use the existing refuse/ recycling storage area which is located in adjacent Block C.

8.14 **Impact on Amenity:**

Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.

8.15 Impact on no. 13 The Upper Drive

The property most likely to be affected by the development is no. 13 The Upper Drive to the east, a two storey traditional dwellinghouse. An objection has been raised that the proposed development would impact on the glazed conservatory room to the rear, in terms of loss of privacy and light. This room is used as a therapy room for the objector's adult son who has special needs. It was noted on site that the blinds to the western side elevation of the conservatory are in place and can be drawn.

It is acknowledged that the original approved design took account of the relationship with no. 13 and, at that time, a cautious approach was taken with regard to the height of the block, by virtue of the potential loss of amenity to the neighbouring property.

With the benefit of the development now being in situ, the relationship with this neighbour and the height of the proposed development has been re-evaluated as outlined below.

*Privacy and overlooking*

As verified on site, there are two small windows to the eastern side of the existing development; these are secondary windows that serve the kitchen areas of open plan living space, and give only the most oblique views into the side of the neighbouring conservatory. An additional three windows are proposed to the eastern elevation. It is considered that again these would only give very oblique views into the side windows of the conservatory.

No conditions relating to obscure glazing were deemed necessary to the original permission. However it is understood that there could certainly be a perception of increased overlooking; therefore it is recommended that, as the proposed windows serve kitchens and bathrooms, they should be obscure glazed.

The proposed windows to the rear would provide similar views of the garden at no. 13 as the existing windows. It is also noted that there is dense high level foliage in place between the properties, which is under the control of no.13, which would help to mitigate any increased overlooking.

A roof terrace is proposed to the third floor flat. The usable space of the terrace is to the front of the building. The flat roof area to the rear would be for repair and maintenance purposes only; this can be secured by condition. An etched glass 1.75 metre height privacy screen is proposed to the side elevation. This would protect the occupants of no. 13 from significant overlooking. Given the siting of the proposed terrace, it is not considered that there would be significant overlooking of the garden of no. 13. Additionally given its height, there would be no adverse overlooking of the side windows of the conservatory at no. 13, or significant noise and disturbance issues.

### *Light*

In terms of light to the conservatory, as mentioned previously, it is noted that the blinds to the western window can be drawn to protect privacy. The objector has advised that the blinds impact on light to the room. With regard to potential loss of light a 'Daylight Statement' has been submitted with the application with assesses the impact of the development on the lights levels of the neighbouring conservatory, utilising the methods outlined in the BRE publication "Site Layout Planning for Daylight & Sunlight - A guide to good practice" Second Edition published in 2011 (the "BRE Guide").

The report concludes that excellent levels of daylight within the room will be maintained for daylight distribution and that the room will also remain a 'well daylit space'. Whilst it is evident that Vertical Sky Component (VSC) reduction exceeds 20% to the 3 No 'side/secondary' windows which face towards the site proposal, the average VSC in consideration for all windows serving the room, meet the target criteria and as submitted (re. daylight distribution and Average Daylight Factor), good daylighting levels within the room would continue in the proposed scenario.

From the officer site visit, there was no reason to disagree with the findings in the report. The room is a conservatory and has full height glazing on three elevations. Even with the blinds drawn, the room has plenty of light coming in from the north aspect overlooking the garden.

There are no further windows to the side of no. 13 that would be affected by loss of light from the increased height of the structure

### 8.16 Other neighbouring properties

There is no significant impact on other neighbours from the proposed scale and massing of the development. The neighbours at the rear in Old Shoreham Road are some distance away and are heavily screened from the site by evergreen trees. There have been objections from residents in Wilbury Villas, whose rear gardens face the development site. Whilst the development's front windows and outside amenity space would provide marginally enhanced views of these rear gardens, given the distances involved and the existing level of mutual

overlooking in the area, this is not considered to warrant refusal of the application.

8.7 There is not considered to be a significant impact on the existing flats in the block or the wider site. The development in general, including the proposed windows to the western elevation, is a sufficient distance from the nearest windows in the adjoining block to limit undue harm. The potential noise and disturbance created by two additional units is not considered to be unacceptable, subject to submission of a soundproofing scheme which can be secured by condition.

8.8 **Sustainable Transport:**

It is proposed to provide 2 no. dedicated off street parking spaces which are currently unallocated within the wider site; this is acceptable. The site is not within a controlled parking zone however the proposal would limit undue on-street parking pressure from additional resident parking. Cycle parking would be provided in the existing secure cycle store within the block.

8.9 There may be a small uplift in trip generation however, given that only two new units are proposed, this is not considered to be unacceptable or warrant refusal of the application.

8.10 **Sustainability:**

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

8.11 **Other Considerations:**

An objector has referred to the proposed lack of affordable housing provision. The original scheme of 41 dwellings provided for 16 affordable housing units. Planning policies at the time required 40% of units on developments comprising 10 dwellings or more to be affordable. This would have been 16.4 units on the wider site. Therefore given that affordable housing was provided at the time at almost 40%, it is not considered reasonable to revisit this issue when only two further dwellings are being proposed and, given the timescales involved with this application, cannot be seen as part of a wider development proposal for the whole site.

8.12 **Conclusion:**

Given the prevailing character of the streetscene on this stretch of The Upper Drive, it is considered that the development would not appear out of character with the surroundings. It is acknowledged that the original approved design was mindful of the relationship with the adjacent property to the east, no. 13 The Upper Drive. However, given that the approved scheme has now been built and can be viewed in situ, it is considered that the proposed extension would not have an overbearing impact on its neighbour and has been carefully designed to take account of overlooking and loss of privacy issues. Subject to conditions it is considered that the development is appropriate in terms of design, scale and impact on amenity, and would provide two new dwellings for the City, of an acceptable size and standard.

**9. EQUALITIES**

- 9.1 It is noted that an occupant of an adjacent property has special needs and this is taken account of in the consideration of the application.
  
- 9.2 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 extension is not achievable due to the proposed units being on upper floors.



# **ITEM C**

**Flat 51 4 Grand Avenue Hove**

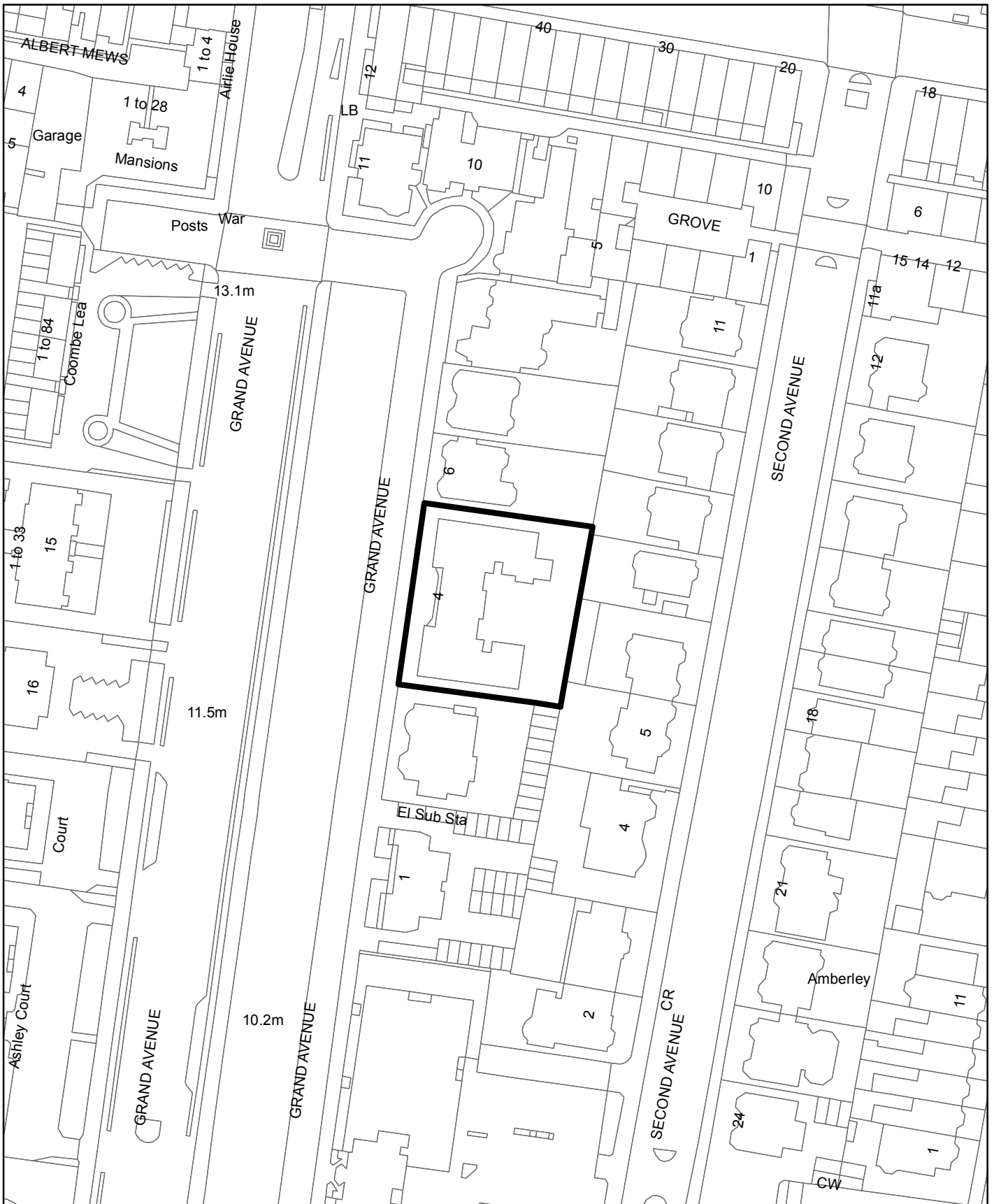
**BH2018/00210**

**DATE OF COMMITTEE: 4<sup>th</sup> April 2018**





# BH2018/00210 Flat 51 4 Grand Avenue Hove



**Brighton & Hove  
City Council**



**Scale: 1:1,250**



<b><u>No:</u></b>	<b>BH2018/00210</b>	<b><u>Ward:</u></b>	<b>Central Hove Ward</b>
<b><u>App Type:</u></b>	<b>Listed Building Consent</b>		
<b><u>Address:</u></b>	<b>Flat 51 4 Grand Avenue Hove BN3 2LD</b>		
<b><u>Proposal:</u></b>	<b>Installation of glass balustrading to existing balcony railings.</b>		
<b><u>Officer:</u></b>	Caitlin Deller, tel: 296618	<b><u>Valid Date:</u></b>	22.01.2018
<b><u>Con Area:</u></b>	The Avenues	<b><u>Expiry Date:</u></b>	19.03.2018
<b><u>Listed Building Grade:</u></b>	Grade II	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	G3 Architecture 22 Bromley Road Seaford BN25 3ES		
<b><u>Applicant:</u></b>	Dr. K. Murray 19 Park Hill Wheatley OX33 1NE		

## 1. RECOMMENDATION

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

Conditions:

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

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Elevations and sections proposed	1754.PL01		22 January 2018
Detail	1754.PL02		22 January 2018
Other	ENGINEERS REPORT		22 January 2018
Other	GLASS CALCULATION SHEET		22 January 2018

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

**Reason:** To comply with Sections 18 (as amended) and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

3. The external existing non-original balustrade at Flat 51 shall be removed prior to commencement of work.

**Reason:** To ensure the satisfactory preservation of this listed building and to comply with policy HE1 of the Brighton & Hove Local Plan and CP15 of the City Plan Part One.

4. The external glass balustrade hereby approved shall be completed in accordance with the submitted glass calculation report and the structural engineering report submitted on the 22 January 2018.

**Reason:** To ensure the satisfactory preservation of this listed building and to comply with policy HE1 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. SITE LOCATION & APPLICATION DESCRIPTION**

The application site relates to a Grade II listed building on the east side of Grand Avenue. The site is located in The Avenues Conservation Area. Listed Building consent is sought for the installation of a frameless glass screening/balustrade behind the existing and original balustrade to the balcony of Flat 51. The screening is to be located behind the North, South and West balcony railings of Flat 51 and also includes the removal of the existing non-original balustrade which exists on the South and West elevations of the balcony.

**3. RELEVANT HISTORY**

**BH2018/00210** (Listed Building Consent) - Installation of glass balustrading to existing balcony railings. Pending consideration.

**BH2017/03295** (Listed Building Consent) - Installation of glass panelling behind existing balcony railings to front and side elevations. Withdrawn 22.02.2018.

**BH2015/02042** - Replacement of 3no existing single glazed crittal windows with double glazed crittal windows with glazing bars. Approved 24.08.2015.

**BH2015/02043** (Listed Building Consent) - Replacement of 3no existing single glazed crittal windows with double glazed crittal windows with glazing bars. Approved 24.08.2015.

**BH2015/00406** - Installation of glass panelling behind existing balcony railings to front and side elevations. Approved 02.04.2015.

**BH2015/00407** (Listed Building Consent) - Installation of glass panelling behind existing balcony railings to front and side elevations. Approved 02.04.2015.

**BH2015/00404** - Replacement of existing single glazed Crittal framed windows and doors with double glazed Crittal units. Approved 02.04.2015.

**BH2015/00405** (Listed Building Consent) - Replacement of existing single glazed Crittal framed windows and doors with double glazed Crittal units. Approved 02.04.2015.

#### 4. REPRESENTATIONS

4.1 Twenty one (21) letters of objection have been received raising the following points:

- Glass balustrading will cause visual harm to the listed building and the wider conservation area
- Not in keeping with the character or appearance of the building
- Concern regarding reflection of the glass
- Concern regarding construction
- Screen may damage the fabric of the historic building
- May set a harmful precedent
- Will be visible from the road
- Salt, water and dirt would make the screen look untidy
- Disrupt the symmetry of the façade
- Will damage the historic or architectural value of the listed building

4.2 Seven (7) letters of support have been received raising the following points:

- Railings have large gaps and are unsafe for children and passers-by below
- Will significantly improve the safety of the balcony
- The proposed design and materials of the screening will not be visible from ground level or properties opposite/adjacent to the building
- Will have minimal impact on the building due to its discrete design
- A sympathetic design solution
- Current low railings prevent frequent access to the outdoors
- The risk of items falling between the railings will be diminished
- The addition will not cause disruption to the uniformity as the building has already been altered

#### 5. CONSULTATIONS

##### 5.1 **Heritage: No objection**

This application is to place taller frameless glass screens behind the original balustrade to increase safety, and includes the removal of the existing non-original balustrade on part of the balcony. It follows a previously approved scheme BH2015/00406 and matches the previous proposal for listed building consent BH2017/03295.

The removal of the existing non-original balustrade is welcomed. Despite the lack of framing and proposed discrete fixings the screen would be visible due to the reflective nature of the glass, and likelihood that salts and other dirt will increase its opacity. It is therefore considered that the new screen would cause harm to the heritage asset.

Section 16 and 66 of the Planning (Listed Building and Conservation Areas) Act 1990 requires that the local authority shall have special regard to the desirability of preserving a listed building when considering applications for listed building consent and planning permission. `Preserving` means doing no harm. There is

therefore a statutory presumption and a strong one against granting consent for any works which would cause any harm to a listed building or its setting. This presumption can be outweighed by material considerations powerful enough to do so. Where the harm is limited or less than substantial, the local planning authority must nevertheless give considerable importance and weight to the preservation of the listed building and its setting.

It is considered that in this case, due to the proposed removal of the existing non-original balustrade, the harm caused by the proposal would be offset sufficiently. It is not considered that this would apply to the balconies on lower levels and therefore similar proposals could be robustly resisted. Concern over potential wind loading and possible stress on fixings into the plinth has been addressed by an engineer's report.

The Heritage Team does not propose to object to this application. The removal of the non-original screen should be required as a condition of approval.

## **6. MATERIAL CONSIDERATIONS**

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

6.2 The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016)
- Brighton & Hove Local Plan 2005 (retained policies March 2016);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
- East Sussex 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 Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

## **7. POLICIES**

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development  
CP15 Heritage

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

HE1 Listed Building Consent

Supplementary Planning Documents:

SPD12 Design Guide for Extensions and Alterations

**8. CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations in the determination of this application relate to the impact of the proposed development on the appearance and character of the Grade II Listed Building.
- 8.2 The application seeks consent for the insertion of glass balustrade behind the North, South and West balcony railings of Flat 51, 4 Grand Avenue. The application is a revised application of BH2015/00406 and BH2015/00407, with the amendment of re-locating the fixing for the balustrade which would be fixed onto the concrete coping as opposed to through the roofing, to prevent puncturing the waterproof finish.
- 8.3 The proposed glass screening would measure 1.1m from 8th floor level (approximately 0.1m higher than the original balustrading). It is considered that despite the lack of framing and the discrete fixings of the proposed balustrade, due to the reflective nature of the glass, and likelihood that salts and other dirt will increase its opacity, the proposed balustrade is likely to cause some harm to the heritage asset. Whilst it is acknowledged that the glass screening may be slightly visible from some angles due to its reflective nature, its elevated position located on 8th floor level restricts the likely views from ground level and so minimises the impact of the work on the character and appearance of the listed building.
- 8.4 The Heritage Team have taken the removal of the non-original balustrading into account when balancing the impact of the harm to the listed building against any public benefit. However, as the building is listed, the works would not be subject to the normal 4 year period within which to gain immunity from prosecution and therefore the Local Planning Authority could pursue the removal of these works separately. Therefore, the weight to be attached to the removal of these works can only be limited in the overall consideration. However, securing the removal of the non-original balustrading via a condition attached to this permission would be of public benefit in terms of making the most effective use of the authority's resources, rather than pursuing a separate enforcement case. It is also noted that this balcony is particularly large and perhaps more susceptible to users falling through the existing balustrading than most others on the building and ensuring the safety of users would also have wider public benefits.
- 8.5 Concern over potential stress on the fixings into the plinth has been addressed by a glass calculation and structural engineering report. These measures will be secured by condition.
- 8.6 It should also be noted that this consideration would not apply to balconies on lower levels. The balcony in question is located at the top of the multi-storey building and is not highly visible from the Grand Avenue streetscene or wider Conservation Area. In contrast, similar proposals at lower levels would have a significant impact on the appearance and character of the Grade II Listed Building.

8.7 On balance it is considered that the proposed glass balustrading would be an acceptable addition to the building and that the harm which might occur would be off-set by the wider public benefits regarding the enforcement and public safety issues. Accordingly it is considered that the historic character and appearance of the Grade II Listed Building would be preserved in accordance with Policy HE1 of the Brighton & Hove Local Plan, and CP15 of the Brighton & Hove City Plan Part One.

**9. EQUALITIES**  
None identified.



# **ITEM D**

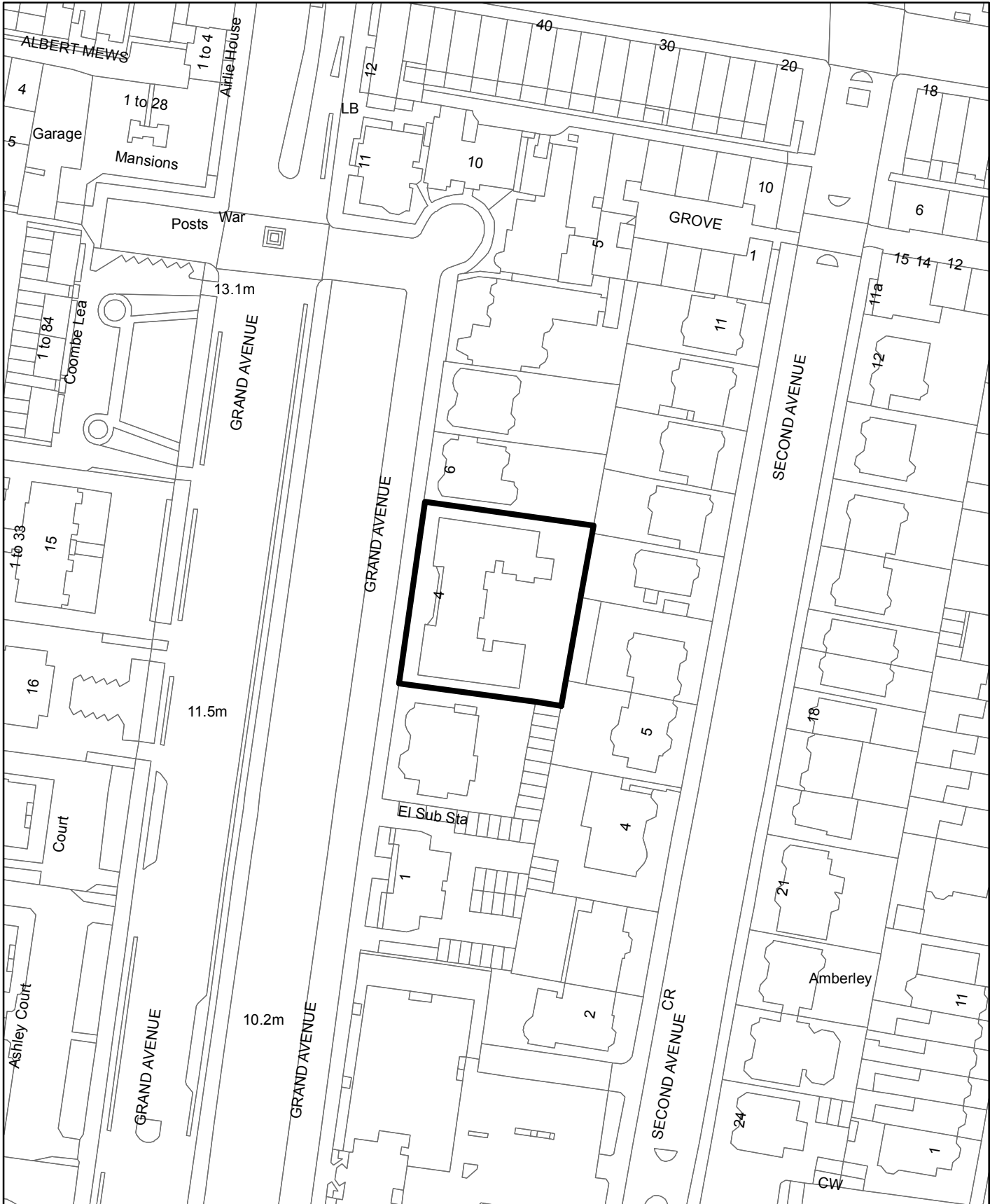
**Flat 51 4 Grand Avenue, Hove**

**BH2018/00209**

**DATE OF COMMITTEE: 4<sup>th</sup> April 2018**



# BH2018/00209 Flat 51 4 Grand Avenue Hove



**Brighton & Hove  
City Council**



**Scale: 1:1,250**



<b><u>No:</u></b>	<b>BH2018/00209</b>	<b><u>Ward:</u></b>	<b>Central Hove Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Flat 51 4 Grand Avenue Hove BN3 2LD</b>		
<b><u>Proposal:</u></b>	<b>Installation of glass balustrading to existing balcony railings.</b>		
<b><u>Officer:</u></b>	Caitlin Deller, tel: 296618	<b><u>Valid Date:</u></b>	23.01.2018
<b><u>Con Area:</u></b>	The Avenues	<b><u>Expiry Date:</u></b>	20.03.2018
<b><u>Listed Building Grade:</u></b>	Grade II	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	G3 Architecture 22 Bromley Road Seaford BN25 3ES		
<b><u>Applicant:</u></b>	Dr. K Murray 19 Park Hill Wheatley OX33 1NE		

## 1. RECOMMENDATION

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

### Conditions:

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

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Elevations and sections proposed	1754.PL01		22 January 2018
Detail	1754.PL02		22 January 2018
Other	ENGINEERS REPORT		22 January 2018
Other	GLASS CALCULATION SHEET		22 January 2018

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

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

3. The external existing non-original balustrade at Flat 51 shall be removed prior to the commencement of works hereby approved.

**Reason:** To ensure the satisfactory preservation of this listed building and to comply with policy HE1 of the Brighton & Hove Local Plan and CP15 of the City Plan Part One.

4. The external glass balustrade hereby approved shall be completed in accordance with the submitted glass calculation report and the structural engineering report submitted on the 22 January 2018.

**Reason:** To ensure the satisfactory preservation of this listed building and to comply with policy HE1 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. SITE LOCATION & DESCRIPTION**

The application site relates to a Grade II listed building on the east side of Grand Avenue. The site is located in the Avenues Conservation Area. Planning permission is sought for the installation of a frameless glass screening/balustrade behind the existing and original balustrade to the balcony of Flat 51. The screening is to be located behind the North, South and West balcony railings of Flat 51.

**3. RELEVANT HISTORY**

**BH2018/00210** (Listed Building Consent) - Installation of glass balustrading to existing balcony railings. Pending consideration.

**BH2017/03295** (Listed Building Consent) - Installation of glass panelling behind existing balcony railings to front and side elevations. Withdrawn 22.02.2018.

**BH2015/02042** - Replacement of 3no existing single glazed crittal windows with double glazed crittal windows with glazing bars. Approved 24.08.2015.

**BH2015/02043** (Listed Building Consent) - Replacement of 3no existing single glazed crittal windows with double glazed crittal windows with glazing bars. Approved 24.08.2015.

**BH2015/00406** - Installation of glass panelling behind existing balcony railings to front and side elevations. Approved 02.04.2015.

**BH2015/00407** (Listed Building Consent) - Installation of glass panelling behind existing balcony railings to front and side elevations. Approved 02.04.2015.

**BH2015/00404** - Replacement of existing single glazed Crittal framed windows and doors with double glazed Crittal units. Approved 02.04.2015.

**BH2015/00405** (Listed Building Consent) - Replacement of existing single glazed Crittal framed windows and doors with double glazed Crittal units. Approved 02.04.2015.

**4. REPRESENTATIONS**

4.1 Twenty-three (23) letters of objection have been received raising the following points:

- Glass balustrading will cause visual harm to the listed building and the wider conservation area
- Not in keeping with the character or appearance of the building
- Concern regarding reflection of the glass
- Concern regarding construction
- Screen may damage the fabric of the historic building
- May set a harmful precedent
- Will be highly visible from the road
- Salt, water and dirt would make the screen look untidy
- Would disrupt the symmetry of the façade
- Would damage the historic or architectural value of the listed building

4.2 Seven (7) letters of support have been received raising the following points:

- Railings have large gaps and are unsafe for children and passers-by below
- Benefits of the removing the existing unsightly barrier outweighs the disadvantages of the proposed less obtrusive replacement
- Will improve the safety of the balcony
- The proposed design and materials of the screening will not be visible from ground level or properties opposite/adjacent to the building
- Will have minimal impact on the building due to its discrete design
- A sympathetic design solution
- Current low railings prevent frequent access to the outdoors
- The risk of items falling between the railings will be diminished
- The building has already been altered so would not result in disruption of uniformity

## 5.0 CONSULTATIONS

### 5.1 Heritage - No objection

This application is to place taller frameless glass screens behind the original balustrade to increase safety, and includes the removal of the existing non-original balustrade on part of the balcony. It follows a previously approved scheme BH2015/00406 and matches the previous proposal for listed building consent BH2017/03295.

The removal of the existing non-original balustrade is welcomed. Despite the lack of framing and proposed discrete fixings the screen would be visible due to the reflective nature of the glass, and likelihood that salts and other dirt will increase its opacity. It is therefore considered that the new screen would cause harm to the heritage asset.

Section 16 and 66 of the Planning (Listed Building and Conservation Areas) Act 1990 requires that the local authority shall have special regard to the desirability of preserving a listed building when considering applications for listed building

consent and planning permission. `Preserving` means doing no harm. There is therefore a statutory presumption and a strong one against granting consent for any works which would cause any harm to a listed building or its setting. This presumption can be outweighed by material considerations powerful enough to do so. Where the harm is limited or less than substantial, the local planning authority must nevertheless give considerable importance and weight to the preservation of the listed building and its setting.

It is considered that in this case, due to the proposed removal of the existing non-original balustrade, the harm caused by the proposal would be offset sufficiently. It is not considered that this would apply to the balconies on lower levels and therefore similar proposals could be robustly resisted. Concern over potential wind loading and possible stress on fixings into the plinth has been addressed by an engineer's report.

The Heritage Team does not propose to object to this application. The removal of the non-original screen should be required as a condition of approval.

## **6. MATERIAL CONSIDERATIONS**

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

6.2 The development plan is:

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

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

## **7. POLICIES**

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development  
CP15 Heritage

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

QD14 Extensions and alterations

QD27 Protection of amenity

HE6 Development within or affecting the setting of conservation areas



Supplementary Planning Documents:

SPD12 Design Guide for Extensions and Alterations

SPD09 Architectural Features

**8.0 CONSIDERATIONS & ASSESSMENT**

8.1 The main considerations in the determination of this application relate to the impact of the proposed development on the appearance and character of the Grade II Listed Building, streetscene and wider conservation area.

**8.2 Design and Appearance:**

The application seeks permission for the insertion of glass balustrade behind the North, South and West balcony railings of Flat 51, 4 Grand Avenue, and the removal of the existing non-original balustrade which exists on the South and West elevations of the balcony. The application is a revised application of BH2015/00406, with the amendment of re-locating the fixing for the balustrade which would be fixed onto the concrete coping as opposed to through the roofing, to prevent puncturing the waterproof finish. This previous application was approved on the basis that the non-original screening was removed. This permission is due to expire on 2 April 2018.

8.3 The proposed glass screening would measure 1.1m from 8th floor level (approximately 0.1m higher than the original balustrading). It is considered that despite the lack of framing and the discrete fixings of the proposed balustrade, due to the reflective nature of the glass, and likelihood that salts and other dirt will increase its opacity, the proposed balustrade is likely to cause some harm to the heritage asset. Whilst it is acknowledged that the glass screening may be slightly visible from some angles due to its reflective nature, its elevated position located on 8th floor level restricts the likely views from ground level and so minimises the impact of the work on the character and appearance of the listed building.

8.4 The Heritage Team have taken the removal of the non-original balustrading into account when balancing the impact of the harm to the listed building against any public benefit. However, as the building is listed, the works would not be subject to the normal 4 year period within which to gain immunity from prosecution and therefore the Local Planning Authority could pursue the removal of these works separately. Therefore, the weight to be attached to the removal of these works can only be limited in the overall consideration. However, securing the removal of the non-original balustrading via a condition attached to this permission would be of public benefit in terms of making the most effective use of the authority's resources, rather than pursuing a separate enforcement case. It is also noted that this balcony is particularly large and perhaps more susceptible to users falling through the existing balustrading than most others on the building and ensuring the safety of users would also have wider public benefits.

8.5 It should also be noted that this consideration would not apply to balconies on lower levels. The balcony in question is located at the top of the multi-storey building and is not highly visible from the Grand Avenue streetscene or wider

Conservation Area. In contrast, similar proposals at lower levels would have a significant impact on the appearance and character of the Grade II Listed Building.

8.6 Concern over potential stress on the fixings into the plinth has been addressed by a glass calculation and structural engineering report. These measures will be secured by condition.

8.7 On balance it is considered that the proposed glass balustrading would be an acceptable addition to the building and that the harm which might occur would be off-set by the wider public benefits regarding the enforcement and public safety issues. Accordingly it is considered that the proposal would be in accordance with policies QD14 and HE6 of the Brighton & Hove Local Plan and Policy CP15 of the Brighton & Hove City Plan Part One.

**8.8 Impact on Amenity:**

Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.

8.9 The proposed glazed balustrade would have no greater impact on neighbouring amenity than presently exists and is therefore in accordance with policy QD27 of the Brighton & Hove Local Plan.

**9.0 EQUALITIES**

9.1 None identified.

# **ITEM E**

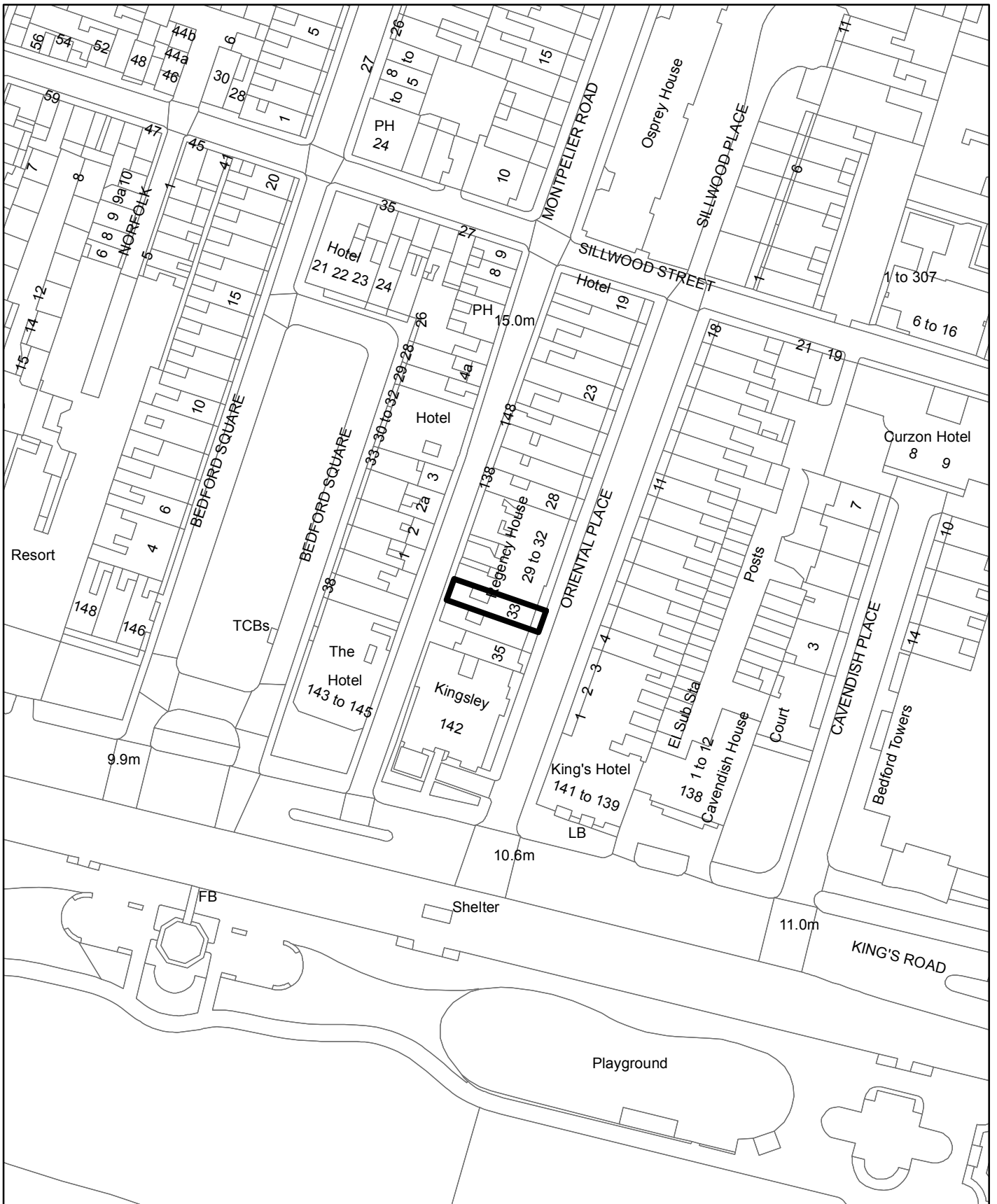
**33 Oriental Place, Brighton**

**BH2018/00294**

**DATE OF COMMITTEE: 4<sup>th</sup> April 2018**



# BH2018/00294 33 Oriental Place Brighton



**Brighton & Hove  
City Council**



**Scale: 1:1,250**



<b><u>No:</u></b>	<b>BH2018/00294</b>	<b><u>Ward:</u></b>	<b>Regency Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>33 Oriental Place Brighton BN1 2LL</b>		
<b><u>Proposal:</u></b>	<b>Erection of new mansard roof to create additional floor with associated works.</b>		
<b><u>Officer:</u></b>	Helen Hobbs, tel: 293335	<b><u>Valid Date:</u></b>	30.01.2018
<b><u>Con Area:</u></b>	Regency Square	<b><u>Expiry Date:</u></b>	27.03.2018
<b><u>Listed Building Grade:</u></b>	<b>EOT:</b>		
Listed Building Grade II*			
<b><u>Agent:</u></b>	CDMS Architects 1st Floor Montpelier House 99 Montpelier Road Brighton BN1 3BE		
<b><u>Applicant:</u></b>	01 Hostels Ltd The Old Factory 30-31 Devonshire Place Brighton BN2 1QB		

**Councillors Phillips and Druitt have requested that the application is deferred to Committee.**

**1. RECOMMENDATION**

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

1. The proposed roof extension to the property is considered unacceptable in principle as it would result in the loss of the existing historic roof form and disrupt the unifying composition of the terrace where the majority of buildings do not have visible roof forms. The proposed design and form of the roof extension is not traditional, and would lack continuity with the differing non-historic and harmful roof extensions to the adjoining buildings, thereby further adding to their prominence at roof level to the detriment of the significance of the existing Grade II\* listed building and wider listed terrace. The proposal is therefore contrary to policies CP15 of the Brighton and Hove City Plan Part One and HE1 and HE3 of the Brighton and Hove Local Plan.

**Informatives:**

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Floor Plans Proposed	2196(21)100		30 January 2018

Floor Plans Proposed	2196(21)101		30 January 2018
Elevations Proposed	2196(31)100		30 January 2018
Elevations Proposed	2196(31)101		30 January 2018
Sections Proposed	2196(40)100		30 January 2018
Detail	2196(51)100		30 January 2018
Location and block plan	2196(10)100		30 January 2018

## 2. SITE LOCATION & APPLICATION DESCRIPTION

2.1 33 Oriental Place is a grade II\* listed building in the Regency Square Conservation Area. It forms part of a terrace of similar Regency townhouses, set opposite another terrace of almost matching design. The Regency Square Conservation Area Character Statement describes the development of Oriental Place as:

'far more uniform [than Bedford Square]: palace-fronted terraces of 3-4 storeys with rusticated stucco to the ground floor, first floor balconies and pediments on ammonite-topped pilasters above.

2.2 There is some variation in individual building designs along the length of the terrace, which combine to make a single architectural composition. The majority of buildings appear to have been built such that their roof is not visible from the street. This is a unifying part of the composition.'

2.3 The building operates as 'Baggies' backpacker hostel. It is understood that this has been in operation since around 1995. The application site is located just outside of the Hotel Core Zone.

2.4 Listed Building Consent is sought for the erection of a new roof to create additional floor with associated internal alterations to ground, first and third floors and internal and external repair works.

## 3. RELEVANT HISTORY

**BH2016/05444** LBC New roof to create additional floor with associated internal alterations and internal and external repair works. Refused 7/03/2017.

*The proposed roof extension to the property is considered unacceptable in principle as it would result in the loss of the existing historic roof form and disrupt the unifying composition of the terrace where the majority of buildings do not have visible roof forms. The proposed design and form of the roof extension is not traditional, and would lack continuity with the differing non-historic and harmful roof extensions to the adjoining buildings, thereby further adding to their prominence at roof level to the detriment of the significance of the existing Grade II\* listed building and wider listed terrace. The proposal is therefore contrary to policies HE1 and HE3 of the Brighton and Hove Local Plan.*

**BH2015/03462 & BH2015/03463** Erection of mansard roof to create additional floor with associated internal alterations to ground, first and third floors and



internal and external repair works. Refused 22/01/16 and appeal dismissed 25/10/2016. The LPA's reason for refusal was as following:

*The formation of a mansard roof to the property is considered unacceptable in principle as it would result in the loss of the existing historic roof form and disrupt the unifying composition of the terrace where the majority of buildings do not have visible roof forms. The proposed design and form of the mansard roof extension is not traditional, and would lack continuity with the differing non-historic and harmful roof extensions to the adjoining buildings, thereby further adding to their prominence at roof level to the detriment of the significance of the existing Grade II\* listed building and wider listed terrace. Furthermore the proposal would result further internal partitioning and a loss of hierarchy to the original plan form of the building. The proposal is therefore contrary to policies HE1 and HE3 of the Brighton and Hove Local Plan.*

**BH2013/02037 & BH2013/02036** Creation of additional floor at third floor level with mansard roof incorporating internal alterations to facilitate creation of additional floor. Refused 14/08/2013 for the following reasons:

*The formation of a mansard roof to the property would result in the loss of the existing historic roof form and create an inappropriate addition to the Grade II\* building which would harm the historic character of the building. The proposal would detract from the significance of the heritage asset by adding a prominent roof form with no historical justification. Furthermore the proposal would result further internal partitioning and a loss of hierarchy to the original plan form of the building. The proposal is contrary to policies HE1 of the Brighton and Hove Local Plan*

#### **4. REPRESENTATIONS**

- 4.1 One (1) letter has been received objecting to the proposed development for the following reasons:
- Overdevelopment
  - Increase in traffic
- 4.2 Cllr Alex Phillips and Cllr Tom Druitt support the application (comments attached).
- 4.3 CAG: The Group recommends refusal. As was the case with a previous similar application the proposed extension would destroy the original roof structure of this Grade II \* terrace which remains more or less symmetrical despite some unfortunate early and mid C20th extensions. It notes that views from Montpelier Road would also be harmed.

#### **5. CONSULTATIONS**

##### **5.1 Heritage: Objection**

The refusal of application BH2016/05444 and recent appeal decision in respect of applications BH2015/03462 and BH2015/03463 is very relevant to the

consideration of this application. The Inspector notes that the existing roof "*has one key feature which would also been a feature of the original. That is its low pitch, which ensures that it is concealed behind the parapet when seen from the street*". He goes on to consider that the roof extension "*would be an uncharacteristic addition to a property which was designed to have a concealed roof. It would only add to the harm which has already occurred*". He concludes that it would harm the listed building, would harm the setting of other listed buildings in the same terrace and in a more limited way would harm the character of the conservation area. The Inspector acknowledged that there would be an economic benefit to the proposal in that it would support tourism in Brighton but concludes that this would not outweigh the harm to the heritage assets.

This current application is for a very similar proposal to the previous applications, with the only real differences being that the new roof extension would have a dip in the centre of its roof to echo the original M-shaped roof and that the outer pitches would be set at a slightly less steep angle (c75° rather than 80°), which is more akin to the lower pitch of a traditional true mansard and which would make it slightly less prominent. However, the proposal would still result in a roof extension that would be very clearly visible above the parapet and which, as the appeal Inspector noted, would be an uncharacteristic addition to a property which was designed to have a concealed roof. It would compound the harm caused by the existing mansard extensions either side. It is therefore considered that the roof extension would harm the architectural and historic interest of the listed building, and therefore its significance, and fail to preserve the setting of the other listed buildings in Oriental Place and, to a lesser extent, would harm the appearance and character of the conservation area.

## **6. MATERIAL CONSIDERATIONS**

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

6.2 The development plan is:

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

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

## **7. POLICIES**

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

CP6 Visitor accommodation

CP12 Urban design

CP15 Heritage

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

TR7 Safe Development

TR14 Cycle access and parking

SU10 Noise Nuisance

QD14 Extensions and alterations

QD27 Protection of amenity

HE1 Listed buildings

HE6 Development within or affecting the setting of conservation areas

Supplementary Planning Documents:

SPD09 Architectural Features

SPD12 Design Guide for Extensions and Alterations

SPD14 Parking Standards

**8. CONSIDERATIONS & ASSESSMENT**

8.2 The main considerations in the determination of this application relate to the impact of the proposed works on the historic character and appearance of the grade II\* listed building and the wider conservation area, and the impacts on the residential amenity of neighbouring properties

8.3 Planning Policy

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in exercising its powers under the planning Acts in respect of listed buildings, the local authority shall pay special attention to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses, (similar provision is made under Section 72 of the act in regard to Conservation Areas). '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 listed building. 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 heritage asset.

8.4 Paragraph 134 of the NPPF states that 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.

8.5 Policy HE1 of the Brighton & Hove Local Plan states that proposals involving the alteration, extension, or change of use of a listed building will only be permitted

where: a. the proposal would not have any adverse effect on the architectural and historic character or appearance of the interior or exterior of the building or its setting; and b. the proposal respects the scale, design, materials and finishes of the existing building(s), and preserves its historic fabric.

8.6 Supplementary Planning Document 12 Design Guide for Extensions and Alterations states that roof extensions, must respect the particular architectural character of the building and be carefully related to it and major roof alterations are not acceptable on listed building.

8.7 CP6 seeks to support the City's tourism and business conference economy including protecting existing visitor accommodation. The policy stipulates that within the Hotel Core Zone, the loss of hotels/guest houses will need to demonstrate that the premises has limited potential to upgrade and position itself viably in the market, it would not set an unacceptable precedent in relation to the concentration and role of nearby/adjacent serviced accommodation and that the new use would be compatible with the character and other uses in the area. The application site is not located within Hotel Core Zone and therefore would not necessarily be protected. The applicant states within their Planning Statement that the conversion of the site would set a precedent for the conversion of other similar properties which would result in a loss of accommodation in the Hotel Core Zone. This is unlikely to be the case, and any accommodation located within the Hotel Core Zone would need to demonstrate full compliance with CP6.

#### 8.8 History of Site

As detailed above, the site has had a number of refusals for roof extensions to create additional accommodation in the building. The 2015 Listed Building Consent and Full Planning decisions were upheld at appeal (appeal reference APP/Q1445/W/3152050). In this appeal decision, the inspector concluded that the proposed mansard roof extension '*would result in harm to the significance of the listed building as a designated heritage asset. Moreover, it would detract from the settings of nearby listed buildings forming part of the same terrace, thereby harming their significance. There would also be some limited harm to the conservation area. On the other hand the proposal would result in an economic benefit in that it would support tourism in Brighton. However, in my view that benefit would not be so significant as to outweigh the harm to heritage assets which would occur.*' The key differences between the appeal scheme and this current scheme include amending the design flat roof of the mansard to a 'm' shape roof form. The current proposal is identical to the 2016 Listed Building Consent refused on 7/03/2017.

#### 8.9 Design and Impact on the Historic Building

The proposal seeks consent for additional accommodation for the hostel by adding a storey to the roof level of the building. The current proposal is still very similar to the previous appeal scheme and therefore the Inspector's decision carries significant weight in the assessment of this current application. The key difference between the appeal scheme and the current scheme is that the new roof extension would have a dip in the centre of its roof to echo the original M-shaped roof and that the outer pitches would be set at a slightly less steep angle

(75 degrees rather than 80 degrees). The proposal would still result in a roof extension that would be very clearly visible above the parapet and which, as the Inspector noted, would be an uncharacteristic addition to a property which was designed to have a concealed roof.

- 8.10 It is noted that the properties either side of the application site have roof level extensions, these are viewed as harmful additions to the listed terrace and do not set a precedent for the further inappropriate extensions. The proposed extension would closely match the extension at No. 34, however this is not considered justification to allow a further harmful addition and the proposal would compound the harm caused by these existing extensions. It is therefore considered that the roof extension would harm the architectural and historic interest of the listed building, and fail to preserve the setting of the other listed buildings in Oriental Place and, to a lesser extent, would harm the appearance and character of the conservation area.
- 8.11 The Design and Access Statement refers to the public benefits of the scheme stating that it "*would enable the building to be maintained and to ensure it can be sustained for present and future generations*". The Inspector dismissed this potential benefit in the recent appeal decision as carrying limited weight. No circumstances have changed since then that would suggest greater weight should be attached to this and there is still no mechanism in place which would secure any particular works of renovation or repair.
- 8.12 The Design & Access Statement has submitted four significant and material differences to the previous applications. These are as follows as submitted in the D&A Statement:
1. Financial - Following the previous applications the business rates applicable to the application site have increased more than tenfold rising from £4200 to £44000 annually. This strongly enforces the owners needs to increase the accommodation at the hostel in order to continue viably operating the business.
  2. New Evidence Uncovered - Following the previous applications additional evidence has been obtained strongly indicating the existing gambrel roof form at number 34 is historic and has been visible in the street scene for over 160 years. And is therefore not an inappropriate add-on as the previous refusal report has suggested.
  3. Balconies - The owner of number 33 also owns 34 Oriental Place and has committed to reinstating the first floor balconies as originally built including new railings cast to the original format. The applicant has agreed that this can be conditioned as part of any approval for the site.
  4. Building use - Following the increase in business rates other uses for the property have been considered. Having reviewed the various options for converting the building to an alternative use, it has been established that the required building alterations would cause substantial harm to the heritage asset more than the less than substantial harm the inspector identified would

result from the current proposals for the roof works enabling the hostel to continue to operate.

8.13 In response to these points the Local Planning Authority would note that:

1. Financial viability of the business is not a consideration for this application. In all of the previous applications, the Owner states that the works are necessary to generate income to maintain the building. However, as per paragraph 130 of the NPPF, where there is evidence of deliberate neglect of or damage to a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision. The Inspectors decision stated '*Any owner of a listed building is responsible for keeping it in reasonable repair*'. This would also apply to the upkeep of the application site. Limited weight was attributed to the suggested benefits relating to the repair of the building. Since the Inspectors visit, the front of the application property has been left to decline further. An enforcement case has been opened to investigate the deteriorating condition of the building, which is unrelated to the proposed scheme.
2. The new evidence uncovered is a late 19th century image which does not clearly show a gambrel or mansard roof at number 34 Oriental Place. Regardless, if there is a gambrel or mansard roof in the image, it does not demonstrate that this was how the building was constructed. A photo from the late 19th century does not indicate that there was a gambrel or mansard present for the 70 years previous. Also, as this issue relates to the neighbouring building, it is considered that it has limited direct impact upon the current proposal given the previous appeal decisions.
3. The reinstatement of the front balcony to number 34 with the appropriate listed building consent would be welcomed. However, it has no bearing on the current application.
4. No detail has been provided as to the options that have been considered to convert the building into another use or the potential harm that has been identified to the listed building if the building were to be converted. In the Inspectors decision, the Inspector suggested exploring different uses for the building. It should be noted that the Council have not been approached for pre-application advice for a change of use of this building. Other Grade II\* terraces along Oriental Place have successfully been converted to residential flats without causing substantial harm to the listed building. For example, after a refusal and dismissed appeal, an application was approved at 19 Oriental Place for the conversion of a hotel to form five residential flats.

8.14 The proposed development is therefore considered to cause significant harm to the historic character of the listed building, streetscene and the surrounding conservation area.

8.15 **Impact on Amenity:**

The proposed extension would result in higher roof structure on the property but any overshadowing is not considered to be so significant to warrant refusal of the application. The proposed extension would not be higher than the roofs of neighbouring properties and therefore levels of increased overshadowing would be minimal. In regards to overlooking and a loss of privacy from the additional floor, this is not considered to be significantly harmful. It is understood that neighbours may experience an increased degree of overlooking from an additional storey, however given the distances separating the new windows from neighbouring dwellings, on balance the relationship is considered to be acceptable.

- 8.16 To the rear, two storey properties are located on the west of Montpelier Road. These properties are already dominated by the buildings of Oriental Place and a further roof extension is not likely to result in additional harm. Generally good separation distances between the application site and the neighbouring properties exist and therefore it is felt that the residential amenity of neighbouring occupiers would not be negatively impacted.

**9.0 EQUALITIES**

None identified.







PLANNING COMMITTEE LIST  
Planning Committee 4<sup>th</sup> April 2018

COUNCILLOR REPRESENTATION

Planning Application – BH2018/00294

33 Oriental Place

Sender's details  
Cllr Alex Phillips

I would like to formally call in the planning application 33 Oriental Place  
BH2018/00294 and 00295 please.  
Both Tom and I are firmly in favour of it and would like to speak at committee.  
Please do let us know when  
that would be.

Looking forward to hearing from you  
Alex



# **ITEM F**

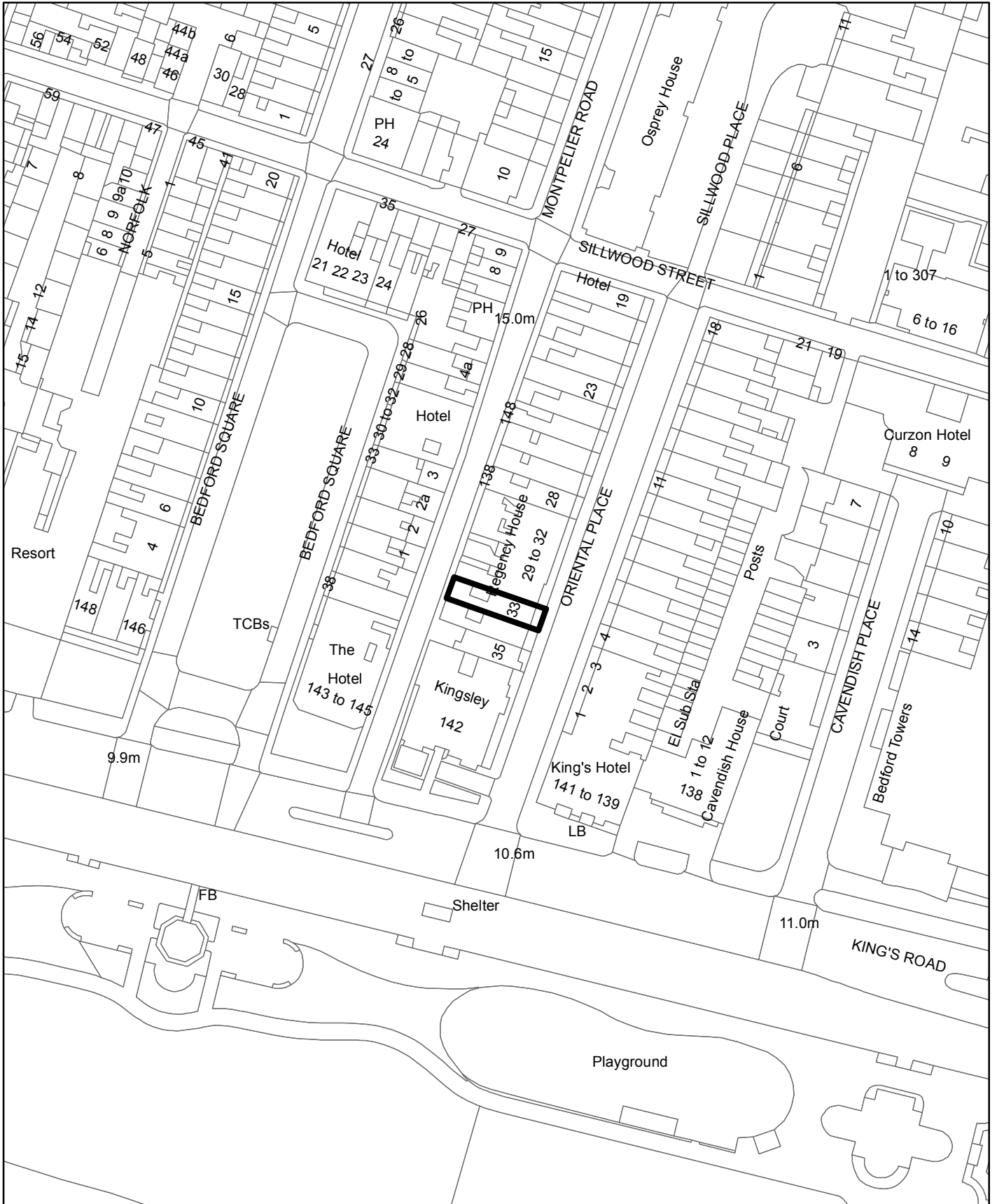
**33 Oriental Place Brighton**

**BH2018/00295**

**DATE OF COMMITTEE: 4<sup>th</sup> April 2018**



# BH2018/00295 33 Oriental Place Brighton



**Brighton & Hove  
City Council**



**Scale: 1:1,250**



<b><u>No:</u></b>	<b>BH2018/00295</b>	<b><u>Ward:</u></b>	<b>Regency Ward</b>
<b><u>App Type:</u></b>	<b>Listed Building Consent</b>		
<b><u>Address:</u></b>	<b>33 Oriental Place Brighton BN1 2LL</b>		
<b><u>Proposal:</u></b>	<b>Internal and external alterations incorporating new mansard roof to create additional floor with associated alterations to layout and other works.</b>		
<b><u>Officer:</u></b>	Helen Hobbs, tel: 293335	<b><u>Valid Date:</u></b>	30.01.2018
<b><u>Con Area:</u></b>	Regency Square	<b><u>Expiry Date:</u></b>	27.03.2018
<b><u>Listed Building Grade:</u></b>	Listed Building Grade II*		
<b><u>Agent:</u></b>	CDMS Architects 1st Floor Montpelier House 99 Montpelier Road Brighton BN1 3BE		
<b><u>Applicant:</u></b>	01 Hostels Ltd The Old Factory 30-31 Devonshire Place Brighton BN2 1QB		

**Councillors Phillips and Druitt have requested that the application is deferred to Committee for determination.**

## **1. RECOMMENDATION**

1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **REFUSE** Listed Building Consent for the following reasons.

- The proposed roof extension to the property is considered unacceptable in principle as it would result in the loss of the existing historic roof form and disrupt the unifying composition of the terrace where the majority of buildings do not have visible roof forms. The proposed design and form of the roof extension is not traditional, and would lack continuity with the differing non-historic and harmful roof extensions to the adjoining buildings, thereby further adding to their prominence at roof level to the detriment of the significance of the existing Grade II\* listed building and wider listed terrace. The proposal is therefore contrary to policies HE1 and HE3 of the Brighton and Hove Local Plan.

### **Informatives:**

- This decision is based on the drawings listed below:

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Floor Plans Proposed	2196(21)100		30 January 2018
Floor Plans Proposed	2196(21)101		30 January 2018
Elevations Proposed	2196(31)100		30 January 2018
Elevations Proposed	2196(31)101		30 January 2018
Sections Proposed	219(41)100		30 January 2018
Location and block plan	2196(51)100		30 January 2018

## 2. SITE LOCATION & APPLICATION DESCRIPTION

2.1 33 Oriental Place is a grade II\* listed building in the Regency Square Conservation Area. It forms part of a terrace of similar Regency townhouses, set opposite another terrace of almost matching design. The Regency Square Conservation Area Character Statement describes the development of Oriental Place as:

'far more uniform [than Bedford Square]: palace-fronted terraces of 3-4 storeys with rusticated stucco to the ground floor, first floor balconies and pediments on ammonite-topped pilasters above.

2.2 There is some variation in individual building designs along the length of the terrace, which combine to make a single architectural composition. The majority of buildings appear to have been built such that their roof is not visible from the street. This is a unifying part of the composition.'

2.3 The building operates as 'Baggies' backpacker hostel. It is understood that this has been in operation since around 1995. The application site is located just outside of the Hotel Core Zone.

2.4 Listed Building Consent is sought for the erection of a new roof to create additional floor with associated internal alterations to ground, first and third floors and internal and external repair works.

## 3. RELEVANT HISTORY

**BH2016/05444** LBC New roof to create additional floor with associated internal alterations and internal and external repair works. Refused 7/03/2017.

*The proposed roof extension to the property is considered unacceptable in principle as it would result in the loss of the existing historic roof form and disrupt the unifying composition of the terrace where the majority of buildings do not have visible roof forms. The proposed design and form of the roof extension is not traditional, and would lack continuity with the differing non-historic and harmful roof extensions to the adjoining buildings, thereby further adding to their prominence at roof level to the detriment of the significance of the existing Grade II\* listed building and wider listed terrace. The proposal is therefore contrary to policies HE1 and HE3 of the Brighton and Hove Local Plan.*

**BH2015/03462 & BH2015/03463** Erection of mansard roof to create additional floor with associated internal alterations to ground, first and third floors and internal and external repair works. Refused 22/01/16 and appeal dismissed 25/10/2016. The LPA's reason for refusal was as following:

*The formation of a mansard roof to the property is considered unacceptable in principle as it would result in the loss of the existing historic roof form and disrupt the unifying composition of the terrace where the majority of buildings do not have visible roof forms. The proposed design and form of the mansard roof extension is not traditional, and would lack continuity with the differing non-*



*historic and harmful roof extensions to the adjoining buildings, thereby further adding to their prominence at roof level to the detriment of the significance of the existing Grade II\* listed building and wider listed terrace. Furthermore the proposal would result further internal partitioning and a loss of hierarchy to the original plan form of the building. The proposal is therefore contrary to policies HE1 and HE3 of the Brighton and Hove Local Plan.*

**BH2013/02037 & BH2013/02036** Creation of additional floor at third floor level with mansard roof incorporating internal alterations to facilitate creation of additional floor. Refused 14/08/2013 for the following reason:

*The formation of a mansard roof to the property would result in the loss of the existing historic roof form and create an inappropriate addition to the Grade II\* building which would harm the historic character of the building. The proposal would detract from the significance of the heritage asset by adding a prominent roof form with no historical justification. Furthermore the proposal would result further internal partitioning and a loss of hierarchy to the original plan form of the building. The proposal is contrary to policies HE1 of the Brighton and Hove Local Plan.*

#### **4. REPRESENTATIONS**

4.1 One (1) letter has been received from Regency Society of Brighton & Hove commenting on the proposal for the following reasons:

- The roof level would be similar to those on both neighbouring properties
- The proposals to reinstate the first floor balconies would be welcomed
- Repairs should be undertaken to the whole façade and later additions removed

4.2 Cllr Alex Phillips and Cllr Tom Druitt support the application (comments attached).

#### **5.0 CONSULTATIONS**

##### **5.1 Heritage: Objection**

The refusal of application BH2016/05444 and recent appeal decision in respect of applications BH2015/03462 and BH2015/03463 is very relevant to the consideration of this application. The Inspector notes that the existing roof "has one key feature which would also been a feature of the original. That is its low pitch, which ensures that it is concealed behind the parapet when seen from the street". He goes on to consider that the roof extension "would be an uncharacteristic addition to a property which was designed to have a concealed roof. It would only add to the harm which has already occurred". He concludes that it would harm the listed building, would harm the setting of other listed buildings in the same terrace and in a more limited way would harm the character of the conservation area. The Inspector acknowledged that there would be an economic benefit to the proposal in that it would support tourism in Brighton but concludes that this would not outweigh the harm to the heritage assets.

This current application is for a very similar proposal to the previous applications, with the only real differences being that the new roof extension would have a dip in the centre of its roof to echo the original M-shaped roof and that the outer pitches would be set at a slightly less steep angle (c75° rather than 80°), which is more akin to the lower pitch of a traditional true mansard and which would make it slightly less prominent. However, the proposal would still result in a roof extension that would be very clearly visible above the parapet and which, as the appeal Inspector noted, would be an uncharacteristic addition to a property which was designed to have a concealed roof. It would compound the harm caused by the existing mansard extensions either side. It is therefore considered that the roof extension would harm the architectural and historic interest of the listed building, and therefore its significance, and fail to preserve the setting of the other listed buildings in Oriental Place and, to a lesser extent, would harm the appearance and character of the conservation area.

5.2 CAG: The Group recommends refusal. As was the case with a previous similar application the proposed extension would destroy the original roof structure of this Grade II \* terrace which remains more or less symmetrical despite some unfortunate early and mid C20th extensions. It notes that views from Montpelier Road would also be harmed.

## **6. MATERIAL CONSIDERATIONS**

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

6.2 The development plan is:

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

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

## **7. POLICIES**

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

CP15 Heritage

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

HE1 Listed Building Consent

HE4 Reinstatement of original features on Listed Buildings

HE6 Development within or affecting the setting of conservation areas

Supplementary Planning Guidance:  
SPGBH11 Listed Building Interiors

Supplementary Planning Documents:  
SPD09 Architectural Features

## **8.0 CONSIDERATIONS & ASSESSMENT**

8.1 The main considerations relate to the impact of the proposed development on the historic character and appearance of the Grade II\* listed building.

### 8.2 Planning Policy

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in exercising its powers under the planning Acts in respect of listed buildings, the local authority shall pay special attention to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses, (similar provision is made under Section 72 of the act in regard to Conservation Areas). '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 listed building. 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 heritage asset.

8.3 Paragraph 134 of the NPPF states that 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.

8.4 Policy HE1 of the Brighton & Hove Local Plan states that proposals involving the alteration, extension, or change of use of a listed building will only be permitted where: a. the proposal would not have any adverse effect on the architectural and historic character or appearance of the interior or exterior of the building or its setting; and b. the proposal respects the scale, design, materials and finishes of the existing building(s), and preserves its historic fabric.

### 8.5 History of Site

As detailed above, the site has had a number of refusals for roof extensions to create additional accommodation in the building. The 2015 Listed Building Consent and Full Planning decisions were upheld at appeal (appeal reference APP/Q1445/W/3152050). In this appeal decision, the inspector concluded that the proposed mansard roof extension *'would result in harm to the significance of the listed building as a designated heritage asset. Moreover, it would detract from the settings of nearby listed buildings forming part of the same terrace, thereby harming their significance. There would also be some limited harm to the conservation area. On the other hand the proposal would result in an*

*economic benefit in that it would support tourism in Brighton. However, in my view that benefit would not be so significant as to outweigh the harm to heritage assets which would occur.'* The key differences between the appeal scheme and this current scheme include amending the design flat roof of the mansard to an 'm' shape roof form. The current proposal is identical to the 2016 Listed Building Consent refused on 7/03/2017.

8.6 Design and Impact on the Historic Building

The proposal seeks consent for additional accommodation for the hostel by adding a storey to the roof level of the building. The current proposal is still very similar to the previous appeal scheme and therefore the Inspector's decision carries significant weight in the assessment of this current application. The key difference between the appeal scheme and the current scheme is that the new roof extension would have a dip in the centre of its roof to echo the original M-shaped roof and that the outer pitches would be set at a slightly less steep angle (75 degrees rather than 80 degrees). The proposal would still result in a roof extension that would be very clearly visible above the parapet and which, as the Inspector noted, would be an uncharacteristic addition to a property which was designed to have a concealed roof.

8.7 It is noted that the properties either side of the application site have roof level extensions, these are viewed as harmful additions to the listed terrace and do not set a precedent for the further inappropriate extensions. The proposed extension would closely match the extension at No. 34, however this is not considered justification to allow a further harmful addition and the proposal would compound the harm caused by these existing extensions. It is therefore considered that the roof extension would harm the architectural and historic interest of the listed building, and fail to preserve the setting of the other listed buildings in Oriental Place and, to a lesser extent, would harm the appearance and character of the conservation area.

8.8 The Design and Access Statement refers to the public benefits of the scheme stating that it "*would enable the building to be maintained and to ensure it can be sustained for present and future generations*". The Inspector dismissed this potential benefit in the recent appeal decision as carrying limited weight. No circumstances have changed since then that would suggest greater weight should be attached to this and there is still no mechanism in place which would secure any particular works of renovation or repair.

8.9 In respect of the internal works (which are unchanged from the appeal scheme) the Inspector concluded that "*it is unlikely that the proposed alterations would result in the loss of historic fabric or would harm the ability to interpret the layout of the building.*" The only area where it is considered that this may not be the case is in respect of the proposed alterations at third floor level, as historic documentary evidence suggests that this floor originally had three bedrooms, which would be consistent with the upper floor of other large townhouses of this period in Brighton & Hove. Whether or not the existing partitions are historic has not been established but a change from 3 rooms to 2 would, as a matter of principle, cause some harm to the interior character in terms of its evidential value. This harm would nevertheless in itself be minor.

8.10 The Design & Access Statement has submitted four significant and material differences to the previous applications. These are as follows as submitted in the D&A Statement:

1. Financial - Following the previous applications the business rates applicable to the application site have increased more than tenfold rising from £4200 to £44000 annually. This strongly enforces the owners needs to increase the accommodation at the hostel in order to continue viably operating the business.
2. New Evidence Uncovered - Following the previous applications additional evidence has been obtained strongly indicating the existing gambrel roof form at number 34 is historic and has been visible in the street scene for over 160 years. And is therefore not an inappropriate add-on as the previous refusal report has suggested.
3. Balconies - The owner of number 33 also owns 34 Oriental Place and has committed to reinstating the first floor balconies as originally built including new railings cast to the original format. The applicant has agreed that this can be conditioned as part of any approval for the site.
4. Building use - Following the increase in business rates other uses for the property have been considered. Having reviewed the various options for converting the building to an alternative use, it has been established that the required building alterations would cause substantial harm to the heritage asset more than the less than substantial harm the inspector identified would result from the current proposals for the roof works enabling the hostel to continue to operate.

8.11 In response to these points the Local Planning Authority would note that:

1. Financial viability of the business is not a listed building concern. In all of the previous applications, the Owner states that the works are necessary to generate income to maintain the building. However, as per paragraph 130 of the NPPF, where there is evidence of deliberate neglect of or damage to a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision. The Inspectors Decision stated 'Any owner of a listed building is responsible for keeping it in reasonable repair'. This would also apply to the upkeep of the application site. Limited weight was attributed to the suggested benefits relating to the repair of the building. Since the Inspectors visit, the front of the application property has been left to decline further. An enforcement case has been opened to investigate the deteriorating condition of the building, which is unrelated to the proposed scheme.
2. The new evidence uncovered is a late 19th century image which does not clearly show a gambrel or mansard roof at number 34 Oriental Place. Regardless, if there is a gambrel or mansard roof in the image, it does not demonstrate that this was how the building was constructed. A photo from

the late 19th century does not indicate that there was a gambrel or mansard present for the 70 years previous. Also, as this issue relates to the neighbouring building, it is considered that it has limited direct impact upon the current proposal given the previous appeal decisions.

3. The reinstatement of the front balcony to number 34 with the appropriate listed building consent would be welcomed. However, it has no bearing on the current application.
4. No detail has been provided as to the options that have been considered to convert the building into another use have been considered or the potential harm that has been identified by the applicant to the listed building, if the building were to be converted. In the Inspectors decision, the Inspector suggested exploring different uses for the building. It should be noted that the Council have not been approached for pre-application advice for a change of use of this building. Other Grade II\* terraces along Oriental Place have successfully been converted to residential flats without causing substantial harm to the listed building. For example, after a refusal and dismissed appeal, an application was approved at 19 Oriental Place for the conversion of a hotel to form five residential flats.

## **9.0 EQUALITIES**

9.1 None identified.

# **ITEM G**

**2-4 Sackville Road Hove**

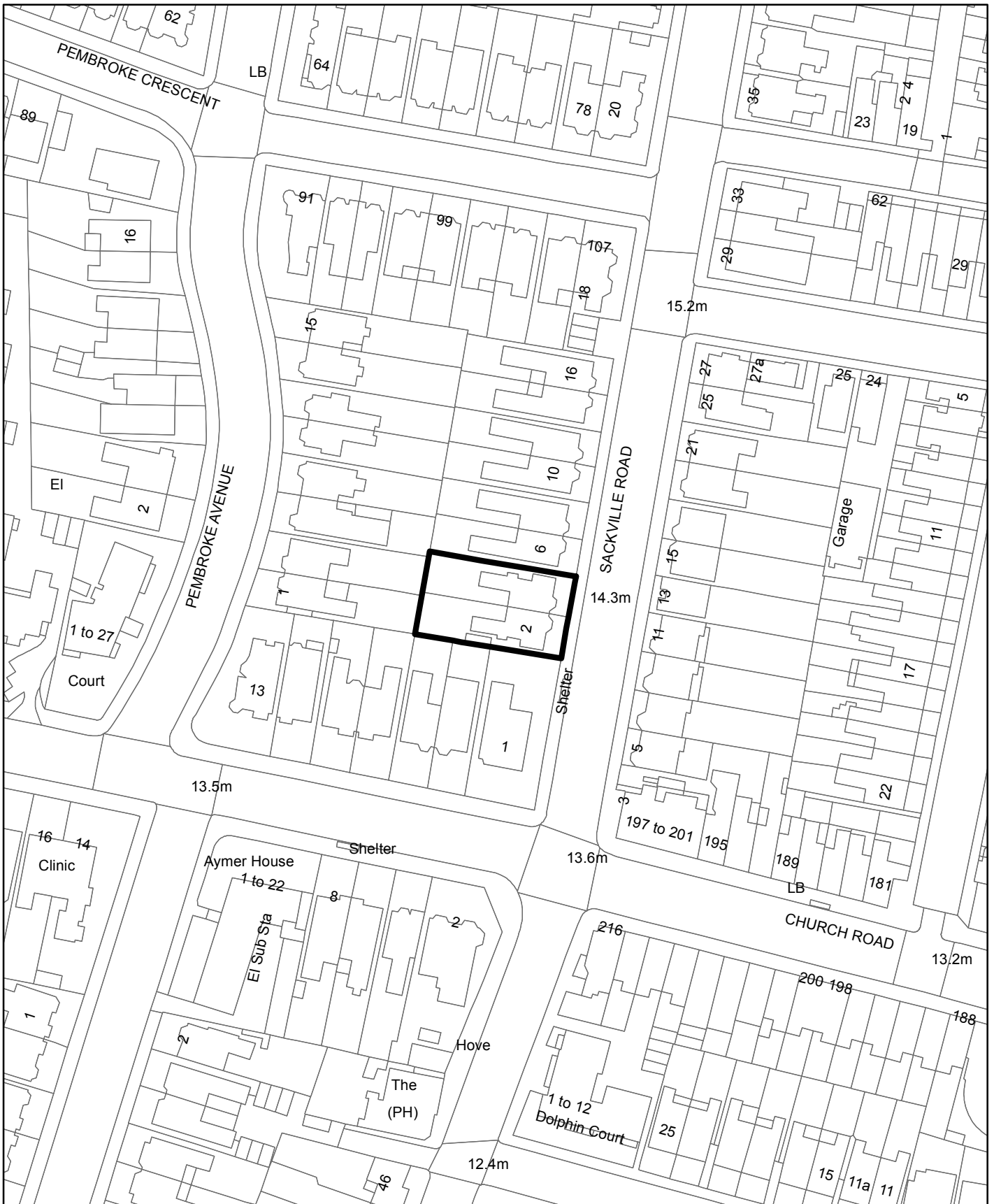
**BH2017/03076**

**DATE OF COMMITTEE: 4<sup>th</sup> April 2018**





# BH2017/03076 2-4 Sackville Road Hove



**Brighton & Hove  
City Council**



**Scale: 1:1,250**



<b><u>No:</u></b>	<b>BH2017/03076</b>	<b><u>Ward:</u></b>	<b>Westbourne Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>2 - 4 Sackville Road Hove BN3 3FA</b>		
<b><u>Proposal:</u></b>	<b>Conversion of care home (C2) into residential apartment building comprising 4no flats at 2 Sackville Road and a nine bedroom house in multiple occupation (Sui Generis) at 4 Sackville Road with associated alterations including infilling of window to northern elevation and installation of sliding doors to western elevation.</b>		
<b><u>Officer:</u></b>	Luke Austin, tel: 294495	<b><u>Valid Date:</u></b>	25.09.2017
<b><u>Con Area:</u></b>	Pembroke & Princes	<b><u>Expiry Date:</u></b>	20.11.2017
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Lewis And Co Planning SE Ltd 2 Port Hall Road Brighton BN1 5PD		
<b><u>Applicant:</u></b>	Mr Jogi Vig C/O Lewis & Co Planning 2 Port Hall Road Brighton BN1 5PD		

1. **RECOMMENDATION**

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission, provided no additional objections raising new issues have been received prior to the 27<sup>th</sup> March 2018, and subject to the following Conditions and Informatives:

Conditions:

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Floor Plans Proposed	599/04 B		12 March 2017
Floor Plans Proposed	599/05 C		12 March 2017
Elevations Proposed	599/07		06 March 2018

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.  
**Reason:** To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
3. 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 Pembroke Avenue with New Church Road and at the junction of and across Pembroke Avenue with Pembroke Crescent (south) and at the junction of and across Pembroke Avenue with Pembroke Crescent (north).

**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 Brighton & Hove City Plan Part One.

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.

5. 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 occupation, to ensure that the development does not result in overspill parking and to comply with policies TR7 and QD27 of the Brighton & Hove Local Plan and policy CP9 of the Brighton & Hove City Plan Part One.

6. The development hereby approved shall be implemented in accordance with the proposed layout detailed on drawing nos. 599/05 B received on 23 November 2017 and 599/04 A received 25 September 2017 and shall be retained as such thereafter. The rooms within the HMO annotated as communal kitchen / dining room and communal living room 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.

7. The HMO unit hereby approved shall only be occupied by a maximum of nine persons.

**Reason:** To ensure a satisfactory standard of accommodation for future occupiers and to comply with policy QD27 of the Brighton & Hove Local Plan.

8. Access to the flat roof over the ground floor single storey section to the rear from the HMO and flats hereby approved shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area.

**Reason:** In order to protect adjoining properties from overlooking and noise disturbance and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

9. Prior to first occupation of the development hereby approved a Management Plan shall be submitted to and approved in writing by the Local Planning Authority. This should include details relating to site management, behaviour and conduct of future occupiers, details of how parking will be allocated and enforced and waste/refuse management.

**Reason:** To safeguard the amenities of occupiers of the adjoining properties, to ensure parking provisions are effectively managed and to comply with SU10 and QD27 of the Brighton and Hove Local Plan, Policy CP9 of the Brighton and Hove City Plan Part One and SPD14.

Informatives:

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

2. **SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1 The application site relates to a site formerly occupied by a pair of semi-detached two storey dwellings located to the west of Sackville Road close to the junction with Church Road / New Church Road. The two buildings were merged into one site by knocking through the internal party walls and the construction of single storey rear extensions in order to facilitate a care home.
- 2.2 In the wider context the site is set within a group of substantial semi-detached houses with projecting bays and outriggers. The east of Sackville Road comprises a mixture of terraced and semi-detached properties. The site falls within the Pembroke and Princes Conservation Area however it is not covered by an Article Four Direction.
- 2.3 The application seeks permission for the conversion of the building into four flats within no.2 Sackville Road and a 9 bedroom House in Multiple Occupation (Sui Generis) within no.4 Sackville Road. The conversion would involve some minor external alterations including the infilling of a window to the northern (side) elevation and the installation of sliding doors to the western (rear) elevation at ground floor level.
- 2.4 Amendments have been sought to the original submission by way of converting flat 4 to a studio rather than a 1 bedroom flat in order to provide a better standard of accommodation, amendments to one of the ground floor flats including external alterations in addition to altering the layout of the HMO in order to improve the overall standard of accommodation and usability for occupiers.

3. **RELEVANT HISTORY**

**BH2009/00677** - Conversion of existing nursing home into nine self-contained flats. Refused 01.06.2009 for the following reasons:

1. The site is currently operating as a care home for the elderly. The applicant has failed to demonstrate that the existing care home facilities do not comply with, or are realistically capable of reaching, the respective standards set out for residential care / nursing homes. The site is still registered and receiving additional residents from the city council and therefore it is still viewed as supplying a valuable resource to the city. Therefore the loss of residential care facilities is considered contrary to policy HO11 of the Brighton and Hove Local Plan.
2. The change of use relies on a number of internal bathrooms which have no natural light and ventilation. As such the development will place unacceptable dependence on artificial light and mechanical ventilation. In addition no information has been submitted to demonstrate that the conversion of the building can meet the relevant Ecohomes standards. The development is contrary to policy SU2 of the Brighton and Hove Local Plan and Supplementary Planning document on Sustainable Building Design SPD08.

**BH2007/04262** - Conversion of existing nursing home into 5 no. 2 bed flats and 4 no. one bed flats (resubmission of BH2002/00794/FP). Refused 29.08.2008.

**BH2002/00794/FP** - Conversion of existing nursing home into 9 self-contained flats. Approved 29.11.2002.

#### 4. REPRESENTATIONS

4.1 **Seventeen (17)** letters has been received objecting to the proposed development for the following reasons:

- It will devalue property
- Will add to parking problems
- Do not need to get rid of care homes
- Loss of privacy
- Noise at night
- There are too many HMOs in the area
- Bedrooms are too small within HMO
- Communal garden is inadequate for 9 occupants
- Risk of anti-social behaviour
- It will affect the character and the tone of the area
- Overdevelopment
- Inaccurate plans
- Below minimum space requirements
- No means of fire escape
- Will set a precedent for further schemes
- Congregation of potentially large numbers of people within gardens
- Inadequate bin storage / refuse area
- Not in keeping with the area
- Overcrowding
- Loss of care home beds
- Would allow up to 32 people to occupy building

- Communal bike storage located adjacent to neighbours
- 4.2 A petition has also been provided by local residents with a total of **Twenty Five (25)** signatures objecting to the proposal for the following reasons:
- Detrimental to adjoining properties
  - It will not preserve the Conservation Area
  - Contrary to local plan policies
  - No on-site parking
  - It will increase local parking demand
  - It will increase density and create noise disturbance / anti-social behaviour
  - Insufficient garden space for nine bedsits
  - Contrary to CP21
- 4.3 Following amendments to the proposal a fourteen day re-consultation to neighbouring occupiers has been carried out. This will expire prior to the committee meeting.

## 5. CONSULTATIONS

### 5.1 **Private Sector Housing:** No objection

The proposed layout of No.4 Sackville Road would be a licensable HMO and a valid HMO Licence application would need to be submitted to the council before occupation. The proposal would need to comply with the councils HMO standards.

The 3 bedroom 1st/2nd floor proposed maisonette in No.2 Sackville Road may be licensable as an HMO depending on how it is occupied.

### 5.2 **Planning Policy:** No objection

It is considered the principle of the proposal can be supported based on the information submitted, subject to comments from Social Care & Health and other consultees and a detailed check of the accommodation balance in the surrounding.

The provision of 4 residential units of different sizes is welcomed and would contribute towards the city's housing target as set out in Policy CP1 of the City Plan Part One. The proposed HMO would also provide a form of residential accommodation.

### 5.3 **Sustainable Transport:** No objection

Recommended approval as the Highway Authority has no objections to this application subject to the inclusion of the necessary conditions securing highway improvements and cycle parking.

### 5.4 **Adult Social Care** No objection

Adult Social care would support this change of use application. Brighton and Hove are aware that the requirement for care homes that are only able to provide residential care in environments that cannot support increasing physical or mental health needs is decreasing. The care needs assessment highlights

the limitations of the current environment to meet these needs therefore we would support this change.

## **6. MATERIAL CONSIDERATIONS**

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

## **7. POLICIES**

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development  
CP1 Housing delivery  
CP2 Sustainable economic development  
CP3 Employment land  
CP7 Infrastructure and developer contributions  
CP9 Sustainable transport  
CP12 Urban design  
CP14 Housing density  
CP15 Heritage  
CP19 Housing mix  
CP21 Student housing and Housing in Multiple Occupation

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

TR7 Safe Development  
TR14 Cycle access and parking  
SU9 Pollution and nuisance control  
SU10 Noise Nuisance  
QD27 Protection of amenity  
HO5 Provision of private amenity space in residential development  
HO11 Residential care and nursing homes  
HO13 Accessible housing and lifetime homes  
HO20 Retention of community facilities

#### Supplementary Planning Documents:



## **8. CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations in the determination of this application relate to the loss of the existing use, principle of the proposed uses, the impact upon neighbouring amenity, the standard of accommodation which the use would provide in addition to transport issues and the impact upon the character and appearance of the property and the surrounding area.
- 8.2 The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually. The most recent land supply position was published in the 2016 SHLAA Update (February 2017) which demonstrates a 5.6 year supply position. The Council can therefore demonstrate an up to date housing supply position in accordance with the NPPF.
- 8.3 **Principle of development:**  
The application seeks permission for the conversion of a vacant care home into two residential sites. No. 2 Sackville Road would consist of four flats whilst no. 4 would be converted into a 9 bedroom sui generis HMO.
- 8.4 Loss of The Existing Use  
The existing use of the building is as a care home (C2). The application follows a previous submission (BH2009/00677) which was refused for the following reason, relating to the loss of the existing use:
1. The site is currently operating as a care home for the elderly. The applicant has failed to demonstrate that the existing care home facilities do not comply with, or are realistically capable of reaching, the respective standards set out for residential care / nursing homes. The site is still registered and receiving additional residents from the city council and therefore it is still viewed as supplying a valuable resource to the city. Therefore the loss of residential care facilities is considered contrary to policy HO11 of the Brighton and Hove Local Plan.
- 8.5 Retained Brighton & Hove Local Plan policy HO11 covers new residential care homes and retention of existing facilities. It advises that permission will not be granted for homes which comply with or are realistically capable of reaching the respective standards set out for residential care or nursing homes. In the event of the loss of such a home being considered acceptable it seeks that the priority will be to secure additional housing units or supported housing for people with special needs. The supporting text makes it clear that the additional housing units can be unfettered i.e. not necessarily for people with special needs.
- 8.6 Since the refusal of the previous application BH2009/00677, which sought the conversion of the nursing home into nine flats, the care/nursing home has

closed due to high vacancy rates. It was recommissioned as a care home in 2010 but eventually closed in 2017.

- 8.7 In general smaller, traditional care homes appear to be less viable as the focus has shifted towards people staying in their own property for longer and funding being focused on high decency needs or those with dementia.
- 8.8 The application is supported by a report prepared by a care consultancy which sets out the background to the site and together with the changes within the wider care industry together with an assessment of why the property itself is no longer realistically and/or viably capable of meeting the necessary standards i.e. Regulations issued in 2014 under the Health & Social Care Act 2008, which identifies general issues in relation to 'Premises and equipment'.
- 8.9 The report details that since November 2016 vacancies were not being filled and that as of 25th March 2017 the home had seven vacancies and it was registered for 20 occupants. In consultation with BHCC Adult Social Care the applicant closed the home.
- 8.10 The report details that the closure of the care home was due to a lack of referrals from the Council for residential care which formed all of the referrals to the home. Therefore due to the lack of demand the site ceased to operate. If the site were to re-open it would be required to comply with the Fundamental Standards Regulation 15 of the Health & Social Care Act 2008 and the current Regulations. The report also makes an assessment of the current accommodation and confirms that in its existing state the site would not meet the required standard for a number of reasons including limited wheelchair access to a number of rooms, inadequate fire exit route, restricted usability within several en-suite facilities and restricted accessibility for supported mobilisation over the majority of the site. The report concludes that the restrictions and conditions of the existing site would severely limit the upgrading of the entire building to an appropriate modern standard and the site would be unable to cater for specialist care meaning that the continued use as a care home is not considered viable.
- 8.11 The planning policy team have confirmed that, based on the information submitted and subject to confirmation by Adult Social Care, the loss of the care home can be justified.
- 8.12 Adult Social Care have identified that the demand for care homes that cannot support increasing physical or mental health needs is decreasing and on this basis no objection is raised to the conversion.
- 8.13 The Proposed Flats  
Policy HO11 states that where the loss of a residential / care home is considered acceptable, the priority will be to secure additional housing units or supported housing, for people with special needs.
- 8.14 Whilst the proposal is not seeking to provide housing for people with special needs, the planning policy team have confirmed that this is not considered to be

a significant conflict with policy HO11, which indicates this to be a priority not a requirement. The provision of 4 residential units is welcomed and would contribute towards the city's housing target as set out in Policy CP1 of the City Plan Part One.

**.8.15 The Proposed House in Multiple Occupation**

The proposal would allow occupation of the property as a Sui Generis HMO providing accommodation for 9 unrelated individuals who share basic amenities including a kitchen, living/dining room.

**8.16** 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.'
- A mapping exercise has taken place which indicates that there are 107 properties within a 50m radius. One other property has been identified as being in either Class C4, mixed C3/C4 or other types of HMO in a sui generis use within the 50m radius. The percentage of existing HMO's within the designated area is thus 0.93%.
- Based upon this percentage, which is less than 10%, the proposal to change to a Sui Generis HMO would be in accordance with policy CP21.

**8.17 Design and Appearance:**

The external alterations would be confined to the ground floor rear element within the southern half of the building. The works would involve the infilling of a window to the ground floor on the northern elevation in order to avoid overlooking between the two flats in addition to the installation of a sliding rear door at ground floor level in order to provide access to the rear garden.

**8.18** Overall the external alterations are considered minor in scale and would not result in harm to the character and appearance of the host building.

**8.19 Standard of Accommodation:**

The flats would be set over three floors with flats 1 and 2 on the ground floor, flat 4 on the first floor and flat 3 forming a maisonette over part of the first and the second floor.

**8.20** Although the council do not have any adopted space standards the government's Nationally Described Space Standards can be used as a

comparative guide of what is expected for new dwellings. The guidance describes that a single storey one bedroom unit should have a minimum floor area of 50m<sup>2</sup> and a single storey two bedroom unit should have a minimum floor area of between 61m<sup>2</sup> and 70m<sup>2</sup> depending on occupancy levels. A two storey 3 bedroom unit should have a minimum floor area of between 74m<sup>2</sup> and 95m<sup>2</sup>.

- 8.21 Flats 1, 2 and 3 would all meet the guidance set nationally within the nationally described space standards both in size of units and floor area. Flats 1 and 2 would also benefit from separate gardens.
- 8.22 The original submission included flat 4 as a one bedroom flat with a floor area of 45m<sup>2</sup>. As this is below the national guidance and the living room suffered from restricted usability amendments were sought to create a studio which provides more useable space and better circulation.
- 8.23 Overall the standard of accommodation provided within the flats is considered acceptable and would accord with policy QD27 of the Brighton & Hove Local Plan.
- 8.24 The HMO would include 9 bedrooms set over three floors, seven of which would have en-suite bathrooms. The final two rooms on the third floor would share a bathroom. Eight of the bedrooms (excluding the en-suite bathrooms) would be over the national standard floor area for a double room ranging from 16m<sup>2</sup> to 22.4m<sup>2</sup> when taking en-suites into account. The ninth bedroom on the third floor would have a floor area of approximately 10.5m<sup>2</sup> and therefore would qualify for a single bed space. Whilst the final bedroom would be fairly restricted if an occupier were to spend the majority of time in the room, the HMO would also include a substantial communal lounge at first floor level in addition to an adequate communal dining room / kitchen at ground floor level.
- 8.25 The applicant has indicated that the HMO will be occupied by 9 tenants. Following amendments to the layout it is considered overall, given the sufficient communal space at ground floor level, the garden area and circulation space within the bedrooms whilst taking account of the impact on adjacent neighbours, the standard of accommodation is considered acceptable for the number of occupants proposed. The retention of the communal areas in addition to maximum occupancy shall be secured by condition in order to ensure an acceptable standard of accommodation is maintained.
- 8.26 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. Although these standards are secured on new dwellings it is not considered reasonable to request them on a conversion.

**8.27 Impact on Amenity:**

Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.

- 8.28 There have been a number of objections received from neighbouring occupiers with a particular regard to the impact of the proposed development in terms of noise and general disturbance associated with the increased occupancy.
- 8.29 The previous use consisted of a 19 bedroom care home in addition to staff facilities and a kitchen operating as one site. The current proposal would split the site into two buildings including four flats with a cumulative figure of 7 bedrooms in addition to a 9 bedroom HMO creating a total of 16 bedrooms.
- 8.30 Whilst it is acknowledged that the level of activity associated with a care home would likely be less evident than the proposed use, the previous use would still have generated a significant level of activity given the size of the site, the occupancy and the associated movements of staff and visitors.
- 8.31 The proposed use is likely to generate a higher level of disturbance due to the nature of the occupancy due to more frequent comings and goings, different patterns of behaviour and the consequential disturbance, however given the size of the property and plot in addition to the location it is considered that the resultant impact would not be over what could be reasonably expected in this context. The agent has provided a draft management plan which outlines the procedures that will be taken in order to reduce the likelihood of anti-social behaviour in addition to a description of the information / contact details that will be provided to neighbours in order to complain if anti-social behaviour does occur. It is also indicated that full contact details are to be provided in the final management plan. It is therefore recommended that a full management plan should be secured by condition.
- 8.32 Furthermore as shown above there is a low proportion (below 1% of properties) of HMOs within the vicinity of the site and on this basis it is not considered that the proposed unit would result in an imbalance within the neighbourhood resulting in significant cumulative harm to neighbouring amenity.
- 8.33 It is noted that there are a number of windows at first and second floor levels which would allow views towards neighbouring properties however as the existing windows would be retained and no new openings are proposed it is considered unreasonable to secure obscure glazing. A number of objections have also been raised in relation to the roof access at first floor level and the possibility that it will be used as a roof terrace. A condition is recommended that the roof area shall be used for emergency access only.
- 8.34 Sustainable Transport:**  
SPD14 Parking states that for this development of 4 residential units in 2 Sackville Road the maximum car parking standard is 6 spaces (4 residential spaces and 2 visitor spaces). Furthermore, for this development of 9 bedrooms

the maximum car parking standard is 3 spaces when rounded up (0.25 spaces per bedroom). Therefore the proposed level of car parking (zero spaces) is in line with the maximum standards and is therefore deemed acceptable in this case.

- 8.35 The proposed development would result in a greater demand for resident parking in an area of high demand where there is a controlled parking zone scheme in place. The applicant has not submitted a parking survey to demonstrate that there is capacity for additional demand in surrounding streets therefore a condition is recommended to remove rights to resident permits to ensure that harm would not be caused.
- 8.36 Although the applicant has referred to walking in their supporting evidence, they have not referred to mobility and visually impaired access. Although footways in the vicinity of the site have been improved over the years by developer contributions, obligations and government funds there are still junctions along Pembroke Avenue that for the applicant's benefit need footway improvements (dropped kerbs in particular) to extend the transport network that policy allows the Highway Authority to request. Also, there are accessible bus stops in the vicinity of the site but mobility scooters are not permitted on buses (due to risks in an accident) hence the further importance of dropped kerbs for this growing mode of transport.
- 8.37 On this basis, dropped kerbs with paving and tactile paving if appropriate at the junction of and across Pembroke Avenue with New Church Road and at the junction of and across Pembroke Avenue with Pembroke Crescent (south) and at the junction of and across Pembroke Avenue with Pembroke Crescent (north) shall be secured by condition. This is to improve access to and from the site to the various land uses in the vicinity of the site, for example education, employment, shops, postal services, leisure (including tourism), medical, other dwellings in the wider community and transport in general.
- 8.38 SPD14 states that a minimum of 1 cycle parking space is required for every residential unit with up to 2 beds and 2 for 3 plus beds and 1 space per 3 units for visitors after 4 units. For this development of 3 residential units with up to 2 beds and 1 residential unit with 3 beds the minimum cycle parking standard is 5 cycle parking spaces in total (5 for residential units and 0 visitor spaces). The applicant has proposed a cycle store in the form of a proposed building at the rear of 4 Sackville Road however, the Transport Team have identified that this is not a convenient location for both 2 and 4 Sackville Road and further than that there is a lack of numbers and detail (lighting to and in, method of security, paving to and from for example) therefore cycle parking is requested by condition.

## **9. EQUALITIES**

- 9.1 None identified

**Information on Pre-application Presentations and Requests 2018**

<b>Date</b>	<b>Address</b>	<b>Ward</b>	<b>Proposal</b>	<b>Update</b>
06/02/18	Gala Bingo Site, Eastern Road, Brighton	Queen's Park	Residential-led mixed use redevelopment for c.400 homes set over c. 2,900sqm commercial and community uses	Drawing up PPA and a further round of pre-app is anticipated.
06/03/18	Preston Barracks (Watts site), Lewes Road, Brighton	Hollingdean & Stanmer	Reserved Matters for multi-storey car park and Business School	Awaiting submission of application.
06/03/18	29-31 New Church Road, Hove	Westbourne	Mixed use development.	Initial scheme presented to members on 12/12/17. Awaiting submission of application.
06/03/18 and 03/04/18 requested	Toad's Hole Valley, Hove	Hangleton & Knoll	Mixed use development comprising residential, neighbourhood centre, secondary school, B1 floorspace, SNCI enhancements, accesses from highway, landscaping and parking.	Transport issues presented to members 06/03/18. All other issues to be presented on 03/04/18.
03/04/18 requested	GBMET Pelham Campus, Brighton	St Peter's & North Laine	Hybrid application including detailed proposals for extensions and refurbishment of existing college building and new public square. Outline planning application for new residential development east of Pelham Street.	

**NOTE: The Pre Application Presentations are not public meetings and as such are not open to members of the public. All Presentations will be held in Hove Town Hall on the date given after scheduled site visits unless otherwise stated.**

08/05/18 requested	119-131 London Road (Co-op and Boots), Brighton	St Peter's & North Laine	Mixed use redevelopment to re-provide retail and student accommodation above.	
08/05/18 requested	Longley Industrial Estate, New England Street, Brighton	St Peter's & North Laine	Mixed use B1 and residential development.	
TBC	Land at Goldstone Street, Hove	Goldsmid	Erection of office building.	
TBC	Sackville Trading Estate, Sackville Road, Hove	Hove Park	Mixed residential and commercial development.	

**NOTE: The Pre Application Presentations are not public meetings and as such are not open to members of the public. All Presentations will be held in Hove Town Hall on the date given after scheduled site visits unless otherwise stated.**



**PLANNING COMMITTEE:**  
**4<sup>th</sup> April 2018**

**Agenda Item 124**

Brighton & Hove City Council

**NEW APPEALS RECEIVED**

**WARD**

**APPEALAPPNUMBER**

**ADDRESS**

**DEVELOPMENT DESCRIPTION**

**APPEAL STATUS**

**APPEAL RECEIVED DATE**

**APPLICATION DECISION LEVEL**

**CENTRAL HOVE**

BH2017/02658

Flat C 53 St Aubyns Hove BN3 2TJ  
Replacement of existing timber windows with UVPC sliding sash windows.

APPEAL IN PROGRESS

06/03/2018

Delegated

**WARD**

**APPEALAPPNUMBER**

**ADDRESS**

**DEVELOPMENT DESCRIPTION**

**APPEAL STATUS**

**APPEAL RECEIVED DATE**

**APPLICATION DECISION LEVEL**

**HANGLETON AND KNOLL**

BH2017/03352

The Bungalow 11 Hangleton Lane  
Hove BN3 8EB

Erection of boundary wall & fencing to west elevation (retrospective).

APPEAL IN PROGRESS

13/02/2018

Delegated

**WARD**

**APPEALAPPNUMBER**

**ADDRESS**

**DEVELOPMENT DESCRIPTION**

**APPEAL STATUS**

**APPEAL RECEIVED DATE**

**APPLICATION DECISION LEVEL**

**HANOVER AND ELM GROVE**

BH2017/00146

72 Brading Road Brighton BN2 3PD  
Change of use from residential dwelling (C3) to large house in multiple occupation (Sue Generis) (Retrospective)

APPEAL IN PROGRESS

06/03/2018

Delegated

**WARD**

**APPEALAPPNUMBER**

**ADDRESS**

**DEVELOPMENT DESCRIPTION**

**APPEAL STATUS**

**HANOVER AND ELM GROVE**

BH2017/00389

40 Pankhurst Avenue Brighton BN2 9YN

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

APPEAL IN PROGRESS

<u>APPEAL RECEIVED DATE</u>	06/03/2018
<u>APPLICATION DECISION LEVEL</u>	Delegated
<b><u>WARD</u></b>	<b>HANOVER AND ELM GROVE</b>
<u>APPEALAPPNUMBER</u>	BH2017/00749
<u>ADDRESS</u>	29 Southampton Street Brighton BN2 9UT
<u>DEVELOPMENT DESCRIPTION</u>	Change of use from 4 bedroom single dwelling (C3) to a 5 bedroom small house in multiple occupation (C4).
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	12/02/2018
<u>APPLICATION DECISION LEVEL</u>	Delegated
<b><u>WARD</u></b>	<b>HANOVER AND ELM GROVE</b>
<u>APPEALAPPNUMBER</u>	BH2017/03005
<u>ADDRESS</u>	9 Milton Road Brighton BN2 9TQ
<u>DEVELOPMENT DESCRIPTION</u>	Installation of front dormer.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	14/02/2018
<u>APPLICATION DECISION LEVEL</u>	Delegated
<b><u>WARD</u></b>	<b>HOLLINGDEAN AND STANMER</b>
<u>APPEALAPPNUMBER</u>	BH2017/03331
<u>ADDRESS</u>	31 Twyford Road Brighton BN1 9GN
<u>DEVELOPMENT DESCRIPTION</u>	Erection of two storey side extension with gable end roof and creation of front entrance and porch.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	12/02/2018
<u>APPLICATION DECISION LEVEL</u>	Delegated
<b><u>WARD</u></b>	<b>REGENCY</b>
<u>APPEALAPPNUMBER</u>	BH2017/01906
<u>ADDRESS</u>	Pavement Outside 25 East Street Brighton BN1 1HL
<u>DEVELOPMENT DESCRIPTION</u>	Installation of telephone kiosk on pavement.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	22/02/2018
<u>APPLICATION DECISION LEVEL</u>	Delegated
<b><u>WARD</u></b>	<b>REGENCY</b>
<u>APPEALAPPNUMBER</u>	BH2017/01912
<u>ADDRESS</u>	Pavement Opposite 82 North Street North Street Brighton BN1 1ZA

<u>DEVELOPMENT DESCRIPTION</u>	Installation of telephone kiosk on pavement.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	23/02/2018
<u>APPLICATION DECISION LEVEL</u>	Delegated
<b><u>WARD</u></b>	<b>REGENCY</b>
<u>APPEALAPPNUMBER</u>	BH2017/01913
<u>ADDRESS</u>	Pavement Outside 47/48 North Street North Street Brighton BN1 1RH
<u>DEVELOPMENT DESCRIPTION</u>	Installation of telephone kiosk on pavement.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	23/02/2018
<u>APPLICATION DECISION LEVEL</u>	Delegated
<b><u>WARD</u></b>	<b>REGENCY</b>
<u>APPEALAPPNUMBER</u>	BH2017/01914
<u>ADDRESS</u>	Pavement Outside 19 North Street Brighton BN1 1EB
<u>DEVELOPMENT DESCRIPTION</u>	Installation of telephone kiosk on pavement.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	23/02/2018
<u>APPLICATION DECISION LEVEL</u>	Delegated
<b><u>WARD</u></b>	<b>REGENCY</b>
<u>APPEALAPPNUMBER</u>	BH2017/02290
<u>ADDRESS</u>	Bathurst 2 Clarence Square Brighton BN1 2ED
<u>DEVELOPMENT DESCRIPTION</u>	Replacement of existing timber windows with UPVC windows.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	13/02/2018
<u>APPLICATION DECISION LEVEL</u>	Delegated
<b><u>WARD</u></b>	<b>ROTTINGDEAN COASTAL</b>
<u>APPEALAPPNUMBER</u>	BH2017/03555
<u>ADDRESS</u>	43 Ainsworth Avenue Brighton BN2 7BG
<u>DEVELOPMENT DESCRIPTION</u>	Erection of a first floor rear extension with associated roof extension and revised fenestration incorporating a Juliette balcony. Erection of a ground floor rear extension with revised fenestration.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS

<u>APPEAL RECEIVED DATE</u>	14/02/2018
<u>APPLICATION DECISION LEVEL</u>	Delegated
<b><u>WARD</u></b>	<b>ST. PETER'S AND NORTH LAINE</b>
<u>APPEALAPPNUMBER</u>	BH2017/01907
<u>ADDRESS</u>	Pavement Outside 60 Castle Square Brighton BN1 1DX
<u>DEVELOPMENT DESCRIPTION</u>	Installation of telephone kiosk on pavement.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	22/02/2018
<u>APPLICATION DECISION LEVEL</u>	Delegated
<b><u>WARD</u></b>	<b>ST. PETER'S AND NORTH LAINE</b>
<u>APPEALAPPNUMBER</u>	BH2017/01908
<u>ADDRESS</u>	Pavement Outside 1 Church Street Brighton BN1 1UJ
<u>DEVELOPMENT DESCRIPTION</u>	Installation of telephone kiosk on pavement.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	22/02/2018
<u>APPLICATION DECISION LEVEL</u>	Delegated
<b><u>WARD</u></b>	<b>ST. PETER'S AND NORTH LAINE</b>
<u>APPEALAPPNUMBER</u>	BH2017/01909
<u>ADDRESS</u>	Pavement Outside 17 Jubilee Street Jubilee Street Brighton BN1 1GE
<u>DEVELOPMENT DESCRIPTION</u>	Installation of telephone kiosk on pavement.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	22/02/2018
<u>APPLICATION DECISION LEVEL</u>	Delegated
<b><u>WARD</u></b>	<b>WESTBOURNE</b>
<u>APPEALAPPNUMBER</u>	BH2017/00407
<u>ADDRESS</u>	Land To The Rear Of 69 New Church Road Hove BN3 4BA
<u>DEVELOPMENT DESCRIPTION</u>	Erection of semi-detached garage incorporating enlargement of existing crossover and associated works.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	19/02/2018
<u>APPLICATION DECISION LEVEL</u>	Delegated
<b><u>WARD</u></b>	<b>WESTBOURNE</b>
<u>APPEALAPPNUMBER</u>	BH2017/01296

ADDRESS 148 Portland Road Hove BN3 5QL  
DEVELOPMENT DESCRIPTION Partial demolition of existing offices (B1) and erection of 3no two bedroom houses (C3).  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 19/02/2018  
APPLICATION DECISION LEVEL Delegated

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**WARD**

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

**WITHDEAN**

BH2017/02347

The Lodge Surrenden Park Brighton BN1 6XA

Erection of extension to create additional storey.

APPEAL IN PROGRESS

12/02/2018

Delegated

**WARD**

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

**WOODINGDEAN**

BH2017/01970

Land Rear Of 87 And 89 Cowley Drive Brighton BN2 6WD

Demolition of existing detached garage and erection of 1no two bedroom dwelling (C3) fronting Donnington Road.

APPEAL IN PROGRESS

12/02/2018

Delegated



**PLANNING COMMITTEE****Agenda Item 125**

Brighton &amp; Hove City Council

Planning Application no:	BH2016/05530
Description:	Outline planning application with appearance reserved for the construction of 45 no one, two, three, four and five bedroom dwellings with associated garages, parking, estate roads, footways, pedestrian linkages, public open space, strategic landscaping and part retention/reconfiguration of existing paddocks. New vehicular access from Ovingdean Road and junction improvements.
Decision:	
Type of Appeal	Public Inquiry against refusal
Date:	24.04.2018 at Council Chamber, Hove Town Hall.
Site Location:	Land South Of Ovingdean Road, Brighton

Planning Application no:	
Description:	
Decision:	
Type of Appeal	
Date:	
Site Location:	





**APPEAL DECISIONS**

	<b>Page</b>
<b>A –14 CANNING STREET, BRIGHTON – QUEEN’S PARK</b>	<b>109</b>
<p>Application 2017/02000 – Appeal against refusal to grant planning permission for new door opening onto the new timber deck with handrail on existing rear extension to match adjacent balcony. <b>APPEAL DISMISSED</b> (delegated decision)</p>	
<b>B – 87 ST JAMES’ STREET, BRIGHTON – QUEEN’S PARK</b>	<b>113</b>
<p>Applications BH2017/01672 &amp; BH2017/01673 – Appeal against refusal to grant retrospective planning permission for internal alterations to a Grade II Listed Building and subdivision to create a self-contained studio flat. <b>APPEALS DISMISSED</b> (delegated decision)</p>	
<b>C – 2 PLYMOUTH AVENUE, BRIGHTON – MOULSECOOMB &amp; BEVENDEAN</b>	<b>119</b>
<p>Application BH2017/02138 – Appeal against refusal to grant planning permission for change of use of existing C4 small house in multiple occupation to a Sui-Generis large house in multiple occupation. <b>APPEAL DISMISSED</b> (delegated decision)</p>	
<b>D – 26 PLYMOUTH AVENUE, BRIGHTON – MOULSECOOMB &amp; BEVENDEAN</b>	<b>121</b>
<p>Application BH2017/00647 – Appeal against refusal to grant planning permission for the change of use of existing (C3) dwelling house to dual C3/C4 small house in multiple occupation. <b>APPEAL ALLOWED</b> (delegated decision)</p>	
<b>E – 33 HILLSIDE, BRIGHTON – MOULSECOOMB &amp; BEVENDEAN</b>	<b>125</b>
<p>Application BH2017/01420 – Appeal against refusal to grant planning permission for proposed change of use of an existing C4 small house in multiple occupation to a Sui-Generis large house in multiple occupation <b>APPEAL DISMISSED</b> (delegated decision)</p>	

**F – 33 HALLETT ROAD, BRIGHTON – HANOVER & ELM GROVE 127**

Application BH2016/06283 – Appeal against refusal to grant planning permission for change of use from C3 residential to C4 small house in multiple Occupation retrospective. **APPEAL DISMISSED** (delegated decision)

**G – 9 MILTON ROAD, BRIGHTON – HANOVER & ELM GROVE 129**

Application BH2017/03005 – Appeal against refusal to grant planning permission for installation of dormer with two windows to front roof slope. **APPEAL DISMISSED** (delegated decision)

**H – 62 POPLAR AVENUE, HOVE – HANGLETON & KNOLL 131**

Application BH2017/00448 – Appeal against refusal to grant planning permission for proposed installation of front dormer.  
**APPEAL DISMISSED** (delegated decision) Cost Application (dismissed)

**I – 6 LARK HILL, HOVE, – HANGLETON & KNOLL 135**

Application BH2017/02177 – Appeal against refusal to grant planning permission for hip to gable and dormer to existing roof to match adjoining semi-detached property. **APPEAL ALLOWED** (delegated decision)

**J – 15 GLADYS ROAD, HOVE – HANGLETON & KNOLL 139**

Applications A, BH2017/02413 & B, BH2017/02411 – Appeal against refusal to grant planning permission for (a) change of use from C3 3 dwelling to a Sui-Generis House in Multiple Occupation and b) conversion of six bedroom dwelling (C3) to 4no flats including removal of existing lean to structure and creation of new entrance with canopy above, removal of existing garage and erection of single storey side extension and other associated works. **BOTH APPEALS DISMISSED** (delegated decision)

**K – 33 BAKER STREET, BRIGHTON – ST. PETER'S & NORTH LAINE** 143

Application BH2017/00645 – Appeal against refusal to grant planning permission for change of use of existing C3 dwelling to a C4 small house in multiple occupation. **APPEAL DISMISSED** (delegated decision)

**L – 81 WOODBOURNE AVENUE, BRIGHTON – PATCHAM** 147

Application BH2017/00747 – Appeal against a refusal to grant planning permission for proposed single storey rear extension. **APPEAL ALLOWED** (delegated decision)

**M – THE LODGE, SURRENDEN PARK, BRIGHTON –** 149

Application BH2017/02347 – Appeal against a refusal to grant planning permission for extension to increase height of the building by one storey. **APPEAL DISMISSED** (delegated decision)

**N – 3 SHIRLEY ROAD, HOVE – HOVE PARK** 153

Application BH2017/01443 – Appeal against a refusal to grant planning permission for demolition of garage and erection of a 3 bedroom residential dwelling (C5) to the rear of 3 Shirley Road fronting Lloyd Road. **APPEAL ALLOWED** (delegated decision)

**O – LAND EAST OF 1 & 3 ORCHARD AVENUE, HOVE – HOVE PARK** 159

Application BH2017/001589 – Appeal against a refusal to grant planning permission for single storey garage to be demolished with a single storey eco dwelling erected. **APPEAL DISMISSED** (delegated decision)

**P – THE HAMES, OIVINGDEAN ROAD, OIVINGDEAN, BRIGHTON – ROTTINGDEAN COASTAL** 163

Application BH2017/02197 – Appeal against a refusal to grant planning permission for proposed change of use of the existing residential garage to a food preparation area and hot food preparation area and hot food takeaway (A5) use .**APPEAL DISMISSED** (delegated decision)

**Q – 43 AINSWORTH AVENUE, OIVINGDEAN, BRIGHTON –  
ROTTINGDEAN COASTAL 167**

Application BH2017/03555 – Appeal against a refusal to grant planning permission for rear, ground and first floor extension and associated internal alterations to existing detached house.  
**APPEAL ALLOWED** (delegated decision)

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## Appeal Decision

Site visit made on 6 February 2018

**by S J Buckingham BA (Hons) DipTP MSc MRTPI FSA**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 23<sup>rd</sup> February 2018**

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**Appeal Ref: APP/Q1445/W/17/3188843**

**4 Canning Street, Brighton, East Sussex BN2 0EF**

- 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 Miss Alice Hackett against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/02000, dated 30 April 2017, was refused by notice dated 22 August 2017.
  - The development proposed is new door opening onto new timber deck with handrail on existing rear extension, to match adjacent balcony.
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. In Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered from that given on the application form and neither party has provided written confirmation that such a change was agreed. I have however used the one given by the Council on its Decision Notice as it is clearer.

### Main Issues

3. The main issues are:-
  - whether the development would preserve the special character and appearance of the College Conservation Area, and the effect on the significance of the designated heritage asset; and
  - the effect on the living conditions of neighbouring occupiers in terms of overlooking, noise and disturbance.

### Reasons

#### *Conservation Area*

4. No. 14 Canning Street is a modest, nineteenth century terraced house. Due to the fall of the land it is of two storeys at the front and four to the rear. Although I was not given access to the house, I was able to view the rear of the appeal dwelling and others around it from an open car parking area to the rear of St Matthews Court, a block of flats on College Terrace and Sutherland Road.
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5. No detailed assessment of the character of the College Conservation Area has been put before me. However, my observation was that much of the significance of this part of the conservation area resides in the traditionally designed and constructed terraces, with visual harmony arising from the rhythmic repetition of simple elements such as doors and windows. The houses are relatively plain to the rear, but generally consistent in design, having largely flat elevations, although some feature modest rear extensions with monopitch or flat roofs. While the appellant has indicated that there are other balconies in the vicinity, I noted only a small number of traditional metal fire escape balconies on which plants or items of furniture had been placed.
6. The proposed roof terrace would be on at second floor level to the rear of the house, situated on top of an existing, flat-roofed two storey rear extension, adjoining a similar, larger terrace on the adjoining dwelling. The Council has advised that the latter is there as a result of being a lawful development.
7. Creation of the proposed terrace would include raising the parapet wall, creation of an access door and erection of railings on the parapet. It has been suggested that these elements would match those on the neighbouring roof terrace, although limited details have been supplied.
8. The appeal proposal would introduce new features which would create an uncharacteristic element interrupting the generally consistent appearance of the rear elevation of the terrace. It would be a very visible and intrusive element in that setting, an effect exacerbated by its proximity to the existing terrace, and would therefore fail to preserve the character and appearance of the conservation area, and would be harmful to its significance.
9. Paragraph 132 of the Framework is clear 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. I conclude that, as the proposed terrace would be a single discordant feature, for the purposes of this paragraph the harm would be less than substantial.
10. In these circumstances, Paragraph 134 of the Framework advises us, this less than substantial harm should be weighed against the public benefits of the proposal. No potential public benefit of the proposal has been put before me, and I have identified none. I conclude therefore that the harm would not be justified.
11. The proposal would also fail to comply with policy QD14 of the LP, which seeks also to resist alterations to existing buildings which are not well designed in relation to the property itself and to the surrounding area. It would also conflict with policy HE6 of the LP which seeks development within conservation areas which preserve or enhance their character or appearance. Policy CP15 of the Brighton and Hove City Plan Part One 2016 seeks development which conserves and enhances the city's historic environment, and the proposal would fail to comply with this.

*Living Conditions*

12. The houses in Canning Street back onto a similar terrace on College Terrace. The two are separated by their small rear gardens and a central boundary wall.

13. As a result of its elevated position, the proposed roof terrace would enable overlooking of the rear gardens of adjacent houses. As it would not project far from the rear of the building, it would not be likely to allow views backwards into the windows of neighbouring properties to either side, but would provide closer views of windows on houses facing it to the rear.
14. Although there is already a degree of mutual overlooking between the terraced properties and gardens, which is not unusual in an urban setting, because of the close spacing of the terraces and small size of the gardens, this appears particularly pronounced. The additional effect in relation to gardens and windows to the rear would therefore be harmful in terms of overlooking and of the consequent effects on the privacy and perceived privacy of the occupiers of adjacent houses to the sides and rear.
15. While the appellant has indicated that provision of screening would have the potential to mitigate this effect, no details have been supplied, and it does not appear likely to me that this could be achieved without significantly exacerbating the visual harm that I have identified above.
16. The proposed terrace would be small, and unlikely to accommodate a large number of people, and any activity it would encourage would be similar in character to the noise from a garden or open window. However it would be occurring closer to upper floor windows of adjacent properties. I conclude that it would therefore cause some harm in terms of noise and disturbance.
17. The development would thus fail to comply with the provisions of saved policies QD14 and QD27 of the Brighton and Hove Local Plan 2005 (LP) in relation to avoiding development which would result in significant loss of privacy or cause material nuisance and loss of amenity to the occupiers of neighbouring properties.

### **Conclusion**

18. For the reasons given above therefore, I conclude that the appeal should be dismissed.

*S J Buckingham*

INSPECTOR







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## Appeal Decisions

Site visit made on 20 February 2018

by **S J Papworth DipArch(Glos) RIBA**

an Inspector appointed by the Secretary of State

Decision date: 5 March 2018

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### **Appeal A: APP/Q1445/W/17/3189822**

#### **87 St James's Street, Brighton BN2 1TP**

- 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 I Gunsel against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/01672, dated 17 May 2017, was refused by the Council by notice dated 12 July 2017.
  - The development proposed is retrospective application for the internal alterations to a Grade II Listed Building and subdivision to create a self-contained studio flat.
- 

### **Appeal B: APP/Q1445/Y/17/3189605**

#### **87 St James's Street, Brighton BN2 1TP**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by Mr I Gunsel against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/01673, dated 17 May 2017, was refused by the Council by notice dated 12 July 2017.
  - The works proposed are retrospective application for the internal alterations to a Grade II Listed Building and subdivision to create a self-contained studio flat.
- 

## Decisions

1. I dismiss both appeals.

## Main Issues

2. These are;
  - In both Appeal A and Appeal B, the effect of the works on the architectural or historic significance of the listed building and its setting within the East Cliff Conservation Area.
  - In Appeal A only, the effect of the works on the living conditions of prospective occupiers with particular regard to the size of the Studio Flat.

## Reasons

### *Listed Building*

3. The building is listed at Grade II and sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require special regard to be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of

- the same Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
4. Paragraph 132 of the National Planning Policy Framework 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.
  5. Policy HO9 of the Brighton & Hove Local Plan provides for residential conversions provided, at part (f) that if the building is listed, the proposal preserves the character of the listed building. Policy HE1 states that proposals involving the alteration, extension, or change of use of a listed building will only be permitted where the proposal would not have any adverse effect on the architectural and historic character or appearance of the interior, among other considerations. Heritage is the subject of Policy CP15 of the Brighton & Hove City Plan Part One, the city's historic environment will be conserved and enhanced in accordance with its identified significance, giving the greatest weight to designated heritage assets.
  6. Policy HO9(f) is engaged with regard to the planning appeal and the first floor only as that is a residential conversion into two flats, but Policies HE1 and CP15 are material considerations in the listed building consent appeal as a whole.
  7. Supplementary Planning Guidance Note 11 '*Listed Building Interiors*' makes clear the importance of plan-form with alterations being expected to respect the original plan form which must remain 'readable'.
  8. The reason for refusal of listed building consent concerns what is described as '*extensive internal changes to the planform of the Grade II listed building which includes the unsympathetic division of original spaces causing harm to the volume and proportions of the historic interior*' and clearly concerns the entirety of the works shown on the drawings on each of the first, second and third floors, the latter two being confined to the sub-division of a room on the St James's Street corner. In the planning application refusal notice, the reference is to '*the works undertaken in creating the division of the first floor into two units involved extensive internal changes to the planform of the Grade II listed building*' and with regard to Policy HO9(f).
  9. The drawings are somewhat sketchy with regard to the access stair and landing arrangements, although it is fair to note that the drawings do not purport to show areas that apparently were not surveyed. It was nevertheless clear at the site inspection where the front doors of each flat are and those parts of the stair and landings that are common areas.
  10. Of more concern is the statement from the Council that further works would be required to ensure a protected route in case of fire from bedrooms to the protected shaft of the staircase, and this appears to apply to Flat 1, Flat 2 and Flat 3, where the newly formed sleeping accommodation is beyond the living room/kitchen and behind a non-glazed door. This would require occupiers to pass through an area of fire risk even if they are immediately aware of the fire. In the absence of evidence of other fire precaution measures, there is doubt as to whether the arrangement seen at the site inspection is the final one.
  11. Another failure of the drawings is a lack of explanation as to the works carried out to increase the headroom in the Studio Flat, where the soffit rises. Whilst

to an extent the low-level bathroom retains the original shape and an appreciation of the original volume of the room, the work to the soffit has eroded that perception of this once having been a room and has caused harm by introducing a discordant and confusing feature.

12. New partition walls have been inserted in what was previously a single front room, to form a living room and a bedroom to Flat 1, a living room and an additional bedroom to Flat 2, and a living room and 2 additional bedrooms to Flat 3. The walls respect the arrangement of windows and the fact that lights and activity may now appear separated into various rooms when seen from view points on St James's Street and Margaret Street would not register as being unusual and the works have no adverse effect on the external significance of the listed building or the character and appearance of the East Cliff Conservation Area.
13. However, the new partition walls do not respect the arrangement of the chimney breast on each floor and the fact that this is a redundant feature of the rooms does not diminish the effect so as to make this work acceptable. It is acknowledged that the new partitions could be removable, that the effect on the fabric of the building could be minimal and that the effect on the proportions of the rooms may well be reversible. But, care should be taken to retain the 'readability' of the original plan form as stated in the Supplementary Planning Document, and failing to present the whole of the chimney breast frustrates the appreciation of the original form of the building and the hierarchy of rooms, as does running new picture rails or cornices around new rooms.
14. The sub-division of the front rooms and the works to the soffit of the Studio Flat have caused harm to the architectural and historic significance of the building and fail to accord with Policies HO9(f), HE1 and CP15, or the aims of the Supplementary Planning Document. The statutory tests in section 16(2) and 66(1) of the 1990 Act would not be met.
15. The level of that harm is however 'less than substantial', a differentiation required between paragraphs 133 and 134 of the Framework. In this case the latter applies and this states that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. That will be considered in the planning and listed building balance which follows the second main issue.

#### *Living Conditions*

16. Local Plan Policy QD27 states that Planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
17. The appellant draws attention to the use of the 'and' linking 'material nuisance' and 'loss of amenity' stating that this requires both to be compromised. It is the case that 'and/or' is deliberately used later in the policy to provide for either one or both types of users to be affected. The Council refer to the supporting text which is clearer as to the intent. However, a material nuisance in planning terms is not necessarily the same as a statutory nuisance, and the full sentence applies to the proposed occupiers. In any event paragraph 56 of the Framework states that the Government attaches great importance to the design of the built environment; good design is a key aspect of sustainable

development, is indivisible from good planning, and should contribute positively to making places better for people. The provision of a good standard of living accommodation should be the aim of good planning.

18. The Council provide a commentary on floor areas relative to the Government's '*Technical Housing Standards – Nationally Described Space Standard*' but this refers to new dwellings and the Council do not have an adopted policy in this respect. The Standard is however a useful benchmark, and with regard to the Studio Flat on the first floor, which is the one objected to in the reason for refusal, the total of the main floor and the mezzanine is stated to be 26m<sup>2</sup> as opposed to the Standard's area of 37m<sup>2</sup> for a 1 person 1 bed-space flat. The Council has taken a flexible approach to minor failings in another flat, but this is a significant reduction.
19. The figure in the standard is 'gross internal floor area' and in an open plan rather than a cellular arrangement, all space is useable. It is appropriate therefore to consider the quality of the provision. The flat is self-contained and appears to have a serviceable and useable bathroom, with a bath and not just a shower, however strictly that would increase the requirement to 39m<sup>2</sup>. Be that as it may, the all-in-one kitchen unit appears well engineered and able to provide the basic level of cooking, storage and preparation/washing-up that would be expected of a small flat in a town centre location, close to shops and food outlets.
20. The living space would provide adequate room for the purpose, and is well-lit with a large window that is not shown on the drawings, but is an attractive feature of the flat and makes it appear larger than its dimensions may suggest. The bathroom, kitchen and living area is of a high quality and does not appear cramped.
21. The bedroom arrangements however are awkward to access and cramped, although it is noted that a small double bed is in place which does not help circulation. In fact, there is no space either side of that size of bed and access would, realistically, have to be over the foot-rail. The stairs are narrow and the headroom very limited, although the Standard does provide for 2.3m requirement to be only over 75% of the floor area, and that appears to have been met with a higher level generally adding to the feeling of light and air in the main part of the flat.
22. In conclusion, whilst not adopted for planning purposes, the degree of under-provision in floor area from a national standard, but more importantly, the quality of the space in the Studio Flat would not meet the requirement of the Framework on good design. The arrangement and access to the sleeping area would lack a reasonable level of amenity as sought in Policy QD27.

### **Planning and Listed Building Balance, and Conclusions**

23. Harm has been found to the architectural and historic significance of the listed building and the courts have determined that considerable importance and weight should be given to such harm. The appellant has put forward what he considers to be public benefits in the event that his argument that no harm would be caused to the listed building is not accepted, which is the case.
24. The appellant accepts that the Council can demonstrate a 5 year supply of housing land, based on the housing provision of 13,200 units. However, the

Objectively Assessed Housing Needs Report of 2015 stipulate a figure of 30,120 in the Plan period to 2030, so the appellant considers there to be a shortfall of over 16,000 units as a result and that any proposal to provide more housing should be embraced. A number of policies are cited that support the supply of housing in sustainable locations and existing buildings.

25. The Council accept that the Examining Inspector agreed the 13,200 figure as a minimum requirement, and the appellant refers to the Inspector's findings that the Council should '*rigorously assess all opportunities to meet housing need*'. In addition paragraph 47 of the Framework states the requirement to boost significantly the supply of housing.
26. It appears that Flats 1, 2 and 3 existed, so that the appeal works would add a single Studio Flat, but would also add bed-spaces. To that extent more people could be housed in the building. The site is in a highly accessible location with many bus routes nearby and a range of services and shops are immediately outside or a short walk away. Housing could well be the optimum viable use already, but intensification of that use in the way proposed is not in the best interest of the listed building.
27. The proposal would generally serve the economic and social roles of sustainable development well, due to this town centre location and the provision of additional accommodation, although the standard of accommodation cannot be said to be of the high quality of built environment sought in the social role. The environmental role would not be well served at all as the proposal fails to protect the historic environment.
28. In the balance, the harm to the listed building is not outweighed by the public benefits, and the provision of more accommodation does not justify the standard of that accommodation in the case of the Studio Flat. For the reasons given above it is concluded that both appeals should be dismissed.

*S J Papworth*

INSPECTOR





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## Appeal Decision

Site visit made on 8 December 2017

by **R J Marshall LLB DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 March 2018

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**Appeal Ref: APP/Q1445/W/17/3184207**  
**2, Plymouth Avenue, Brighton, BN2 4JB**

- 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 Oliver Dorman (Rivers Birtwell) against Brighton & Hove City Council.
  - The application, Ref BH2017/02138, is dated 23 June 2017.
  - The development proposed is change of use of an existing C4 small house in multiple occupation to a Sui-Generis large house in multiple occupation.
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### Decision

1. The appeal is dismissed.

### Background

2. The Council has resolved that had it been in time to determine the application permission would have been refused on the following grounds: a) harm to neighbour's living conditions through increased noise and disturbance through an increased occupancy of the building and increased proportion of HMO occupants in the area; b) inadequate internal space to provide acceptable living conditions; and c) to create the additional accommodation an unattractive roof extension has been constructed to the detriment of the character and appearance of the area. For reasons given below only item b above need to detain me in this case.

### Main issue

3. Thus the main issue in this appeal is whether the development for which permission is sought would provide satisfactory living conditions for its future residents with regard to the provision of internal living space.

### Reasons

#### *Main issue*

4. The appeal property is a detached bungalow in an estate of 1950s style housing. In February 2016 permission was granted, retrospectively, for the change of use of this property to a C4 small house in multiple occupation (HMO). Later in June 2016 an application for a certificate of lawfulness for a proposed loft conversion incorporating hipped and gable extensions to sides, rear dormer and front roof lights and alterations to fenestration was submitted.

The plans with this application showed the provision of 6 bedrooms. The certificate was approved in August 2016.

5. The roof extension has been built. A loft conversion completion certificate under Building Regulations was issued in October 2016 for the works. The plans with the certificate show the provision of 9 bedrooms. When I inspected the site 9 bedrooms had been provided, of which 8 appeared to be occupied.
6. The roof extension does not form part of the proposal before me. There is a dispute between the parties as to whether it should. The Council says that it should on the basis that works which form part of a development which includes a material change of use requiring planning permission cannot be classed as permitted development. The appellant contests this saying the following completion of the works the dwelling was re-occupied as an improved C4 HMO for 6 persons. He says subsequent changes to the internal layout to facilitate 9 bedrooms are a separate act of development that does not negate the lawfulness of the extension.
7. I find the above statement of the appellant difficult to reconcile with the Building Regulations completion certificate which indicates that when the works were completed they were for the provision of 9 bedrooms. This being so I consider that the Council's stance has some merit. The implication of adopting this view would be that the extension to the roof is unlawful and in the circumstances I cannot rule out that being the case. In which case a separate permission will be required for it, and that may well not be granted by the Council given its objection to its character and appearance.
8. In the absence of the roof extension there would be a substantial reduction in floorspace. It seems to me unlikely that a property of this reduced size would be able to house a large HMO whilst providing satisfactory internal living space for future occupants, and there is no evidence to the contrary.
9. Accordingly I must conclude that it is not been shown that the development for which permission is sought would provide satisfactory living conditions for its future residents with regard to the provision of internal living space. In the circumstances it would be contrary to Policy CP19 of the Brighton and Hove City Plan and Policy QD27 of the Brighton and Hove Local Plan which seek to secure quality in the residential development and protect the amenity of future residents.

### ***Other matters***

10. I acknowledge the other matters at dispute between the parties as outlined in my background paragraph. However, so fundamental is my concern on the main issue above, and notwithstanding the support of some for the provision of this HMO, I consider that this alone merits dismissing the appeal.

### **Conclusion**

11. For the reasons given above the appeal is dismissed.

*R J Marshall*

INSPECTOR





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## Appeal Decision

Site visit made on 20 February 2018

by **S J Papworth DipArch(Glos) RIBA**

an Inspector appointed by the Secretary of State

Decision date: 1 March 2018

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**Appeal Ref: APP/Q1445/W/17/3186174**

**26 Plymouth Avenue, Brighton BN2 4JB**

- 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 Scott Youlden against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/00647, dated 23 February 2017, was refused by notice dated 30 September 2017.
  - The development proposed is change of use of an existing C3 dwellinghouse to dual C3/C4 small house in multiple occupation.
- 

### Decision

1. I allow the appeal and grant planning permission for change of use of an existing C3 dwellinghouse to dual C3/C4 small house in multiple occupation at 26 Plymouth Avenue, Brighton BN2 4JB in accordance with the terms of application Ref BH2017/00647, dated 23 February 2017, subject to conditions 1) to 4) on the attached schedule.

### Main Issues

2. These are;
  - The effect of the proposed change on the provision of balanced communities and on local amenity.
  - The effect of the proposed change on the living conditions of prospective occupiers.

### Reasons

#### *Balanced Communities and Local Amenity*

3. The history of the use of the dwelling indicates that it has, from time to time, varied between a C3 dwelling house, perhaps with 2 lodgers in the 3 bedroom property, and what should be considered a C4 small 'house in multiple occupation' when the use of one of the larger bedrooms is by a couple. The dwelling has not been converted in a way that would prevent its use by a family of 4 related adults under Class C3, as opposed to 4 unrelated adults under Class C4. The appellant makes clear that whilst the uses just stated have varied since 2013, the building is not used for student accommodation.
4. Policy CP21 of the Brighton & Hove City Plan Part One is entitled '*Student Accommodation and Houses in Multiple Occupation*' and states the aim that to meet increasing accommodation demands from students and to create mixed,

healthy and inclusive communities, the Council will support the provision of additional purpose built accommodation and actively manage the location of new houses in multiple occupation. Change of use to a house in multiple occupation will not be permitted where more than 10% of dwellings within 50m of the site are already in use as Class C4 use.

5. The appellant points to the usual ability to change from a C3 dwelling use to a C4 small house in multiple occupation and *vice versa* without express permission as allowed for in Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015. In the present case the supporting text to Policy CP21 confirms that an Article 4 Direction was made in 4 wards requiring permission for a change to a C4 use, stemming from information from the Student Housing Strategy.
6. The policy text states that a database uses a variety of information sources including planning records, details of houses in multiple occupation licensed by the council and those properties identified as student housing through Council Tax records. The text continues with the words '*planning permission for the change of use will not be granted where more than 10 per cent of these neighbouring properties are already in 'house in multiple occupation' use.'*
7. The Council's reason for refusal refers to the percentage of extant permissions within 50m, whilst the appellant points to the use of the words '*already in use'* in both the policy text and the supporting text, and discounts extant but unimplemented permissions. The problem with this, possibly literal, approach to the wording is that if and when these other permissions are implemented, the 10% figure could then be breached by a longer-standing permission. Whilst it is reasonable that there is a 'first-come-first-served' approach to granting permission, that approach cannot be reasonable, having regard to the aims of the policy, on the basis of when permissions are implemented.
8. The Policy is clearly justified very much with regard to student accommodation needs and pressures, and the proximity of the site to 2 universities will have informed the need for the Article 4 Direction. The appellant's stated proposal is not for student accommodation and although the title of Policy CP21 is both student accommodation *and* houses in multiple occupation, the harm identified and the choice of wards for the Direction clearly links possible harm with the student use.
9. The location of this dwelling near the road junction with Fitch Drive, with its nearby lengths of kerbside parking without frontage development, and the separation from the dwelling to the south-east by a wide gap for the pathway, lead to the conclusion that there is very limited scope for harm through any theoretical additional need to park vehicles, or other increases in activity.
10. Taking all of the forgoing into consideration, it is determined that the risk of harm can be overcome by disaggregating the multiple occupation from the student use. The appellant suggests a condition to that effect, but the possible problem with that is ease of enforcement. An Undertaking may provide the more legally binding vehicle for the necessary control, and other possibilities may involve the keeping of a log of occupiers, submitted for inspection as required. The same Council Tax records that are used to identify student housing as stated in the text to Policy CP21 could also be used. In the event, a condition requiring a scheme would allow negotiation on this essential matter.

11. To conclude on this main issue, the provision of a house in multiple occupation for student use in this area would likely cause the harm sought to be avoided in Policy CP21 due to the percentage already granted permission, but provided that use can be prevented, no such harm would occur and the proposed change of use can go ahead without adverse effects on the provision of mixed, healthy and inclusive communities. No harm would be caused to the living conditions of local residents of the type that Policy QD27 aims to prevent.

#### *Living Conditions*

12. Policy QD27 states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed occupiers, or where it is liable to be detrimental to human health
13. Supplementary Planning Document '*Parking Standards*' require 0.25 spaces per bedroom, and 1 cycle space per 2 bed-spaces. The equivalent standard for the existing 3-bedroom C3 use would be 1 car space per dwelling and 2 cycle spaces per unit. In this case the provision of car spaces would not change and the garage would be available for cycle parking as it is not essential to provide a car space in addition to the driveway.
14. The dwelling has 3 bedrooms and there does not appear to be any dispute that bedrooms 1 and 3 are large enough to accommodate up to 3 adults. Bedroom 2 is considered in the Council's reason for refusal as being of limited size resulting in a cramped and oppressive standard of accommodation with little circulation space available. However, the room seen at the site inspection had a single bed across its width with its foot to the window wall, a double wardrobe and a chest of drawers, together with adequate space to move around, dress and the like. Due to the large window, the falling ground to the rear, extensive views and the large garden, the room was light, airy and attractive. The room may not be readily useable as a study-bedroom for a student wishing to work away from the communal areas, but is adequate as private space for an adult who would be making use of the communal areas for eating and relaxing.
15. In this connection is the concern of the Council that there is no designated dining area to either the kitchen or the living room and neither space could accommodate a dining facility for 4 persons while retaining sufficient space for its named function. At the time of the site inspection the kitchen had been enlarged to provide such space by the removal of the rear door lobby, store and cupboard shown on the drawings. To the extent that a non-student C4 use differs from what is capable of being at least a 4 person family house, the communal spaces provide an acceptable standard of accommodation for future occupiers in accordance with Policy QD27.

#### **Conditions and Conclusions**

16. The Council suggested a condition requiring details of the cycle store, but this is already provided in the garage and a condition requiring the use to be retained would be sufficient. A condition is required to ensure that the living room did not become used as bedroom, so that another suggested condition limiting the number of occupiers to 4 would ensure that only the 3 bedrooms are used. With that restriction in numbers and on the use of the living room, there is no need to remove permitted development rights as the harm

identified in the Council's reason for the condition would not occur. In view of the appellant's comment about the use already having occurred at times, there is no need for the commencement condition, but the requirement for a scheme to prevent student letting, as reasoned above, should have time limits for the appellant's action, otherwise the permission would lapse.

17. With those provisions, the proposed use as a small house in multiple occupation by unrelated adults, but not students, would serve a useful purpose in making best use of resources with a high level of occupancy and providing low-cost general housing in a sustainable location. For the reasons given above it is concluded that the appeal should be allowed.

*S J Papworth*

INSPECTOR

#### Schedule of Conditions

- 1) Unless within 3 months of the date of this decision a scheme for the prevention of letting to students is submitted in writing to the Local Planning Authority for approval, and unless the approved scheme is implemented within 2 months of the Local Planning Authority's approval, the use of the premises as a Class C4 house in multiple occupation shall cease until such time as a scheme is approved and implemented.  
  
In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
- 2) The development hereby approved shall be occupied by a maximum of 4 persons.
- 3) The secure cycle parking facilities in the garage shall be retained as such and be available for use at all times.
- 4) The living room as shown on drawing 0457.EXG.001 shall be retained as communal space and shall not be used as a bedroom at any time.



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## Appeal Decision

Site visit made on 8 December 2017

by **R J Marshall LLB DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 March 2018

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**Appeal Ref: APP/Q1445/W/17/3183594**  
**33, Hillside, Brighton BN2 4TF**

- 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 Oliver Dorman against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/01420, dated 25 April 2017, was refused by notice dated 21 July 2017.
  - The development proposed is change of use of an existing C4 small house in multiple occupation to a sui generis large house in multiple occupation.
- 

### Decision

1. The appeal is dismissed.

### Background

2. Planning permission was refused on the basis of: a) an unacceptable concentration of HMO uses in the area; b) harm to living conditions of neighbours; c) poor living conditions for occupants of the proposed development given room sizes; and d) harm to the character and appearance of the area due to a large roof extension. For reasons I set out further below only item c above need detain me greatly in this case.
3. Notwithstanding the appellant's observations to the contrary the development has already been undertaken so permission is being sought retrospectively for it.

### Main issue

4. Thus the main issue in this appeal is whether the development for which permission is sought would provide satisfactory living conditions for its future residents with regard to the provision of internal living space.

### Reasons

5. The appeal property is an end terraced house in an area of 1950s style housing. It has a lawful use as a C4 small house in multiple occupation (HMO). An additional 3 bedrooms have been provided which changes the use of the property to a large HMO.
6. Recently a substantial roof extension has been constructed along with an single-storey rear extension and 2 roof lights. In March 2017 a certificate of lawfulness for, what was then a proposed development for the above, was

allowed on appeal APP/Q1445/X/16/3164675 on the grounds that it was permitted development. At the time of this decision the works had been carried out. However, the inspector made it clear that her decision, under Section 191 of the 1990 Act, was made on the basis of whether the "proposed" works were lawful. A judgement as to whether the works undertaken were lawful would have to have been dealt with under Section 192 of the 1990 Act. There is thus no certificate of lawfulness for what has been built.

7. The extensions do not form part of the proposal before me. There is a dispute between the parties as to whether it should. The Council considers that there were undertaken to facilitate the change to a large HMO and that as such they should be included as part and parcel of this proposal for the change of use. The appellant contests this saying that the property is laid out with 6 bedrooms and continues to be occupied as a C4 HMO. However, this is plainly not the case as I saw 9 bedrooms within the premises. The appellant also refers to a tenancy agreement showing only 4 people occupying a premises. However, it is undated, there is no evidence that other agreements are not be in place and it is no guide as to the way the property was laid out. Accordingly, I attach that document little weight.
8. Given the above, and in the absence of a certificate of lawfulness for what has been built, I am left in some doubt as to whether the extensions are lawful. This being so I consider that the Council stance referred to above has some merit. The implications of adopting this view would be that the extensions are unlawful and in the circumstances I cannot rule that out. In which case a separate permission would be required for them, and the proposed dormer at least, given the Council's objection to its character and appearance, may well not be granted.
9. In the absence of the dormer there would be a substantial reduction in floorspace. It seems to me unlikely that the property of this reduced size would be able to house a large HMO while providing satisfactory internal living space for future occupants, and there is no evidence to the contrary.
10. Accordingly I must conclude that is not been shown that the development for which permission is sought would provide satisfactory living conditions for its future residents with regard to the provision of internal living space. In those circumstances it would be contrary to Policy CP19 of the Brighton and Hove City Plan and Policy QD27 of the Brighton and Hove Local Plan which seek to secure quality in new residential development and protect the amenity of future residents.

### **Other matters**

11. I note the other matters in dispute between the parties, as outlined in my background paragraph. However so fundamental is my concern on the main issue above that, notwithstanding the support of some for the provision of this HMO, this alone merits dismissing the appeal.

### **Conclusion**

12. For the reasons given above the appeal is dismissed.

*R J Marshall*

INSPECTOR



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## Appeal Decision

Site visit made on 8 December 2017

by **R J Marshall LLB DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 February 2018

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**Appeal Ref: APP/Q1445/W/17/3183945**  
**33 Hallett Road, Brighton BN2 9ZN**

- 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 D B Sussex Ltd. against the decision of Brighton & Hove City Council.
  - The application Ref BH2016/06283, dated 29/11/2016, was refused by notice dated 9 August 2017.
  - The development proposed is change of use from C3 residential dwelling to a C4 small HMO (retrospective).
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue in this appeal is whether the development applied for provides acceptable living conditions for its occupiers.

### Reasons

#### *Main issue*

3. The appeal building is a semi-detached house. Its lawful use is as a C3 dwelling house. It has been converted without planning permission to a C4 house in multiple occupation (HMO) for 6 occupants, and it is occupied by students. Planning permission is required for this development because there is an Article 4 Direction which removes the permitted development rights to convert a C3 use into a C4 use.
4. The Council considers that 4 of the 6 bedrooms are too small. It considers this of particular concern given what it regards as limited communal space which means that occupants would be likely spend a lot of time in their own rooms.
5. On the ground floor is a single bedroom at 12.9m<sup>2</sup>, on the first floor 3 bedrooms of between 7.1m<sup>2</sup> and 7.2m<sup>2</sup>, and on the second floor a bedroom of 9.3m<sup>2</sup> and a bedroom of 7.3m<sup>2</sup>. On the ground floor is a kitchen with a linked through dining room of 14.8m<sup>2</sup>.
6. The Council does not have adopted policies outlining minimum space standards. However, it considers that the Government's recent *Technical Housing Standards – National Described Space Standards* provides a useful

guide. However, that requires a minimum of 7.5m<sup>2</sup> as the space for single bedroom accommodation. In the proposed development 2 of the bedrooms comfortably exceed this and the remaining bedrooms are only marginally under the 7.5m<sup>2</sup>. From what I saw the 4 bedrooms which give the Council concern, although quite small, provide acceptable space for a bed, chair, workstation and wardrobe. This is so even with regard to one of the bedroom which has, in part, limited ceiling heights. As such even with restricted circulation space the 4 smaller bedrooms provide acceptable accommodation to sleep and work in. However, they are not large enough to comfortably sit in and relax or to eat and socialise.

7. There is a kitchen which links through to a dining area. However, the combined space of this area is only 14.8m<sup>2</sup>. The size of the kitchen will greatly limit the number of people able use it at any one time and means it is too small in which to eat. It has also led to the need for fridge freezers to be stored in the dining room. This reduces the space of an already small dining area which is the only space for occupants to eat and socialise in. I accept that not all occupants of the property would necessarily seek to use the dining area at the same time. However, from what I saw it is unduly cramped even for 3 people to sit around the table provided and a settee provides only cramped accommodation for 3. Given this, and limited circulation space, inadequate space exists in which to comfortably relax, eat and socialise.
8. I note that the property has an HMO licence. Past appeal decisions submitted by both parties show a different view as to the weight that should be attached in planning decisions to the fact that properties are so licensed. However, it seems to me that, whilst the issue of an HMO licence means that a property may meet some minimum standards of accommodation, it is appropriate in determining planning applications to look more broadly at the extent to which accommodation provides a pleasant environment in which to undertake a range of day-to-day activities. This is the approach adopted in those decisions forwarded to me by the Council.
9. Having regard to the above it is concluded that the development does not provide satisfactory living conditions for its future occupants. As such it would conflict with Policy QD 27 of the Brighton and Hove City Plan Part 1 (2016) which seek to protect the amenity of existing and future users of a property.

### **Other matters**

10. Third-party concerns have been raised that the proposal would add to social problems in the area by adding unacceptably to HMO student accommodation in the area. However, the Council has a development plan policy to prevent an unacceptable concentration of HMO uses and is satisfied that this policy would not be contravened. Therefore these observations should not stand against the proposal. However, acceptability on this ground does not make the proposal as a whole acceptable.

### **Conclusion**

11. For the reasons given above the appeal is dismissed.

*R J Marshall*

INSPECTOR





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# Appeal Decision

Site visit made on 8 March 2018

by **R J Maile BSc FRICS**

an Inspector appointed by the Secretary of State

Decision date: 19<sup>th</sup> March 2018

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**Appeal Ref: APP/Q1445/D/18/3192812**

**9 Milton Road, Brighton, East Sussex, BN2 9TQ.**

- 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 McQueen against the decision of Brighton & Hove City Council.
  - The application ref: BH2017/03005, dated 6 September 2017, was refused by notice dated 8 November 2017.
  - The development proposed is installation of dormer with two windows to front roof slope.
- 

## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue in this case is the effect of the proposed dormer window upon the appearance of the street scene.

## Reasons

3. The property comprises a small, two storey Victorian terraced house located in a residential area. Milton Road is not within a Conservation Area or an Area of Special Residential Character. Nevertheless, many of the buildings within the street retain original architectural features that are worthy of conservation. These include the uncluttered roofs of some of the smaller dwellings, such as those to nos. 9 and 10.
4. Milton Road is characterised by a number of differing roof styles/ridge heights. Several properties possess small dormer windows, the majority being on the taller dwellings to the south of no. 9 and also in nearby Islingword Road. These were noted during my site visit and are illustrated in the photographic record attached to the appellants' grounds of appeal.
5. No. 9 has been the subject of an extension to provide accommodation within the roof space. To this end it has a rear-facing dormer and roof lights to the front main roof slope. There are similar roof lights to the adjoining property at no. 10.
6. National policy at Chapter 7 (Requiring good design) of the National Planning Policy Framework ('the Framework') re-affirms the great importance the

Government attaches to the design of the built environment. Whilst planning decisions should not attempt to impose architectural styles or particular tastes it is, however, proper to seek to promote or reinforce local distinctiveness (see paragraph 60).

7. Policy QD14 of the Local Plan<sup>1</sup> states that extensions or alterations to existing buildings, including the formation of rooms in the roof, 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. This policy is supported by the Council's adopted SPD 12<sup>2</sup> which confirms that dormer windows will not be permitted on front or side roof slopes where they would unbalance a building or disrupt the continuity of a terrace or group.
8. Nos. 9 and 10 Milton Road are relatively modest dwellings, whose ridge heights are generally lower than many of the nearby properties in both Milton Road and Islingword Road. Whilst I acknowledge the varied form of those dwellings and the number of existing dormer windows, many of these are much smaller than that proposed here and may well pre-date both national and Development Plan policy as referred to above. In particular, the two dormer windows allowed on appeal at 16a Islingword Road facing Milton Road are smaller than that before me at this appeal and are sited on a taller and more substantial building at the junction of the two streets.
9. The Officer's Report acknowledges that the dormer window is well positioned within the roof slope and that the windows line up with the fenestration below. Notwithstanding this fact, the box dormer would represent an over-dominant and discordant feature within what is a very modest roof slope. It would also be highly visible in the street scene and adversely impact upon the uncluttered and original format of no. 9 and its immediate neighbour.
10. I therefore find upon the main issue that development as proposed would harm the appearance of the street scene contrary to national policy in the Framework as referred to above, Policy QD14 of the Local Plan and the requirements of the Council's adopted SPD 12.

## **Conclusion**

11. For the reasons given above, I conclude that the appeal should fail.

*R. J. Maile*

INSPECTOR

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<sup>1</sup> Brighton & Hove Local Plan 2005: Brighton & Hove Local Plan Policies Retained on Adoption of the Brighton & Hove City Plan Part 1 (March 2016).

<sup>2</sup> Brighton & Hove City Council Local Development Framework: SPD 12 "Design Guide for Extensions and Alterations" Supplementary Planning Document (adopted 20 June 2013).



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## Appeal Decision

Site visit made on 20 February 2018

by **S J Papworth DipArch(Glos) RIBA**

an Inspector appointed by the Secretary of State

Decision date: 8 March 2018

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**Appeal Ref: APP/Q1445/D/17/3182784**  
**62 Poplar Avenue, Hove BN3 8PS**

- 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 T A von Biel against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/00448, dated 16 February 2017, was refused by notice dated 8 June 2017.
  - The development proposed is installation of front dormer.
- 

### Decision

1. I dismiss the appeal.

### Application for Costs

2. An application for costs was made by T A von Biel against Brighton & Hove City Council. This application is the subject of a separate Decision.

### Reasons

3. The main issue is the effect of the proposed extension on the character and appearance of the area, and Policy QD14 of the Brighton and Hove Local Plan requires extensions and alterations to be well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area, and take account of the existing space around buildings and the character of the area.
4. Supplementary Planning Document 12 '*Design Guide for Extensions and Alterations*' sets out at section 3.5 the design principles for dormer windows and states that they will not be permitted on front or side roof slopes where they would unbalance a building or disrupt the continuity of a terrace or group.
5. The Design Guide continues with the advice that as a rule of thumb, the Council will seek to ensure that the visual symmetry of semi-detached pairs and the continuity of terraced buildings is retained and where possible enhanced, especially at roof level and on elevations visible from the street. However, where one half of a semi-detached pair of houses has previously been altered and this has created an imbalance, a well-designed alteration that returns symmetry to the pair may be acceptable. Such cases will always be dependent on the individual design merits of the existing alterations
6. Paragraph 56 of the National Planning Policy Framework states that the Government attaches great importance to the design of the built environment; good design is a key aspect of sustainable development, is indivisible from

- good planning, and should contribute positively to making places better for people.
7. There is a dormer on the other part of the semi-detached pair, number 64, and the Officer's Report states that *'it is noted that no recent planning permission has been granted for this'* and goes on to say that it illustrates the harm that the proposed works would create on the street-scene and does not set a precedent for further harmful works. There is some ambiguity in this statement, as although no recent permission has been granted, it does not state whether a less-than-recent permission was granted, or whether the dormer may have been in place so long that it is now immune from action. The inference taken is that whatever its planning history, that was prior to the present Development Plan policies and national advice on good design.
  8. The west side of Poplar Avenue near the site is characterised by two-storey semi-detached houses designed with some variations but a limited palette of materials and architectural details so that there is an attractive similarity among them. Dormers do not feature in that arrangement, number 64 being a prominent and notable exception over a considerable length of the road. Later works have been carried out, such as roof-lights, which appear acceptable, and conversions from hip to full gable end or attached side dormer, but these do not upset the line of the roof slopes to any great degree and do not undermine the contribution of the largely unadorned roof-scape to the pleasant character and appearance of the area. On the east side of the road there are dormers attached to chalet bungalows, these being a distinct group with low eaves and their presence appears well integrated and the variety adds to the street-scene.
  9. The dormer at number 64 has a discordant effect on the pair of dwellings, but more importantly, on the street-scene, appearing to be set too high on the roof and too close to the hip-end, when seen from ground level. The resulting alignment with the bay windows below would not appear well thought-out. The introduction of similar on the appeal property would re-introduce symmetry as referred to in the Design Guide, but that material consideration makes clear the need for the further work to be well-designed. The intention should not be to replicate poor design for the sake of symmetry.
  10. The result of the proposed development in this case would be two poorly-placed dormers in close proximity, and compounding the harm already caused on one half of the pair. That harmful effect would be more prominent for being repeated and would be seen over a considerable part of the road due to the gradient, albeit that trees could filter the views somewhat when in leaf. The proposal would fail to accord with Policy QD14 and the Framework on the quality of design, and the harm that would be caused to the character and appearance of the area is not excused or made acceptable by the re-introduction of symmetry, as the Design Guide makes clear the need for a well-designed alteration that returns symmetry. For the reasons given above it is concluded that the appeal should be dismissed.

*S J Papworth*

INSPECTOR



## Costs Decision

Site visit made on 20 February 2018

by **S J Papworth DipArch(Glos) RIBA**

an Inspector appointed by the Secretary of State

Decision date: 8 March 2018

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### **Costs application in relation to Appeal Ref: APP/Q1445/D/17/3182784 62 Poplar Avenue, Hove BN3 8PS**

- 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 T A von Biel for an award of costs against Brighton & Hove City Council.
  - The appeal was against the refusal of planning permission for installation of front dormer.
- 

### **Decision**

1. I refuse the application for an award of costs.

### **Reasons**

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The appellant's claim is for the reimbursement of time spent reading documentation to the appeal, as it is claimed that the refusal of permission was as a result of poor planning and execution on the part of the Council.
4. The Guidance states the principle that parties in planning appeals normally meet their own expenses. All parties are expected to behave reasonably to support an efficient and timely process.
5. Looking first at the claim regarding the need to read documentation; that is no more than would be required of a party to an appeal and would normally be an expense to be borne by each party. However, if the cause of the appeal was unreasonable behaviour, work such as that may well be the subject of an award.
6. In this case the accompanying Appeal Decision has found the Council's reason for refusal to be based on Development Plan policy as required by Section 38(6) of the Planning and Compulsory Purchase Act 2004, together with the guidance in the Supplementary Planning Document. The possible material consideration of the dormer at number 64 had been addressed in the Officer's Report, notwithstanding the ambiguity referred to in the Appeal Decision. Of particular note is the requirement of the National Planning Policy Framework for good design. The Council made clear the view as to the merit of the existing dormer and the harm that repetition would cause.

7. As a result, there is no indication that the decision taken by the Council was unreasonable and represented poor planning, or that their behaviour in considering the application and at appeal was poor execution of their development control function. This did not therefore result in unnecessary or wasted expense for the appellant, rather, the time and costs incurred were as would be expected in pursuing the right of appeal against a refusal of permission. The application for an award of costs fails on that basis.

*S J Papworth*

INSPECTOR



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## Appeal Decision

Site visit made on 5 March 2018

**by Elizabeth Lawrence BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 09 March 2018**

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### **Appeal Ref: APP/Q1445/D/17/3190556**

#### **6 Lark Hill, Hove, BN3 8PB**

- 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 Me Koryn George against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/02177, dated 28 June 2017, was refused by notice dated 22 September 2017.
  - The development proposed is for a hip to gable and dormer to existing roof to match adjoining semi-detached property.
- 

### **Decision**

1. The appeal is allowed and planning permission is granted for a hip to gable and dormer to existing roof to match adjoining semi-detached property at 6 Lark Hill, Hove, BN3 8PB in accordance with the terms of the application, Ref BH2017/02177, dated 28 June 2017 and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: PBP0812/01, PBP0812/02 and PBP0812/03.
  - 3) The external materials to be used in the construction of the roof extension hereby permitted shall match those of the host dwelling.

### **Main Issue**

2. The main issue is the effect of the proposal on the character and appearance of the host property and the wider area.

### **Reasons**

3. The Appeal site is located in an area that is largely characterised by symmetrically designed pairs of semi-detached single and two storey dwellings from a limited range of designs. The rising ground level results in varied roof heights and this together with the generous sized gaps between the pairs of dwellings results in a sense of separation between the pairs of dwellings.
4. Originally the main roofs of the dwellings were hipped, however a significant proportion of the dwellings have roof additions which include hip to gable

- extensions and a range of front, side and rear dormer additions. Most of the dormer additions on the bungalows have flat roofs which project close to the ridge lines of the buildings concerned. Many of the hip to gable extensions have unbalanced the pairs of dwellings, detracting from their symmetry and the sense of uniformity within the street scene.
5. This includes the dwelling at 8 Lark Hill (No.8), which adjoins the Appeal dwelling. This dwelling has a full hip to gable side extension and a large flat roofed dormer extension which covers most of the rear elevation of that dwelling. This has unbalanced the pair of dwellings and the situation is exacerbated by the existing side extension at the Appeal property, which also has a gable roof. The hipped roof of the Appeal dwelling appears visually awkward and disjointed between the gable roofs on either side.
  6. Together and amongst other things policy QD14 of the Brighton & Hove City Plan Part One (City Plan) and the Council's Supplementary Planning Document 12: *Design guide for extensions and alterations 2013* (SPD) seek to ensure that extensions are well designed and detailed both in relation to the host and adjoining properties. Roof extensions should not result in an imbalance between pairs of semi-detached dwellings, although where one half of a pair of dwellings already has a roof extension, well-designed alterations which restore their sense of symmetry may be acceptable. In such instances this may entail a more flexible approach to the guidance set out in the SPD. The guidance in the SPD advises that large box dormers give the appearance of an additional story and will not be permitted.
  7. Policy CP12 of the City Plan and the National Planning Policy Framework (NPPF), similarly seek to ensure that new development adds to the quality of the area, respects and responds to local character and reinforces local distinctiveness. At the same time the NPPF states that planning policies and decisions should not stifle innovation or attempt to impose architectural styles or particular tastes.
  8. The proposed hip to gable extension would restore the sense of symmetry of the pair of dwellings within the street scene. It would also be consistent with other extended pairs of dwellings within Lark Hill and would relate satisfactorily to the Appeal dwelling's existing side extension. As a consequence, the proposed hip to gable extension would improve the appearance of the pair of dwellings and make a positive contribution to the street scene. It is noted that the Council, similarly raised no concerns to this aspect of the Appeal proposal.
  9. Due to its size and form the proposed rear dormer would be in direct conflict with the specific dormer window advice set out in the SPD. However, its form and bulk would mirror that of the existing large rear dormer extension at No.8 and thus it would restore the sense of rhythm and symmetry between the two dwellings within the rear garden environment. It would also help restore the sense of simplicity and uncluttered lines of the original pair of dwellings. The insertion of two windows within this dormer, rather than one, would help soften its appearance by breaking up the area of tile hanging.
  10. The proposed dormer would be almost fully screened from the street scene by the existing side extension. The small glimpses of the top/side of the cheek of the proposed dormer would be no different to other large and smaller dormer additions visible within the street scene.



11. Within the rear garden environment, the proposed dormer would result in the pair of dwellings appearing symmetrical and uncluttered. The rear dormer would sit comfortably alongside the dormer at No.8 and would reflect the form and size of other rear dormers in the immediate area, which are now an integral part of the character of the area. The pair of dwellings would take on the form of a pair of dormer bungalows, consistent with other extended bungalows in the area.
12. For these reasons the proposed scheme, including the large box dormer, would fully comply with the above policies and is a case where, in accordance with the SPD, a more flexible approach to the guidance set out in the SPD is appropriate.
13. The Council has suggested the imposition of conditions relating to the use of matching materials and adherence to the submitted drawings. These conditions are necessary to ensure that the extension blends in appropriately with the host dwelling and in the interests of certainty.
14. I conclude that, although the proposal would change the appearance of the host property, it would respect and respond to the character and appearance of the pair of dwellings and the local area and would be readily assimilated into the street scene and the rear garden environment. It would therefore comply with policies CP12 and QD14 of the City Plan, the NPPF and the SPD.

*Elizabeth Lawrence*

INSPECTOR





## Appeal Decisions

Site visit made on 6 February 2018

by **S J Buckingham BA (Hons) DipTP MSc MRTPI FSA**

an Inspector appointed by the Secretary of State

**Decision date: 16<sup>th</sup> March 2018**

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### **Appeal A Ref: APP/Q1445/W/17/3189350**

#### **15 Gladys Road, Hove BN3 7GL**

- 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 Brighton Property Partners Ltd. against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/02413, dated 21 December 2016, was refused by notice dated 31 October 2017.
  - The development proposed is change of use from a C3 dwelling to a sui generis HMO.
- 

### **Appeal B Ref: APP/Q1445/W/17/3184687**

#### **15 Gladys Road, Hove BN3 7GL**

- 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 Brighton Property Partners Ltd. against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/02411, dated 22 December 2016, was refused by notice dated 5 September 2017.
  - The development proposed is conversion of six bedroom dwelling (C3) to 4 no. flats including removal of existing lean-to structure and creation of new entrance with canopy above, removal of existing garage, and erection of single storey side extension and other associated works.
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### **Decisions**

1. **Appeal A:** the appeal is dismissed.
2. **Appeal B:** the appeal is dismissed.

### **Preliminary Matters**

3. The description of development in Appeal B has been changed by the Council from that given in the original application form, and as it is clearer, I have taken it into account in my decision.
  4. The appellant has submitted amended drawings in respect of Appeal B, and I have considered whether the development would be so changed that to take them into account would deprive those who should have been consulted on the changed development the opportunity of such consultation. As the changes would comprise minor alterations to the internal layout of the scheme, I conclude that it would not. I have therefore taken these plans into account in reaching my decision.
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## **Main Issues**

5. The main issues in respect of both appeals are:-
  - the effect of the development on the character and appearance of the area; and
  - the effect on the living conditions of future occupiers with respect to living space, and additionally, in respect of Appeal B, outlook.

## **Reasons**

### *Character and Appearance*

6. The appeal dwelling is a modest, two storey, detached house in an area of similar properties. A dormer window has been constructed which occupies nearly the full width and height of the rear roof slope, and is flat roofed with a vertical face. As a consequence it dominates the roof structure of the appeal building, and appears obtrusively bulky and boxy in relation to other roofs in the vicinity, on which there are only a small number of modest dormer extensions.
7. The evidence before me indicates that the building was in use as a C3 dwelling no later than the middle of 2015, after which it remained vacant. Following its acquisition by the appellant it was internally stripped out and the dormer constructed. Applications made in 2016 for the prior approval for the extension of the dwelling were refused, as the appellant had failed to demonstrate to the Council its continuing use as a single dwellinghouse. It was also in 2016 the subject of two unsuccessful applications, for subdivision to flats and conversion to a house in multiple occupation (HMO) respectively. Both relied, as do the appeal developments, on the presence of the dormer to achieve accommodation within the roof space, and at the time of my site visit works for the subdivision of the building to a number of smaller units, including two rooms in the roof space, was underway.
8. On the basis of this evidence I conclude that, although the dormer was completed before the previous applications were submitted, it has a clear association with the sought subdivision of the house to four flats or conversion to an HMO, rather than with its former C3 use, and that it is not, as a result, permitted development. Accordingly, I have considered the appeals on the basis that the dormer is part of the proposed developments before me.
9. I conclude therefore that both developments are harmful to the character and appearance of the area, and conflicts with the requirements of policy QD14 of the Brighton and Hove City Plan Part 1, 2016 (LP) and the guidance contained in Supplementary Planning Document 12, Design Guide for Extensions and Alterations, which seek to secure well-designed extensions.

### *Living Conditions*

10. It has been put to me that both developments do not meet the Government's Nationally Described Space Standards. However, the Written Ministerial Statement of 25 March 2015 makes it clear that such standards can only be applied where there is a relevant current local plan policy. In this case there is no relevant current policy and consequently, this is not a matter which in itself carries any significant weight against the proposal.

11. In respect of Appeal A, the proposed HMO would have nine bedrooms. The communal space to be provided would be in the form of a kitchen area with sinks, storage and ovens, and a gallery dining space situated in a narrow side extension to the building on the site of the former garage. The space to be provided within individual rooms is reasonably generous, and they could feasibly be occupied as double bedroom units. While the rooms could also provide an element of living space, this would not remove the need for some communal areas, particularly in relation to preparing and eating food.
12. The floorspace of the kitchen and dining areas would be, in total, of a satisfactory size, but the layout would be awkward, with the kitchen area compact and an elongated and narrow dining area running off it. As a result I conclude that even were the number of occupiers limited by condition to nine, the kitchen would prove difficult for any more than a small number of occupants to use satisfactorily at the same time. The layout of the dining area would be awkward to access and provide unsatisfactory space for ordinary use or for socialising. These elements of the development would therefore be harmful to the living conditions of future occupiers.
13. In respect of Appeal B, the ground floor, one-bed flat is almost single aspect, with the main living space at the rear of the building lit only by a double door leading out into a narrow and enclosed outdoor space which, given its orientation, would be likely to be in shade for most of the time. Thus, while this flat would overall be of an acceptable size, it would as a result have a very limited outlook and very poor levels of natural light in the living area, which would provide a highly unsatisfactory living space for its occupiers.
14. The amended plan shows that a significant portion of the internal area of the second floor flat would be taken up by a cupboard, while the living/dining area, which would also contain kitchen facilities, would be constrained by the area of sloping roof to the front of the building. The usable space available for activities and circulation would therefore be modest, and would overall provide harmfully cramped accommodation.
15. The proposed accommodation in both developments would therefore fail to comply with policy QD27 of the LP, which seeks to avoid development which would cause material nuisance and loss of amenity to proposed occupiers.

### **Conclusion**

16. For the reasons given above therefore, I conclude that both appeals should be dismissed.

*S J Buckingham*

INSPECTOR



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## Appeal Decision

Site visit made on 6 February 2018

by **S J Buckingham BA (Hons) DipTP MSc MRTPI FSA**

an Inspector appointed by the Secretary of State

**Decision date: 16<sup>th</sup> March 2018**

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**Appeal Ref: APP/Q1445/W/17/3183791**

**33 Baker Street, Brighton BN1 4JN**

- 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 Lee of Liberty Hall Management Ltd. against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/00645, dated 23 February 2017, was refused by notice dated 26 July 2017.
  - The development proposed is change of use of existing C3 dwelling to a C4 small house in multiple occupation.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The appellant has submitted amended drawings and I have considered whether the development would be so changed that to take them into account would deprive those who should have been consulted on the changed development the opportunity of such consultation. As the changes would comprise minor alterations to the internal layout of the scheme, I conclude that it would not. I have therefore taken these plans into account in reaching my decision.

### Main Issues

3. The main issues are:-
  - the effect on the living conditions of future occupiers of the dwelling with respect to living space; and
  - the effect on the living conditions of neighbouring occupiers with respect to noise and disturbance.

### Reasons

#### *Living Space*

4. The appeal building is a two storey property within a densely developed central area, in a mixture of retail use at ground floor and residential use on ground and first floors. The proposal is for conversion of the first floor flat to a small house in multiple occupation (HMO) of five rooms with a shared kitchen.
  5. The appeal development has already taken place and some of the rooms are currently occupied.
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6. It has been put to me that the proposal does not meet the Government's Nationally Described Space Standards in respect of the floor space of the smallest bedroom. However, the Written Ministerial Statement of 25 March 2015 makes it clear that such standards can only be applied where there is a relevant current local plan policy. In this case there is no relevant current policy. However, notwithstanding this, the smallest bedroom has a small, high window and irregular floor plan. Circulation space is thus very limited and the layout is cramped.
7. The communal space in the kitchen is small and not able comfortably to accommodate more than one or two occupiers attempting to cook or eat at the same time, while the area marked as a communal space on the amended plan is no more than a hallway, with doors opening into and off it, and room only for a small sofa against a short section of wall. It is currently used for the occupiers for drying clothes and storage of items which cannot be accommodated in the rooms, but in any case would only be of sufficient size and layout to function as circulation space. While the outdoor terrace provides additional space, it would not be useable at all times of the year. The development does not therefore provide adequate communal living space.
8. Thus I conclude that the accommodation is of a poor standard in terms of the floorspace provided, and harmful to the living conditions of existing and future occupiers.
9. I have had regard to the previous appeal decisions put before me by the appellant. However, notwithstanding the conclusions of the Inspectors in these cases, the specific shortcomings of the current accommodation set out above, lead me to conclude that the circumstances are materially different. They do not therefore cause me to alter my conclusions.
10. The proposed accommodation would therefore be of a standard which would be harmful to the living conditions of future occupiers, and would therefore fail to comply with policy QD27 of the LP, which seeks to avoid development which would cause material nuisance and loss of amenity to existing and proposed occupiers.

#### *Noise and Disturbance*

11. There is a large roof terrace with space for outdoor furniture, which overlooks the rear of the open market building, and sits alongside other roof terraces along the street with which there is already a degree of mutual overlooking. The intensification of residential use would increase the number of occupants and potential visitors, and would as a result create the possibility of increased levels of noise and disturbance for neighbouring occupiers.
12. Although the HMO use has been in operation for over some time without complaints, if it is to be used by a series of short term occupiers, there is no reason why that might not change in future. While a single family dwelling might be capable of accommodating several adult occupiers, and generating similar levels of noise, it is likely that longer-term occupiers would seek to avoid falling out with their neighbours. These factors do not therefore cause me to alter my conclusion, which is that there is a possibility of harm arising from the HMO use to the living conditions of neighbouring occupiers in respect of noise and disturbance.



13. The development would as a result conflict with the provisions of policy QD27 of the LP, which seeks to avoid development which would cause material nuisance to existing and/or adjacent users, residents and occupiers.

**Conclusion**

14. For the reasons given above therefore, I conclude that the appeal should be dismissed.

*Sarah Buckingham*

INSPECTOR





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## Appeal Decision

Site visit made on 20 February 2018

by **S J Papworth DipArch(Glos) RIBA**

an Inspector appointed by the Secretary of State

Decision date: 26 February 2018

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### Appeal Ref: APP/Q1445/D/17/3187252

### 81 Woodbourne Avenue, Brighton BN1 8EJ

- 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 Jason Champion against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/00747, dated 2 March 2017, was refused by the Council by notice dated 8 August 2017.
  - The development proposed is single storey rear extension.
- 

### Decision

1. I allow the appeal and grant planning permission for a single storey rear extension at 81 Woodbourne Avenue, Brighton BN1 8EJ in accordance with the terms of the application, Ref BH2017/00747, dated 2 March 2017, subject to the following conditions.
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No2 and Drawing No 3.
  - 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.
  - 4) The roof area of the extension hereby permitted shall not be used as a balcony, roof garden or similar amenity area, and access shall be for maintenance and repair only.

### Reasons

2. The main issue is the effect of the proposed extension on the character and appearance of the area, and Policy QD14 of the Brighton and Hove Local Plan requires extensions and alterations to be well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area, taking account of the existing space around buildings and the character of the area. Supplementary Planning Document 12 '*Design Guide for Extensions and Alterations*' sets out at page 7 the design principles for single storey rear extensions. Paragraph 56 of the National Planning Policy Framework states that the Government attaches great importance to the design of the built environment; good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

3. The Council have also referred to Policy QD27 on loss of amenity but the Officer's Report concludes that there would be no harm to the living conditions of neighbouring occupiers. However, at the site Inspection the appellant volunteered not to use the flat roof as a balcony, and in the circumstances, that representation was accepted. A condition to that effect is required to protect the amenities of the neighbouring occupier as sought in Policy QD27.
4. The planning history of the building is somewhat complicated and the appellant admits to being confused. There do appear to be conflicting decisions with regard to whether the proposal is permitted development or not, based on the same drawings as for this appeal. These previous decisions are of limited weight in the current appeal, since the permitted development regime does not take account of the Development Plan as required by section 38(6) of the Planning and Compulsory Purchase Act 2004 for an application for express permission.
5. The dwelling has been subject to previous additions, the main effect of this on the street scene being the roof conversion. To the rear the effect of those works is more obvious in the form of the dormer window across a significant part of the enlarged roof width. Below that is the original rear projection common to other dwellings in the group, shown on this property as being a study. Originally there would have been a porch and stairway, as seen at number 83, but it is not attractive and has been removed at number 81.
6. The single storey extension now proposed would, due to the slope in the land, be at lower ground floor level, and as a result of this difference in level, the effect would, as asserted by the Council, be of three storeys of accommodation to the rear elevation, but that lower level already appears to exist as storage.
7. The rear elevation shown on drawing No2 gives a misleading impression of the effect of the addition, since it appears to be all on one plane, which is not, and would not be, the case as made clear in the side elevation. There would be the dormer window set back from the original main eaves of the dwelling at the upper level, with the original projection further to the rear and at an intermediate level, and the proposed single storey projection further to the rear again, and at a lower level still. The effect would be of an acceptable progression of forms from top to bottom and from front to rear.
8. The proposal would not contravene the requirements or diagrams in the Supplementary Planning Document and would accord with the requirements of Policy QD14 on its effect on the building, adjoining dwellings and the surrounding area. The extension, and the complete building, would reach the standard of design sought in paragraph 56 of the Framework. The proposal would therefore be an acceptable addition to the already enlarged dwelling.
9. In addition to that concerning use as a balcony, conditions are required to ensure that the materials match those of the existing dwelling and specifying the relevant drawings to which this permission relates, as this provides certainty. With those provisions and for the reasons given above it is concluded that the appeal should be allowed.

*S J Papworth*

INSPECTOR



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# Appeal Decision

Site visit made on 8 March 2018

by **R J Maile BSc FRICS**

an Inspector appointed by the Secretary of State

Decision date: 19th March 2018

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**Appeal Ref: APP/Q1445/D/18/3193965**

**The Lodge, Surrenden Park, Brighton, East Sussex, BN1 6XA.**

- 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 Nirmala Karri-Rai against the decision of Brighton & Hove City Council.
  - The application ref: BH2017/02347, dated 11 July 2017, was refused by notice dated 7 November 2017.
  - The development proposed is extension to increase the height of the building by one storey.
- 

## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues in this case are:
  - a) The effect of the development upon the appearance of the street scene.
  - b) The impact of the additional storey upon the living conditions of nearby residents.

## Reasons

- a) *Effect upon appearance of street scene.*
3. The subject property comprises a detached bungalow. It forms part of a post-war development to the north of the City and close to open Downland.
  4. This section of Surrenden Park is characterised by semi-detached houses of a matching Regency style design. The spaces between the semi-detached plots are typically two garage driveways in width. By contrast The Lodge, which is the only bungalow within the street, is sited closer to the house next door at 2 Surrenden Park.
  5. National policy at Chapter 7 (Requiring good design) of the National Planning Policy Framework ('the Framework') highlights the importance of good design and the need for development to relate to neighbouring buildings and the local area more generally. Paragraph 60 states that planning policies and decisions should not attempt to impose architectural styles or particular tastes and they

- should not stifle innovation. It is, however, proper to seek to promote or reinforce local distinctiveness.
6. The policies of the Development Plan largely reflect national policy in the Framework. Policy QD14 of the Local Plan<sup>1</sup> requires extensions and alterations to be well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area.
  7. The height of the existing bungalow is well below that of 2 Surrenden Park next door, notwithstanding that The Lodge is sited on higher ground. The addition of an upper storey as proposed would raise the height of the roof above that of no. 2.
  8. Having regard to the sloping nature of this part of Surrenden Park, all of the houses on both sides of the road possess staggered roof lines. Indeed, the altered ridge height to The Lodge would complement its surroundings. This is illustrated on the submitted drawings and was noted during my site visit.
  9. The difference in roof line between The Lodge and 2 Surrenden Park would be less than that between nos. 4 and 6. This factor compensates for the narrower gap between the subject property and its immediate neighbour. The increased roof height would also reflect the taller building at 401 Ditchling Road, whose flank elevation faces Surrenden Park.
  10. The design of the extension is to a high standard and reflects the fenestration of The Lodge and the character of the adjacent dwellings.
  11. I have therefore found in relation to the first main issue that development as proposed would not be harmful to the established character, appearance and rhythm of the street scene and that it would accord with national policy at Chapter 7 of the Framework and Policy QD14 a., c. and d. of the Local Plan.
- b) Impact upon living conditions.*
12. Local Plan Policy QD14 states that in considering whether to grant planning permission for extensions to residential 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. Extensions will only be permitted if the proposed development would not result in significant loss of privacy, outlook, daylight/sunlight or amenity to neighbouring properties.
  13. Having regard to the layout of The Lodge and its relationship with 401 Ditchling Road to the east and 1 Hollingbury Copse to the north, I am satisfied that the occupiers of those properties would not suffer any unacceptable loss of amenity arising from the proposal.
  14. There are no flank-facing windows to 2 Surrenden Park that would be affected by the scheme. The rear private garden of no. 2 is, however, at a lower level than the subject property.
  15. Whilst the eaves of The Lodge currently project only marginally above the line of the close boarded boundary fence between the two properties, the increased height of the west-facing elevation brought about by the additional storey

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<sup>1</sup> Brighton & Hove Local Plan 2005: Brighton & Hove Local Plan Policies Retained on Adoption of the Brighton & Hove City Plan Part One (March 2016).

would be far more visible to the occupants of 2 Surrenden Park. In particular, I note that The Lodge projects rearwards well beyond the back elevation of no 2. As such, the rearmost part of the side elevation with its substantially increased height would be highly prominent as viewed from within the rear garden of no. 2, projecting approximately 3m above the line of the close boarded fence.

16. For these reasons I have found upon the second main issue that development as proposed would have an unacceptably harmful impact upon the living conditions of existing and future occupiers of 2 Surrenden Park by reason of its overbearing appearance, contrary to the requirements of Policy QD14 of the Local Plan.

### **Conclusion**

17. Notwithstanding my finding upon the first main issue, my concerns as to the impact of the development upon the living conditions of the occupiers of 2 Surrenden Park are paramount.
18. Accordingly, and for the reasons given above, I have concluded that the appeal should fail.

*R. J. Maile*

INSPECTOR







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## Appeal Decision

Site visit made on 6 February 2018

by **S J Buckingham BA (Hons) DipTP MSc MRTPI FSA**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 February 2018

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### Appeal Ref: **APP/Q1445/W/17/3189052** **3 Shirley Road, Hove BN3 6NN**

- 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 Keith Biddlestone against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/01443, dated 27 April 2017, was refused by notice dated 12 September 2017.
  - The development proposed is demolition of garage and erection of a 3 bedroom residential dwelling (C3) to the rear of 3 Shirley Road fronting Lloyd Road.
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### Decision

1. The appeal is allowed and planning permission is granted for demolition of garage and erection of a 3 bedroom residential dwelling (C3) to the rear of 3 Shirley Road fronting Lloyd Road at 3 Shirley Road, Hove BN3 6NN in accordance with the terms of the application, Ref BH2017/01443, dated 27 April 2017, subject to the conditions set out in the Schedule to this Decision.

### Main Issues

2. The main issues are:-
  - the effect of the development on the character and appearance of the area; and
  - the effect on the living conditions of neighbouring occupiers with respect to outlook.

### Reasons

#### *Character and Appearance*

3. The appeal site is a section of the rear garden of No. 3 Shirley Road, a large detached corner house. The site faces onto Lloyd Road, and currently contains a single storey garage building with steeply pitched roof and behind it a garden room running back into the site. The garage is set behind an area of hardstanding and crossover.
  4. The Hove Park area is one of generally substantial, detached and semi-detached houses. The character is a green and suburban one, arising from the presence of generous front gardens and grassed verges and street trees.
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5. The appeal proposal is for a two storey, three bedroom detached house, with a parking space to the front, separated with a gap from Nos 2 & 4 Lloyd Road.
6. Although the plot is a relatively small one, the proposed house would have a compact design and only a slightly larger footprint than the existing structures. It would retain space around it, including a modest rear garden and space for landscaping at the front. As a result, it would not appear cramped or over-developed, nor, in an area where the houses are relatively closely spaced along the road frontages would it appear squeezed in.
7. The appeal dwelling would have a small projection sitting a short distance beyond the front building line of the adjacent houses in Lloyd Road. As however, most of the frontage would be set back behind this line, and as many houses in the area have front bays or other projections, I conclude that this would not make it unduly prominent or incongruous in the street scene. Due to the slope of the land, while it would sit above No. 3 Shirley Road, it would also sit below Nos. 2 & 4 Lloyd Road, and thus although of a greater height and bulk than the existing buildings, the proposed structure would not appear unduly conspicuous.
8. The appellant has drawn my attention to a number of similar developments in streets in the area, where new dwellings have been inserted into rear gardens. While there is variation in the size of the dwellings and plots created, the appeal proposal would create a similar ratio of building to open space, and would retain a large garden to No. 3 Shirley Road, and would not therefore create a subdivision of the plot that would be uncharacteristic of the area.
9. Many houses in the area are in an Arts and Crafts style, referencing vernacular buildings through the use of a variety of materials such as applied timber framing, tile hanging and rough case render. There are, in addition, a number of more recently constructed dwellings in the vicinity of the appeal site featuring unpainted timber cladding. In this context therefore, the proposed timber cladding to the appeal dwelling would not appear out of context.
10. The proposed rooflights on the north-east roof slope and bay window on the north-west flank would avoid overlooking of adjacent properties, and would as a result appear as a response to the constraints of the site and not therefore particularly contrived. They would, in any event, not be located in prominent positions, and would not therefore be unacceptably dominant.
11. The development would not as a result conflict with policy CP12 of the Brighton and Hove City Plan Part 1 2016 (LP), which seeks development which respects the diverse character and urban grain of the city's identified neighbourhoods.

#### *Living Conditions*

12. The new dwelling would sit next to the rear garden of No. 3 Shirley Road. Although it would be a two storey building where there had previously been single storey buildings, there would be around 15 metres of separation between the two dwellings. Because of this, and because it would be seen with the backdrop of No. 2 Lloyd Road behind it, I conclude that it would not have an overbearing effect on the outlook from No. 3.

13. The flanking elevation of No. 2 Lloyd Road has a lean-to structure on the ground floor, and a number of small windows on the first floor. As the appeal dwelling would be set down the slope, and the windows are to non-habitable rooms or are secondary, it would not harmfully affect the outlook from that house.
14. The development would not therefore conflict with policy QD27 of the LP, which seeks to avoid development which would cause material nuisance and loss of amenity to existing occupiers.

### **Other Matters**

15. Due to the siting and orientation of the appeal dwelling and others in the vicinity, and the separation distances between them, I conclude that the proposal would not have a harmful effect on the sunlight or daylight reaching neighbouring occupiers, or on their outlook. The appeal dwelling would have no windows on the upper floor facing the rear garden of No. 2 Lloyd Road, and would face No 3 Lloyd Road across the highway, and would not therefore cause harmful overlooking.
16. The appeal dwelling would have an off-street parking space, and thus would not give rise to harmful additional levels of parking on the street. The activity generated by a single dwelling would not give rise to harmful levels of noise and disturbance in a residential setting.
17. The trees to be removed are relatively small in size, with the exception of the eucalyptus, which however, is a non-native specimen of only moderate visual value, with a relatively short lifespan. As a replacement could be required by condition, I conclude that this would not therefore have a harmful effect on the appearance of the area. The root protection area of the street tree located close to the entrance of the site could be protected through a tree protection plan, required by condition.
18. Although the development would potentially affect the operation of a weather station in the vicinity it is privately operated and so, while disappointing for the owner, this is not a matter which would cause me to alter my conclusion on the development.-

### **Conclusion**

19. For the reasons given above therefore, and taking into account all other matters raised, I conclude that the appeal should be allowed.

### **Conditions**

20. The Council has provided a list of suggested conditions on which the appellant has had an opportunity to comment and which I have considered in the light of the tests set out in Paragraph 204 of the National Planning Policy Framework.
21. In the interests of clarity, an appeal is attached requiring implementation of the development in accordance with the approved plans. In the interests of protecting the character and appearance of the area, details of landscaping works are reserved by condition. For the same reason a condition is attached to secure the protection of retained trees on and adjacent to the site. Also in the interests of protecting the character and appearance of the area, I have attached a condition requiring approval of facing materials.

22. To provide adequate facilities and to encourage sustainable patterns of transport, details of secure bicycle parking are required by condition. In the interests of the living conditions of future and neighbouring occupiers, a condition is added requiring the implementation of the approved refuse and recycling facilities.
23. The provision of tactile paving at the corner of Shirley Road and Lloyd Road would be outside the appeal site and at some distance from the proposed dwelling. As therefore it would not be directly related to the development, I conclude that it would not be reasonable to require this by condition, and have not done so.
24. The existing Local Plan contains a policy, GP8, which sets out the need to avoid expansion of the city's ecological footprint and requires compliance with optional national technical standards, provided it would be technically feasible to do so and would not make the scheme unviable. No evidence has been put before me that this would render the scheme non-viable, and so I have attached conditions requiring compliance with optional standards in relation to energy efficiency, water efficiency, and accessible and adaptable dwellings, in the interests of securing a sustainable form of development.
25. Paragraph 200 of the Framework is clear that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification for doing so. As no clear justification demonstrating any exceptional circumstances indicating that I should do so has been put before me, I conclude that it would not be necessary to add such a condition.

*S J Buckingham*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 368/01 Block Plan, 368/04, 368/01 Proposed Elevations, and 368/07.
- 3) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include planting plans, written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment), and schedules of plants noting species, plant sizes and proposed numbers/densities. The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with an agreed implementation programme.
- 4) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees and the root protection areas on the site of adjacent trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees and root protection areas shall be carried out as approved.
- 5) No development shall commence until details or samples of the materials to be used in the construction of the external surfaces of the dwelling 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 or samples.
- 6) The approved dwelling shall not be occupied until space has been laid out within the site for bicycles to be securely parked, in accordance with details which have first been submitted to and approved in writing by the local planning authority, and that space shall thereafter be kept available for the parking of bicycles.
- 7) The development hereby permitted shall not be occupied until details of refuse and recycling storage facilities shall have been constructed in accordance with details shown on the approved plans.
- 8) The dwelling shall not be occupied until the relevant requirements of level of energy performance equivalent to ENE1 level 4 of the Code for Sustainable Homes have been met and the details of compliance provided to the local planning authority.
- 9) The dwelling shall not be occupied until the Building Regulations Optional requirement set out in Approved Document G, Building Regulations 'Sanitation, hot water safety and water efficiency' March 2015 has been complied with.
- 10) The dwelling shall not be occupied until the Building Regulations Optional requirement M4(2) (accessible and adaptable dwellings) has been complied with and the details of compliance provided to the local planning authority.





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## Appeal Decision

Site visit made on 8 February 2018

by **Timothy C King BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 March 2018

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**Appeal Ref: APP/Q1445/W/17/3188136**

**Land to rear of 1 and 3 Orchard Avenue, Hove BN3 7BH**

- 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 I Guile against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/01589, dated 24 April 2017, was refused by notice dated 4 July 2017.
  - The development proposed is described as '*single storey garage to be demolished with a single storey eco dwelling erected.*'
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in this appeal are:
  - 1) the effect of the proposal on the character and appearance of the surrounding area;
  - 2) whether the proposal would provide for a satisfactory standard of living conditions for the development's future occupiers, with particular regard to outlook and spaciousness; and
  - 3) the effect of the proposal on the site's biodiversity, with particular regard to whether or not there is a presence of badgers.

### Reasons

#### *Character and appearance*

3. The general character of the area is one of two-storey, suburban dwellings set back from the Orchard Gardens footway, and within linear plots, allowing for generous rear gardens. The adjoining site, No 30 and also No 32, further along the street, both of which comprise bungalows, are the exception but, even so, both these dwellings are set back from their respective footway boundaries to accord with the local pattern of development.
4. The proposal would involve building on a small L-shaped piece of land lying to the side of No 30 and immediately beyond the rear gardens of Nos 1 and 3 Orchard Avenue. A small garage on the site would be demolished and a single storey building would be erected on the lower section of the site, with its south facing elevation positioned very close to the footway boundary. The building's west and north elevations would largely abut the common boundaries with the

- Orchard Avenue properties and the east facing façade would be the only elevation with any significant and usable threshold space fronting it.
5. The proposed building would have an internal floorspace of only 39 sqm and its restricted width combined with the narrowness of this section of the site would accentuate its elongated form. Moreover, attempting to accommodate such a building on this irregularly shaped piece of land necessitates that it be sited to the front of the plot towards the footway boundary as the far section of the site, annotated on the layout plan as garden space, is even narrower.
  6. The submitted plans clearly illustrate the site's constraints in terms of its shape and narrowness of width and a front building line within pulled so far forward is uncharacteristic of the streetscene. However, the appellant comments that the site would be screened by close boarded fencing that would be continued along Orchard Gardens, and this would hide the building.
  7. It is usual that new dwellings with a road frontage exhibit themselves in order to show how their setting and design features integrate satisfactorily within the streetscene. In this particular instance, despite the building being described as an eco-dwelling, indicating one of visual interest, the appellant's approach would instead suggest that the building's concealment mitigates in favour of the development. I consider this to be indicative of the building's form and size which would be markedly at odds with the local vernacular. Although the front fence would restrict the building's visibility from the street there would be an entrance to the site and the building would be readily visible from the upper floors of the nearby houses. In the circumstances the fence would merely mask what would amount to an incongruous and cramped form of development dictated by the site's limitations.
  8. I conclude that the proposal would be harmful to the character and appearance of the area, and this would materially conflict with the design objectives of Policy CP12 of the Brighton and Hove City Plan Part One (CP).

#### *Living conditions*

9. The building is referred to by the appellant as a studio flat. Its positioning and proximity to the site's boundaries would have clear implications for its future occupiers as the intended dwelling's positioning relative to its boundaries means that the only aspect would be that of the east facing entrance and the proposed bi-folding glazed doors.
10. The proposed line of eaves height windows facing directly onto the front boundary fence along with the use of rooflights would not serve to provide the dwelling's occupiers with any additional outlook of significance. As such, I find that the outlook available would be unduly limited.
11. The situation would be compounded by the expanse of unbroken internal walls and the dwelling's internal width restriction, which would result in an unwelcome sense of enclosure. As such, the accommodation would be less than convivial, adversely impacting upon the occupiers' enjoyment of the property. The external garden would not mitigate in this regard. This is further evidence of the site being unsuitable for the type of development proposed.
12. I conclude that the proposal would not provide for a satisfactory standard of living conditions for future occupiers and this would materially conflict with the



aims and requirements of Policy QD27 of the Brighton and Hove Local Plan (LP).

### *Biodiversity*

13. The County Ecologist considers that photographic evidence produced by interested parties suggests a local presence of badgers. LP Policy QD18 indicates that where it is evident that a proposal could affect a protected species, such as badgers, a development proposal should demonstrate that an appropriate site investigation has been undertaken to this end.
14. The appellant, in response, mentions that a Biodiversity Indicator Checklist was completed as part of the application and this suggested that there is no evidence that the site houses badgers. However, I have no evidence to show how this information was collected. Given that the policy goes on to say that planning permission will not be granted for development that would be liable to cause demonstrable harm in the protection of species it was necessary to carry out a more appropriate level of investigation in order to properly ascertain the situation in this regard.
15. The appellant mentions that this matter could have been the subject of a planning condition. However, I consider that a full and proper investigation at the application stage, given its importance, would be preferable to leaving it to be addressed at some future point.
16. Due to the ecologist's views, and in the absence of any comprehensive survey undertaken and findings to suggest otherwise, I conclude that the proposal would likely be harmful to the site's biodiversity. This would be in conflict with the aims and requirements of both LP Policy QD18 and CP Policy CP10.

### *Other considerations*

17. I have had regard to the appellant's points that the proposed eco-dwelling would be of sustainable construction and would have a green sedum roof feature. It is also mentioned that this is a sustainable and accessible location and the dwelling could partake in a local car club arrangement. I have had similar regard to the appellant's claims that the development would provide for an affordable dwelling in an area with a shortage of affordable housing, but I consider that the word 'affordable' is more to do with the proposed house being small in size. I have given these factors due weight but they do not, either individually or cumulatively, outweigh the harm that I have identified would result from the proposal.

### **Conclusion**

18. I have found harm on all the main issues, which is compelling. For the above reasons, and having had regard to all matters raised, the appeal does not succeed.

*Timothy C King*

INSPECTOR





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## Appeal Decision

Site visit made on 20 February 2018

by **S J Papworth DipArch(Glos) RIBA**

an Inspector appointed by the Secretary of State

Decision date: 9 March 2018

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**Appeal Ref: APP/Q1445/W/17/3187835**

**The Hames, Ovingdean Road, Brighton BN2 7BB**

- 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 C Phillips against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/02197, dated 30 June 2017, was refused by notice dated 29 August 2017.
  - The development proposed is change of use of the existing residential garage to a food preparation area and hot food takeaway (A5) use.
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### Decision

1. I dismiss the appeal.

### Reasons

2. The site is within the Ovingdean Conservation Area and adjacent to a locally listed building. The main issue is the effect of the change of use on the character and appearance of the area and on the significance of an undesignated heritage asset.
3. Brighton and Hove Local Plan Policy HE6 concerns development within conservation areas where the character or appearance should be preserved, and proposals that are likely to have an adverse impact on the character or appearance of a conservation area will not be permitted. The supporting text includes the statement that particular attention will be given to the impact of proposed changes of use on a conservation area. City Plan Policy CP15 requires the City's historic environment to be conserved and enhanced.
4. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of that area. Paragraph 132 of the National Planning Policy Framework 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. Undesignated heritage assets are addressed at paragraph 135.
5. The use takes place from a lean-to garage built against the end wall of the Olde Barn, which is a locally listed building and therefore an undesignated heritage asset. During non-opening hours the building has the appearance of a domestic garage, other than the menu left in place, and a sign to the west,

- while the pizza oven detailed on the drawings would be brought outside during opening hours.
6. The Ovingdean Conservation Area Character Statement identifies the historic part of the village, which appears to be centred on the area leading to the church, as it is surrounded on three sides by open downland. The appeal site is only a short distance from this historic core and only a limited amount of the more recent residential development described in the Statement intervenes although more exists on the far side of the road. The Statement refers to increasing traffic through the village, and it was noted that signs at the A259 roundabout prohibit heavy good vehicles.
  7. Outside the conservation area, there is a more suburban character and appearance to a network of residential roads, in which there are commercial and education uses. It is this marked change in the nature of the development that adds considerable significance to the conservation area as retaining the buildings, open spaces and open setting of a downland village. Despite the proximity of a suburban area of Brighton, the conservation area is hardly affected, visually or in its character, by that largely separate development.
  8. The introduction of the evening commercial use of the hot food takeaway would not sit well within this village setting, and whilst the Council refer to the locality as having a prevailing residential character, the numbers of dwellings really close to the site would mean that a viable business would have to attract custom from a greater catchment area. The nature of what amounts to a rural lane to the east of the site, and the location of the greater density of housing beyond, would likely result in car journeys and parking, in addition to the activity and sounds that would be associated with the business. Such parking would either risk an undue concentration of vehicles close to the site, or increased activity near and in the historic core.
  9. Mention has been made of fumes, smoke and odours, and whilst the appellant refers to a high cooking temperature, there is likely to be some odours detectable, but dissipating to an extent. However, the stated predominance of other sources of fumes and odours from barbecues and wood-burning appliances nearby is hardly likely to reach the intensity or duration through the year that a commercial activity could.
  10. It is the case that the village hall is nearby on the opposite side of the road and within the conservation area, but this has its own car park somewhat secluded from open view, and the traffic and activity associated with its use would be less intrusive. In any event, that is a pre-existing use and the hot food takeaway use of the appeal premises would be in addition to it. The addition of that use would cause visual harm to the locally listed building and harm to the downland village character and appearance of the conservation area, contrary to Policies HE6 and CP15.
  11. The level of harm is 'less than substantial', a differentiation required between paragraphs 133 and 134 of the Framework. In this case the latter applies and this states that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
  12. Third party representation has set out benefits which include being a positive addition and welcomed asset to the local community, convenience for local people, high quality food in a central village location, support for local and

unique independent business in the area, lack of other businesses in the village, external works in keeping with the character of the area, additional traffic welcomed as it could be managed and would slow down the use of Ovingdean Road as a by-pass, discreet signage, the area being kept clean and tidy, and having a positive impact on the environment.

13. Some of these claims are not agreed with in this Decision for the reasons given previously, and the need for a commercial, rather than an essential, facility is not a reason to allow it when harm is caused. Slowing traffic through the possible introduction of an uncontrolled parking hazard cannot be justified. Whilst it is not doubted that the facility is useful, there is no compelling evidence that it has to be in this location where it causes harm.
14. In conclusion, the benefits identified do not outweigh the harm caused to designated and undesignated heritage assets, and the use does not accord with the policies of the Development Plan or the Framework, and the statutory tests in the 1990 Act would not be satisfied. For the reasons given above it is concluded that the appeal should be dismissed.

*S J Papworth*

INSPECTOR





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# Appeal Decision

Site visit made on 8 March 2018

by **R J Maile BSc FRICS**

an Inspector appointed by the Secretary of State

Decision date: 19<sup>th</sup> March 2018

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**Appeal Ref: APP/Q1445/D/18/3194743**

**43 Ainsworth Avenue, Ovingdean, Brighton, East Sussex, BN2 7BG.**

- 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 G Payne against the decision of Brighton & Hove City Council.
  - The application ref: BH2017/03555, dated 19 October 2017, was refused by notice dated 8 January 2018.
  - The development proposed is: "Rear ground and first floor extension and associated internal alterations to existing detached house."
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## Procedural Matter

1. The description of development in the heading above has been taken from the planning application form.
2. In Part E of the appeal form it is stated that the description of development has not changed. Nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original planning application form.

## Decision

3. The appeal is allowed and planning permission is granted for rear ground and first floor extension and associated internal alterations to existing detached house at 43 Ainsworth Avenue, Ovingdean, Brighton, East Sussex, BN2 7BG, in accordance with the terms of the application ref: BH2017/03555, dated 19 October 2017, subject to the conditions set out in Annex A to this decision.

## Main Issue

4. The main issue in this case is the effect of the development upon the character and appearance of the host building and that of the surrounding area.

## Reasons

5. The appeal property comprises a detached house located within a mixed residential area.
6. Ainsworth Avenue slopes upwards from its junction with Greenways. The land to the rear of the appeal site rises also, such that nos. 45 and 47 to the rear

- and east of no. 43 respectively, are at a higher level. However, there is a mature hedge running along the rear boundary of the appeal site that provides partial screening to those adjacent dwellings.
7. The scheme before me would involve the erection of a first floor rear extension with associated roof extension and revised fenestration, incorporating a Juliette balcony. It is also proposed to erect a ground floor extension to the rear, again incorporating revised fenestration.
  8. National policy in the Framework<sup>1</sup> contains a presumption in favour of sustainable development, while Chapter 7 (Requiring good design) emphasises the importance the Government attaches to the design of the built environment. Amongst other matters, paragraph 58 of the Framework states that planning policies and decisions should aim to ensure that developments optimise the potential of the site to accommodate development, which should respond to local character and reflect the identity of local surroundings and materials.
  9. Policy CP12 of the Brighton & Hove City Plan Part One (March 2016) reflects national policy by requiring all new development to raise the standard of architecture and design in the City and to respect the diverse character and urban grain. Policy QD14 of the Local Plan<sup>2</sup> relates specifically to extensions and alterations, which should be well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area. My attention has also been directed to the Council's adopted SPD 12<sup>3</sup>, which provides detailed advice on design issues in relation to extensions and alterations.
  10. The only increase in the footprint of the building is a small ground floor rear extension to provide a utility room. The first floor rear extension would be located above the dead space formed by the existing rear projection. The roof form reflects that of the existing side extension and it would be set well below the main ridge height.
  11. I am satisfied that the front parapet wall and its resultant minor increase in height above the eaves level of the main roof would not be highly visible as viewed from the public domain having regard to the sloping nature of the site. I understand that a similar parapet wall was previously approved by the Council (planning application ref: BH2010/02553). The extensions would be constructed using matching materials, as detailed in the planning application form.
  12. For all of these reasons I have concluded that the scheme before me, which is to a high standard of design, would be subservient to the main dwelling and would not appear excessive in relation to the host building given the extent of the flank garden. The dwelling as extended would also accord with the varied nature of its surroundings.
  13. I therefore find upon the main issue that development as proposed would not be harmful to the character and appearance of the host building or that of the surrounding area. As such the scheme would accord with national policy in the

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<sup>1</sup> The National Planning Policy Framework.

<sup>2</sup> Brighton & Hove Local Plan 2005: Brighton & Hove Local Plan Policies Retained on Adoption of the Brighton & Hove City Plan Part One (March 2016).

<sup>3</sup> Brighton & Hove City Council Local Development Framework: SPD 12 "Design Guide for Extensions and Alterations" Supplementary Planning Document (adopted 20 June 2013).



Framework and the policies of the Development Plan to which I have referred above, together with the detailed advice set out in the Council's adopted SPD 12.

### **Other Matters**

14. I have noted the concerns raised by neighbours relating to issues of design and loss of privacy. However, given the siting, orientation and levels of the appeal site in relation to the adjoining properties at 45 and 47 Ainsworth Avenue, and subject to the conditions I shall impose, I am satisfied that there would be no unacceptable harm to the amenity of neighbouring occupiers in terms of loss of privacy or overlooking, as required by Policy QD14 b. of the Local Plan.

### **Conditions**

15. The Council has put forward a total of four conditions to be imposed should I be minded to allow the appeal, which I have considered against the tests of the Framework and advice provided by the Planning Practice Guidance issued on 6 March 2014.
16. The materials to be used in constructing the development have been specified in section 11 of the planning application form and match, where appropriate, those used in the existing building. A separate condition requiring the use of matching materials, as requested by the Council, is therefore unnecessary.
17. I find the balance of the conditions to be both reasonable and necessary in the circumstances of this case. I must also impose an additional condition (no. 3), for the reasons given below.
18. Condition 1 is the standard commencement condition imposed in accordance with section 91(1) (a) of the Town and Country Planning Act 1990.
19. Condition 2 restricts access to the flat roofed area over the ground floor single storey extension other than for purposes of maintenance or in the event of an emergency. It is required in order to ensure that the privacy and amenities of adjoining occupiers are safeguarded.
20. For the same reason it is necessary for me to impose a condition (no. 3), as referred to in the Officer's Report and in the appellant's grounds of appeal, requiring that the bedroom window to be provided in the east-facing elevation at first floor level be obscure glazed and non-opening below a height of 1.7m above finished floor level.
21. Condition 4, which requires the development to be carried out in accordance with the approved plans, provides certainty.

### **Conclusion**

22. For the reasons given above, I conclude that the appeal should be allowed.

*R. J. Maile*

INSPECTOR

**Schedule of Conditions**

**Annex A**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Access to the flat roof over the ground floor single storey extension hereby permitted shall be for maintenance or emergency purposes only; and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area.
- 3) Before any part of the first floor extension hereby permitted is first occupied the east-facing bedroom window shall be obscure glazed and non-opening below a height of 1.7m above finished floor level and thereafter permanently retained in that condition.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing no.

- |                    |  |
|--------------------|--|
| 15087-P-001:       | Location Plan – scale 1:1250.                              |
| 15087-P-002 Rev B: | Proposed Block Plan – scale 1:500.                         |
| 15087-P-010:       | Existing Ground Floor Plan – scale 1:100.                  |
| 15087-P-011:       | Existing First Floor and Roof Plans – scale 1:100.         |
| 15087-P-020:       | Existing East and South Elevations – scale 1:100.          |
| 15087-P-021:       | Existing West and North Elevations – scale 1:100.          |
| 15087-P-022 Rev A: | Existing/Proposed Context Elevation (South) – scale 1:100. |
| 15087-P-110 Rev B: | Proposed Ground Floor Plan – scale 1:100.                  |
| 15087-P-111 Rev C: | Proposed First Floor and Roof Plans – scale 1:100.         |
| 15087-P-120 Rev B: | Proposed East and South Elevations – scale 1:100.          |
| 15087-P-121 Rev C: | Proposed North and West Elevations – scale 1:100.          |