




Brighton & Hove
City Council

Planning Committee

Title:	Planning Committee
Date:	6 February 2019
Time:	2.00pm
Venue	Council Chamber, Hove Town Hall
Members:	Councillors: Cattell (Chair), Gilbey (Deputy Chair), C Theobald (Opposition Spokesperson), Mac Cafferty (Group Spokesperson), Bennett, Hyde, Inkpin-Leissner, Littman, Miller, Moonan, Morgan and O'Quinn Co-opted Members: Conservation Advisory Group Representative
Contact:	Penny Jennings Democratic Services Officer 01273 291065 planning.committee@brighton-hove.gov.uk

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AGENDA

95 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.

96 MINUTES OF PREVIOUS MEETINGS

Minutes of the meetings held on:

- (a) 5 December 2018 (copy attached); and
- (b) 9 January 2019 (copy attached)

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97 CHAIR'S COMMUNICATIONS

98 PUBLIC QUESTIONS

Written Questions: to receive any questions submitted by the due date of 12 noon on 31 January 2019.

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

100 CALLOVER

The Democratic Services Officer will read out each Planning Application in turn and on any applications which are not called it will be assumed that the recommendation(s) set out in the officer report are agreed. Any Major applications or those where there are speakers are automatically reserved for discussion.

101 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.

MAJOR APPLICATIONS

A BH2018/02854-41 and 42 Park Wall Farm Cottages, Station Approach, Falmer, Brighton -Full Planning 41 - 88

Demolition of existing houses and erection of a 4 storey student accommodation building with 71 no bed spaces and associated access arrangements, cycle parking, car parking and landscaping.

RECOMMENDATION – MINDED TO GRANT

Ward Affected: Moulsecoomb & Bevendean

MINOR APPLICATIONS

B BH2018/02536-25 Preston Park Avenue, Brighton- Full Planning 89 - 110

Demolition of existing garage and side extension, and erection of three storey rear extension. Conversion of existing house into 6 no flats (C3). Erection of 2 no two storey dwellinghouses (C3) in rear garden with associated landscaping.

RECOMMENDATION – MINDED TO GRANT

Ward Affected: Preston Park

C BH2018/01336, Land at Rear of 1-45 Wanderdown Road, Brighton - Full Planning 111 - 154

Erection of 3 no residential dwellings comprising of 2 no four bedroom dwellings and 1 no three bedroom dwelling incorporating

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parking, landscaping and associated works.

RECOMMENDATION – MINDED TO GRANT

Ward Affected: Rottingdean Coastal

D BH2018/02052,9 Hampton Street, Brighton - Full Planning 155 - 166

Erection of an additional storey at second floor level & creation of new single dwelling house (C3) with access from Spring Street and revised fenestration.

RECOMMENDATION – GRANT

Ward Affected: Regency

E BH2018/03174, - 37 Clarke Avenue, Hove - Full Planning 167 - 176

Installation of disabled access ramp from pavement to front elevation of property. (Retrospective)

RECOMMENDATION – GRANT

Ward Affected: Hangleton & Knoll

102 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

103 INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS 177 - 180

(copy attached).

104 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE 181 - 186

(copy attached).

105 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES 187 - 188

(copy attached).

106 APPEAL DECISIONS 189 - 224

(copy attached).

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

PLANNING COMMITTEE

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FURTHER INFORMATION

For further details and general enquiries about this meeting contact Penny Jennings, (01273) 291065, email planning.committee@brighton-hove.gov.uk or email democratic.services@brighton-hove.gov.uk.

Date of Publication - Tuesday, 29 January 2019

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 5 DECEMBER 2018

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Cattell (Chair), Gilbey (Deputy Chair), C Theobald (Opposition Spokesperson), Mac Cafferty (Group Spokesperson), Bennett, Hyde, Inkpin-Leissner, Littman, Miller, Moonan, Morgan and O'Quinn

Co-opted Members: Jim Gowans (Conservation Advisory Group)

Officers in attendance: Nicola Hurley, Planning Manager, Stewart Glassar, Principal Planning Officer; Sarah Collins, Principal Planning Officer; Liz Arnold, Principal Planning Officer; Maria Seale, Principal Planning Officer; David Farnham, Development and Transport Assessment Manager; Lesley Johnston, Principal Planning Officer, Policy, Projects and Heritage; Hilary Woodward, Senior Lawyer and Penny Jennings, Democratic Services Officer

PART ONE

71 PROCEDURAL BUSINESS

71a Declarations of substitutes

71.1 There were none, it was noted however that Councillor Inkpin- Leissner was not present.

71b Declarations of interests

71.2 Councillor Morgan referred to Applications A, BH2018/02607, Greater Brighton Metropolitan College, Pelham Street Brighton and B, BH2018/01973, Former Peter Pan Playground, Madeira Drive, Brighton and explained that he had sat at meetings of the Policy, Resources and Growth and Economic Development and Tourism Committees at which Landlord and Tenant issues in respect of this site (A) had been determined. As Chair of the E D & C Committee and as a Member of the P, R & G Committee when a different iteration of the scheme had been before and at the Local

Economic Partnership meeting at which funding had been agreed. He was of a neutral mind in respect of the detail of both applications and would therefore remain present during the debate and decision making process.

- 71.3 Councillor Mac Cafferty, referred to Application B, BH2018/01973, Former Peter Pan Playground, Madeira Drive, Brighton stating that he had also been a Member of the Policy, Resources and Growth Committee when Landlord's consent had been granted. He also remained of a neutral mind in respect of this application and would therefore remain present during the debate and decision making process.
- 71.4 Councillor Cattell, the Chair referred to Application A, BH2018/02607, Greater Brighton Metropolitan College, Pelham Street Brighton stating that she had acted as agent in relation to an earlier application a number of years previously, but had no involvement in respect of the current scheme about which she remained of a neutral mind in and would therefore remain present during the debate and decision making process.
- 71.5 The Chair, Councillor Cattell, also referred to the fact that she had received e mail correspondence from the applicant in respect of Application B, BH2018/01973, Former Peter Pan Playground, Madeira Drive, Brighton, she had not responded to it and remained of a neutral mind. She was aware that other members of the Committee had received the same e. mail's and that they had also not responded.

71c Exclusion of the press and public

- 71.6 In accordance with Section 100A of the Local Government Act 1972 ("the Act"), the Planning Committee considered whether the public should be excluded from the meeting during consideration of any item of business on the grounds that it is likely in view of the business to be transacted or the nature of the proceedings, that if members of the public were present during it, there would be disclosure to them of confidential information as defined in Section 100A (3) of the Act.
- 71.7 **RESOLVED** - That the public are not excluded from any item of business on the agenda.

71d Use of mobile phones and tablets

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

72 MINUTES OF THE PREVIOUS MEETING

- 72.1 Councillor MacCafferty referred to paragraph 60.3 of the minutes stating that he had "distributed" the correspondence referred to, rather than received it as noted in the minutes.
- 72.2 **RESOLVED** – That subject to the amendment set out above the Chair be authorised to sign the minutes of the meeting held on 7 November 2018 as a correct record.

73 CHAIR'S COMMUNICATIONS

73.1 The Chair confirmed that as agreed at a recent members working party meeting a “Callover” arrangement would be put into place for reports on the agenda which were for decision (excluding major applications) to be called. As Members had received and had the opportunity to read the officer reports in advance of the meeting it was hoped that this would facilitate the effective running of the meeting and avoid the necessity of those who had an interest in applications on which there were no speakers spending hours waiting for the Committee to get to their item(s).

73.2 The Democratic Services Officer, Penny Jennings, referred to all of the reports on the agenda and all were called for discussion except:

Item 75 – Protocol for Public Representations at Planning Committee on which a short presentation was given but which was agreed without discussion.

74 PUBLIC QUESTIONS

74.1 There were none.

75 PROTOCOL FOR PUBLIC REPRESENTATIONS AT PLANNING COMMITTEE

75.1 The Committee considered a report of the Executive Lead for Strategy, Governance and Law which requested that they agree the developers seeking to vary or discharge completed s106 planning obligations should be given the opportunity to address the Committee when the request or application came before the Committee for determination. That would require an amendment to the Protocol for Public Representations at Planning Committee.

75.2 **RESOLVED** - That the Committee agrees that the Protocol for Public Representations at Planning Committee is amended as per the Appendix attached to the report to allow developers or their agents to address the Committee when their request or application to vary or discharge a completed s106 planning obligation is before the Committee for determination.

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

76.1 There were none.

77 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

A BH2018/02607 -Greater Brighton Metropolitan College, Pelham Street, Brighton - Full Planning

Hybrid planning application comprising: Full Planning application Site A (West of Pelham Street): External alterations and internal refurbishment to the existing college building and redevelopment of the existing car park to provide 3 storey extensions to the existing college (D1 use), disabled parking spaces with new vehicular access, cycle parking spaces, open space and landscaping. Outline Application Site B (East of Pelham Street): Demolition of York, Trafalgar and Cheapside Buildings and the erection of up to 135 residential units (C3 use) at maximum 6 storeys with associated

new and relocated vehicular accesses, car and cycle parking (with all matters reserved except access, external layout and scale).

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.

Officer Presentation

- (2) The Principal Planning Officer, Sarah Collins, introduced the application and gave a detailed presentation by reference to site plans, floor plans, elevational drawings, photographs and photomontages in relation to the proposed scheme. It was noted that that an updated and amended report had been circulated to Members and had also been posted on the council website. Reference was also made to the submissions included in the Late/Additional Representations List.
- (3) It was explained that the application site comprised a 1.18 hectare site which contains Pelham Tower and car park on the west side of Pelham St (Site A) and Cheapside, York, and Trafalgar buildings on the east side of Pelham St (Site B). The site was in use by Greater Brighton Metropolitan College (GBMET) for educational purposes. Pelham Tower was a 1960's block of 12 storeys and had a surrounding three storey podium which measured approximately 51 metres by 56 metres. Pelham Tower was accessed through a glazed entrance directly from Pelham Street. The materials were brick with steel window frames with the surface car park to the south accessed from Whitecross Street surrounded by metal fencing. It accommodated 118 car parking spaces which were allocated to staff. The buildings on Site B varied in height up to 3 or 4 storeys, more akin to 5 or 6 storeys residential because of the large floor to ceiling heights. They were mostly faced in red brick and a glazed entrance connected the Cheapside and Trafalgar buildings on the Pelham Street frontage. There was vehicular access from Cheapside through an undercroft. The three significant buildings on this site, Trafalgar, Cheapside and York were developed between 1893 and 1938 as part of the school which occupied the site and had been supplemented by workshops, halls, 'temporary' classrooms and storage sheds.
- (4) Site A was bounded by Whitecross Street to the west, Cheapside to the north, Pelham Street to the east and Redcross Street, 1 and 2 Whitecross Street, 87-97 Trafalgar Street, and 1 and 2 Pelham Street to the south. Site B was bounded by Pelham Street and The Sanctuary and The Foyer residential blocks to the southwest, Cheapside to the north, 8-31 York Place and St. Peter's House to the east, and the college's Gloucester building, no.5 Trafalgar Ct, and Trafalgar Ct to the south. An arched entranceway of brick with limestone spacers was present at 15 York Place, close to the eastern boundary of Site B and had three sections in the crenelated cornice, separated by brick buttresses and with a stone moulding above the arch. The site was in a highly accessible sustainable location, approximately 350 metres walking distance from Brighton Station, immediately to the north of the North Laine shopping centre and within 100m of the London Road shopping centre which lay to the northeast. The site was also close to some main bus routes including the Lewes Road and Preston Road bus routes from York Place and City Centre bus routes from Trafalgar Street and Brighton Station. The site lay within Development Area 4 (DA4) of the City Plan Part One (CPP1). Valley Gardens Conservation Area bounded Site B to the east and North Laine Conservation Area bounded both sites to the south. The

application submissions provided a summary of the College's estates strategy and the purpose of the application, which was relevant in terms of viability considerations and to understand the need for the sale of Site B to enable the development of Site A, and what the development of Site A was intended to deliver and Site B and what that was intended to deliver. The application was a hybrid application (full application for Site A and an outline application for Site B and full details in respect of both were set out in the report.

- (5) The main considerations in the determining this application related to the principle of the net loss of the D1 college floor space, the absence of purpose-built student accommodation within the development, the design of the college building extensions and open space on Site A, the residential development of Site B and its scale, layout and access, affordable housing and viability considerations. In addition, the impact of the development on the character and appearance of the adjoining conservation areas and the setting of nearby listed buildings, impact on the street scene and wider views, neighbouring amenity, noise and anti-social behaviour/security considerations, pedestrian permeability, sustainable transport impacts including cycle parking demand, bus services and highway safety, sustainable energy and air quality considerations, impact on existing trees, and contribution to other objectives of the development plan.
- (6) The principle of the redevelopment of the college buildings on Site B for housing, to enable the improvement and consolidation of the college campus facilities onto Site A, and the overall net loss of college floor space, was assessed in terms of the wider estates plan for the MET College and its financial position, and in terms of the College's aspirations and needs for the campus, to modernise the facilities and continue to attract students. It was accepted that the existing buildings on Site B were not fit for purpose, and the Heritage Officer did not object to the demolition of the existing buildings on this site, subject to a high quality design for the replacement buildings. The development of this site for housing was considered necessary in order to fund the improvements to the campus facilities on Site A which the District Valuation Service had concurred with, and the economic and community benefits that this investment into the MET college would bring were acknowledged, and therefore an exception to policies HO20 and CP21 was considered to be justified in this instance. The principle of new housing development on this site was also supported by the Development Plan.
- (7) The proposed college extensions on Site A were considered to be of a high quality design which respected the architecture and scale of the existing tower and plinth, and although the Heritage Officer had raised concerns over the lack of glazing on the eastern wing, it was accepted that the College had specific daylight, heating and privacy requirements for the intended uses within the building and the extensions would nevertheless strengthen the building line and street scene in Pelham Street and Whitecross Street. The proposed extensions and open space to the south would greatly improve the existing surface staff car park in terms of townscape and would improve the permeability and visual amenities of the local area, allowing public access into and through the open space daily from 7am until 10pm. The Local Highway Authority (LHA), whilst generally supportive of the removal of the majority of the car parking spaces and supportive of the number of accessible spaces to be retained on Site A, was not satisfied with the design of the accessible parking spaces due to the gradient of the parking area, which the LHA considered should be level. The applicant

had sought to reduce the gradient but this caused problems with damage to the protected sycamore tree roots and with connecting the car park to the open space and college building given the level changes across the site. On balance it was considered that the car park and open space should comply with the Building Control standards for 'Access to and Use of Buildings other than Dwellings' which the applicant considered was an acceptable requirement and detailed drawings would be required by condition to demonstrate this.

- (8) The application had also been assessed in terms of the matters to be considered in this outline application, namely the pedestrian and vehicular accesses, the external layout (building footprints and position of buildings and external areas), and the scale of the development. The assessment included the potential impact on daylight/sunlight to neighbouring properties, outlook, amenity and privacy of future occupiers and neighbours, trip generation and car and cycle parking provision, servicing and deliveries, vehicular accesses, and potential impact on the highway and infrastructure improvement and mitigation requirements including highway improvement works, and education, economic development, and open space contributions. The proposed development of Site B was considered to be acceptable subject to compliance with the recommended conditions and s106 obligations. The reserved matters of internal layout, landscaping and appearance would need to conform to the parameters set by the outline proposals, and an accompanying assessment of daylight/sunlight to internal and external areas should be submitted in support of the application. For all of these reasons the application was therefore recommended for minded to grant approval.

Public Speakers

- (9) Mr Bromberg spoke in relation to the application setting out his objections and concerns. His property was immediately adjacent to the proposed integrated public seating areas and he was concerned that this would be detrimental to his amenity as its location could attract street drinkers and result in noise nuisance/anti-social behaviour in close proximity to his home and neighbouring residential dwellings. Ideally, there should be a buffer between this area and the nearby housing. It was confirmed that this could be controlled through a site management plan. Councillor Hyde asked Mr Bromberg to indicate the precise location of his property. Councillor Moonan stated that in her view the hours of access and arrangements for control/closure and lighting of public areas after dark was important and asked for confirmation that this could be incorporated into a management plan and it was confirmed that it could.
- (10) Councillor Deane spoke in her capacity as a Local Ward Councillor setting out her concerns in respect of some elements of the scheme. Whilst acknowledging that the applicants had gone to considerable lengths to address concerns in respect of the scheme and being generally supportive of it she also had concerns regarding some elements of management of the site considering that it was important to design out/control the site so that it did not attract or encourage the problems that Mr Bromberg had alluded to.
- (11) Ms Tipper spoke on behalf of the applicants in support of the scheme and was accompanied by Mr James (Deputy Principal) in order to answer any questions by Members of the Committee on which he was better placed to respond. It was explained

that the applicants had needed to make significant changes from previously submitted schemes due to reductions in funding but had however sought to provide improved facilities for existing and future students as well as public realm improvements whilst being sympathetic to the neighbouring residential dwellings.

- (12) Councillor Mac Cafferty asked the applicants to explain the rationale for the level of affordable housing to be provided on site and it was explained that a balance had needed to be struck in order to provide for the college's needs, and an appropriate level of enabling development which would ensure the viability of the scheme. The viability assessment had been independently verified by the District Valuer. Councillor Mac Cafferty also enquired regarding the relatively low BREEAM rating which would be achieved asking why the applicants had not sought to achieve an excellent rating. It was further explained that it had not been possible to achieve this within the constraints of the current scheme. The council's sustainability officer had accepted however, that this design decision had benefits elsewhere (e.g. daylight) and had indicated that they could accept BREEAM Very Good in this instance. The external alterations to the existing building although modest, would improve the corner façade on Cheapside/Whitecross Street and the extensions and fully glazed atrium would greatly improve the southern elevations of the building.
- (13) Councillor Moonan also sought further information in relation to viability and in relation to proposed Condition 28 in relation to noise control measures and to ensure protection of neighbouring amenity.
- (14) Councillor C Theobald asked regarding the level of parking proposed and it was explained that notwithstanding the matters which were to be addressed in relation to configuration of the car park the level of parking provided was considered to be acceptable and took account of the site location which meant that it was easy to walk to or travel to by public transport and there was also the opportunity for car share arrangements.
- (15) Councillor Miller referred to the sports facilities available on site enquiring whether it was intended that they would be available to the local community. It was explained that that could be given consideration.
- (16) Mr Gowans, CAG, referred to and enquired regarding access arrangements to be put into place.
- (17) Councillor Cattell, the Chair, referred for the need for students to be reminded that they needed to act as good neighbours bearing in the mind the close proximity of residential dwellings asking whether the management plan included arrangements to ensure that was conveyed and that appropriate action could be taken in the event of any complaints. It was confirmed that there were.

Questions of Officers

- (18) Councillor Miller referred to the conditions proposed in relation to site B seeking details regarding the landscaping proposed and to the relative heights of the constituent elements of the development, also referring to the fact that details set out in the "Heads of Terms" for site A should also be included for Site B; it was confirmed that they

should and requesting that materials be brought back to a Chair's meeting for Member approval.

- (19) Councillor Mac Cafferty referred to the earlier scheme(s) for which permission had been granted seeking confirmation as to whether they represented a material consideration and regarding the weight which could be attached to them. The Legal Adviser to the Committee, Hilary Woodward explained that they were material, although this application needed to be determined on its individual planning merits.
- (20) Councillor Mac Cafferty also referred to the proposed boundary treatments in relation to the proposed housing and the design out elements which could give rise to anti-social behaviour/crime. Councillor Mac Cafferty referred to the viability information provided with the application, seeking re-assurance that the applicants had been required to provide a robust case in support of the level of affordable housing. The Legal Adviser to the Committee, Hilary Woodward stated that as the information provided had been assessed and was considered to be reasonable by the District Valuer, it would not be appropriate to seek a greater number of units in this instance.
- (21) Councillor C Theobald sought confirmation regarding the existing buildings to be demolished and clarification of the rationale for doing so.
- (22) Councillor Littman stated that whilst the scheme had much to commend it in general terms he had some concerns in relation to the overall loss of educational floor space and why that was considered to be acceptable. The Principal Planning Officer, Sarah Collins, explained that the space to be replaced was out dated and no longer fit for purpose and would be replaced by modern higher spec teaching space. Councillor Littman also stated that it was disappointing that an excellent BREEAM rating had not been achieved but it was confirmed that the rating which would be achieved was considered to be the optimum which could be achieved without compromising the overall viability of the scheme. It was also confirmed that the archway fronting London Road was not to be demolished.
- (23) In answer to queries regarding access and parking arrangements the Development and Transport Assessment Manager, David Farnham, explained that a number of complex issues had been considered and the Highway Authority's concerns were set out in the report. Notwithstanding those it was considered that they could be addressed by condition and subject to agreement of final details as set out in the report.
- (24) Councillor Hyde sought confirmation regarding the precise location and height of the flats proposed.
- (25) Councillor Gilbey referred to the existing Gloucester building and it was confirmed that it fell outside the area covered by this application but had been included for viability purposes.

Debate and Decision Making Process

- (26) Councillor Mac Cafferty stated that there were a number of issues on which he would have preferred greater clarity enquiring regarding the feasibility of deferring determination. It was explained that the application was time limited in terms of the

college's ability to apply for the necessary funding and that additional information could be sought from the applicant or from officers.

- (27) Councillor C Theobald stated that she was disappointed that the existing tower block would be retained and that although there were some aspects of the scheme which she considered to be improved on overall it was acceptable particularly as it would provide improved facilities for students at the college and housing.
- (28) Councillor Miller stated that he would be voting in support of the scheme which would tidy up the existing car park area and provide enhanced facilities and housing.
- (29) Councillor Hyde concurred, stating that she would be voting in support of the application.
- (30) Councillor Mac Cafferty stated that whilst he considered that there were a number of missed opportunities in terms of the number of affordable housing units to be provided and in terms of the environmental aspects on balance he would be voting in support.
- (31) Councillor Morgan stated that he knew the site well and whilst the scheme was not perfect and some issues remained to be addressed he was confident that these could be dealt with by imposing the proposed conditions.
- (32) Councillor Moonan concurred with all that had been said confirming that she would be voting in support of the scheme.
- (33) Councillor Cattell, the Chair, stated that she would be voting in support of the scheme which although not perfect would effect improvements to the area.
- (34) A vote was taken and the 11 Members who were present when the vote was taken voted unanimously that Minded to Grant Planning Permission be given

78.1 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and in the Late/Additional Representation List and as part of the verbal update given at Committee resolves that it is **Minded to Grant** planning permission subject to a s106 Planning Obligation and the Conditions and Informatives as set out in the report, **SAVE THAT** should the s106 Planning Obligation not be completed on or before the 27th March 2019 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 10.8 of the report:

B BH2018/01973 -Former Peter Pan Playground, Madeira Drive, Brighton - Full Planning

Erection of outdoor swimming pool (25m x 12.5m) and changing/plant rooms (D2 use), flexible events space (D2 use) and 1-3 storey relocatable modular buildings with first floor deck to provide mixed leisure/retail/food/drink/office uses (D2/A1/A3/A4/A5/B1 uses) including second floor place markers and lifeguard observation unit, with associated cycle parking, refuse storage, landscaping, boundary treatment and retractable beach mat. Temporary (meanwhile use) for 5 years.

It was noted that this application had formed the subject of a site visit prior to the meeting.

Officer Presentation

- (2) The Principal Planning Officer, Maria Seale introduced the application and gave a detailed presentation by reference to site plans, elevational drawings, photographs and photomontages setting out the site as currently and as envisaged should planning permission be granted for the proposed scheme. Reference was also made to representations set out in the Late/Additional Representations List.
- (3) It was explained that the site was in the council's ownership and formed part of the former Peter Pan amusement site between Madeira Drive and the Volks Railway, just west of the Yellowwave volleyball facility. The site comprised an area of hardstanding north of the Volks Railway and also part of the beach to the south of the railway and had had several temporary uses. The site lay in the East Cliff Conservation Area and within the setting of the Grade II Listed Madeira Terraces, Lift and Shelter Hall (Concorde 2). The site was also partly located within the Volks Railway Site of Nature Conservation Interest (SNCI). This application proposed the temporary uses set out in the report including an outdoor heated swimming pool with retractable cover, associated plant and changing facilities directly on the beach envisaging 7 users per hour for a temporary period of 5 years from date of first use. Whilst the application information suggested that a future application may be submitted for a permanent scheme, with an extended 50m pool, no further information relating to this had been submitted and this did not form part of the current application.
- (4) The main considerations in the determining this application were:
- The principle of developing the open shingle beach
 - The impact to ecology and biodiversity
 - The principle of locating the proposed uses in this location
 - The impact to local retail centres
 - The impact to the setting of the special character and appearance of the East Cliff Conservation Area and nearby listed buildings
 - The impact to tourism and the economy
 - The contribution the development will make to sports provision in the city
 - The demand for travel created by the development
 - The impact to amenity
- The relevant policies under which the application had been considered were also set out and referred to in the report. Comments and concerns expressed by Historic England, the council's own Heritage Team and local heritage societies were set out. Since the pre-application stage, the applicant had sought to reduce the overall scale and density and the amount of second/third floor levels and to introduce some gaps through the site all of which was seen as positive. The structures south of the railway had been kept to the minimum needed for the pool to operate in order to maintain a degree of openness, officers had also secured amendments to ensure the structures and pool were located as far north as possible in order to lessen their impact.

- (5) The proposal and its “temporary” nature and appearance would not be considered acceptable as a permanent form of development given that it would prove counter-productive to the long term aspirations for the area. It was considered however, that in this exceptional case, significant weight should be given to the wider regenerative benefits of the scheme and the benefits of providing the sporting facility in particular, and to the fact that it was temporary only (and thus harm would be minimised and ultimately reversible). It was considered that there was clear and convincing justification for the scheme, as required by para 194 of the NPPF. It was also considered that the degree of harm caused would be less than substantial and that the positive public benefits of the scheme would outweigh the harm caused, as required by para 196 of the NPPF.
- (6) On balance the proposed development was considered to bring significant benefits to an area which was in decline. It would help regenerate the area and boost tourism and the wider economy. There was also an identified shortage of pool space in the city and the scheme would promote swimming and healthier life styles. The principle of locating the proposed ‘enabling’ commercial and sporting uses on this part of seafront was considered acceptable. There was a general presumption against development directly on the beach, outside of the previously developed site, however there were other such examples like Yellowwave adjacent and on balance the wider benefits of the scheme were considered to outweigh the harm and loss of open space. The scheme would be built in an area of rare vegetated shingle habitat but would include satisfactory ecological mitigation and enhancement. Whilst there were concerns regarding the overall scale/density and appearance of the scheme the amount of development proposed was necessary to make the pool viable, and provision of this sporting facility was given significant weight. The scheme would cause harm to the special setting of listed buildings and the East Cliff Conservation Area, but this harm was exceptionally considered to be outweighed by the public benefits of the scheme and the fact any impacts will be only temporary. The developer was trying to do something different and exciting here and, on balance, therefore, approval was recommended.

Questions of Officers

- (7) Councillor Miller sought clarification regarding the figure proposed for sustainable transport and in respect of the overall figure required by the Section 106 Obligation. It was explained that the sum being sought reflected the mitigation measures included by the applicant and in order that the viability of the scheme would not be compromised.
- (8) Councillor C Theobald sought clarification regarding the size of the pool, the total number of units to be provided and the timeframe for provision of the pool facility. It was explained the pool would need to be provided within 12 months of any permission granted in order to avoid being in breach of planning conditions.
- (9) Councillor Hyde requested to see photographs of the existing buildings immediately adjacent to the site and sought further detail regarding the structures proposed which appeared to look like shipping containers. It was confirmed that they would not be shipping containers. Councillor Littman sought further clarification on this matter however, citing that in the report they were referred to as “modern container type structures.”

- (10) Councillor Littman also referred to the fact that the proposed scheme would involve building out onto the shingle which formed part of the SNCI. He expressed concern regarding the level of mitigation measures proposed in relation to avoid destruction of what was acknowledged recognised as important habitat and to avoid encroaching onto a public beach. It was explained that the existing shingle mound would be capable of better management as a result of the proposed scheme and that it would provide better public orientation along that stretch of the beach.
- (11) Councillor Bennett asked regarding the size of the units to be provided and it was confirmed that they would be of differing sizes.
- (12) Councillor O'Quinn enquired in respect of arrangements for management of the site bearing in mind that there could be additional units providing alcohol close to/the licensing SSA. In the city centre and adjacent area the number of units supplying alcohol was already at saturation point and the Police already experienced difficulty on occasion in managing crime and violent or anti-social behaviour which could result from excessive alcohol consumption. She had concerns about the negative impact which could result from these proposals.
- (13) Councillor Hyde asked whether the timber would be painted a traditional "Brighton Blue" and it was confirmed that it would.
- (14) Councillor Mac Cafferty asked whether and where else elements of this scheme had been discussed, for example had it been discussed at Policy, Resources and Growth Committee, whether it had been considered in the context of a Master Plan for the area, its history and what negotiations/consultation process had been undertaken. He considered that a holistic approach was needed apropos anything proposed in this sensitive location; it was very important to avoid piece-meal development.
- (15) Councillor Mac Cafferty also referred to the robust comments made by Historic England and to the palette of materials and scale of other buildings along the seafront and to advice provided by the council's own officers which did not appear to have been headed. Whilst noting that a number of conditions would be attached to any permission granted, that this would be a temporary permission, and that applicant had tried to adopt a bold approach, thought needed to be given to longer term use of the site.
- (16) Councillor Moonan referred to the fragility of the site considering that any conditions applied would need to be strenuous in protecting the existing marine plants etc., and ensuring that any additional planting provided would be sufficiently robust. Councillor Moonan also enquired whether it would be possible to offer the pool for wider community use. Councillor Gilbey concurred stating that use by 7 individuals an hour seemed very low, bearing in mind the potential harm and disruption and level of enabling development necessary. Councillor C Theobald asked whether the pool would provide a facility which would be capable of wider community use. It was explained that some of the areas referred to fell outside the boundaries of the site and that use of the pool could not be controlled.
- (17) Councillor Miller sought clarification regarding the precise area of beach to be used and the distances between the proposed structures and the nearest adjacent buildings.

Debate and Decision Making Process

- (18) Councillor Morgan stated that the site fell within his ward, citing the importance of this part of the city as a tourist attraction and destination for a number of visitors. This site had been dilapidated and decaying for some time and this would provide the opportunity to return it to use and to enliven the surrounding area; he supported the scheme.
- (19) Councillor Moonan stated that she had listened very carefully to all that had been said and on balance was in agreement that this scheme could help to kick-start regeneration of this area of the seafront.
- (20) Councillor C Theobald was in agreement that the site had been empty for a long time and that a boost to that part of the seafront was needed and therefore supported the officer recommendation.
- (21) Councillor O'Quinn acknowledged that a number of benefits would accrue from the scheme but considered that the proposed pop up buildings would be garish and she remained to be convinced that they would encourage re-invigoration of the area as envisaged.
- (22) Councillor Miller stated that whilst acknowledging that revitalisation of the site was needed, he considered that much of the enabling development being provided in advance of delivery of the swimming pool did not stack up in his view. The level of harm to the heritage asset and neighbouring buildings would be too great and he considered the comments received from Heritage England were damning.
- (23) Councillor Littman concurred saying the amount of damage and harm which would be caused in order to provide temporary facilities was too high. The council had a responsibility to act as custodians of the natural and built environment.
- (24) Councillor Hyde agreed with all that had been said by Councillor Miller. She recognised that the arguments were finely balanced and that benefits would accrue, but in her view the damage which would result to the environment, character, setting of the listed buildings and detrimental visual impact would be too great and would be contrary to a number of local plan policies.
- (25) Mr Gowans, CAG referred to the comments submitted by CAG re-iterating their view that the proposed scheme was wholly unacceptable.
- (26) Councillor Mac Cafferty stated that he considered that a fully worked up Master Plan for the whole area was essential. Whilst there was much he liked about the scheme there was also much he did not. Any development in this location should contribute to a strong sense of place and not sure that this did. The comments received from Historic England expressed their concerns and objections in very strong terms.
- (27) Councillor Cattell, the Chair acknowledged that the scheme was finely balanced and was of the view that in some cases temporary permissions were necessary in order to

project schemes forward and to secure longer term protection of the site. She considered the scheme was acceptable and would be voting in support of it.

- (28) A vote was taken and on a vote of 7 to 4- the application was not approved. Alternative recommendations were then sought and Councillor Littman proposed and Councillor Hyde seconded the proposal that the application be refused. The reasons put forward for refusal were that the proposed scheme conflicted with plan policies in relation to building on the beach, ecological impact, harm to a heritage asset, design, density, height, colour and scale of the proposed form of development. The mitigation measures proposed by the applicant were considered to be insufficient/inappropriate. It was agreed that the final wording of the grounds of refusal would be prepared by officers in consultation with the proposer and seconder and that should the refusal be appealed the Committee agreed a s106 planning obligation on the heads of terms set out in the report
- (29) A recorded vote was then taken and Councillors, Gilbey, Mac Cafferty, Bennett, Hyde, Littman, Miller and O'Quinn voted that the application be refused. Councillors, Cattell, the Chair, C Theobald, Moonan and Morgan voted that Planning Permission be granted. Therefore on a vote of 7 to 4 Planning Permission was refused.

- 78.2 **RESOLVED** - That the Committee has taken into consideration the reasons for the recommendation set out in the report but resolves to **REFUSE** planning permission for the reasons set out above and authorises that should the refusal be subsequently agreed with be appealed that a s106 obligation be entered into on the heads of terms set out in the report.

MINOR APPLICATIONS

C BH2018/01894 - 1A Marmion Road, Hove - Variation of Conditions

Application under S73a for variation of condition 2 of BH2015/01278 (Demolition of existing warehouse (B8) and erection of 4no two/ three storey residential dwellings (C3) and offices (B1).) (allowed on appeal) to allow amendments to the approved drawings.

It was noted that this application had formed the subject of a site visit prior to the meeting

Officer Presentation

- (1) It was noted that consideration of this application had been deferred at the previous meeting of the Committee following concerns expressed by Councillor Nemeth who had spoken and had indicated that the development had not been built in accordance with the extant permission and in order to enable a site visit to take place. The applicant/agent had also been invited to address the Committee, they did not however attend in order to do so.

- (2) The Principal Planning Officer, Liz Arnold presented the application by reference to the site plans and drawings and referred to the issues raised at the previous meeting of the Committee. It was confirmed that the application had been agreed on appeal and that the conditions set by the Planning Inspector had been met, but ultimately it had not been possible to provide tree planting which was sustainable on site, that had not proved practicable given the constraints of the site but it was not considered however that the differences between the agreed plans and development as built were sufficient to warrant refusal.

Questions of Officers

- (3) Councillor Miller commended the contribution made by Councillor Nemeth in drawing this matter to Members' attention. Whilst understanding that it was not possible to plant trees on site, he enquired whether it would be possible either to provide trees in pots or to provide climbing plants which would soften the appearance of the building. The Legal adviser to the Committee confirmed in answer to questions that the elevational treatment and materials had been approved and it had been established trees could not be provided as they would not survive. The Planning Manager, Nicola Hurley confirmed however that were members sufficiently concerned an additional condition requiring wall climbing plants could be added.
- (4) Councillor Littman noted that it was intended that 7 trees would be provided off site stating that he hoped that arrangements would be made to ensure that they were maintained/replaced for 5 years in accordance with standard conditions applied in order to secure their longer term survival.

Debate and Decision Making Process

- (5) Councillor C Theobald stated that having driven past the site, she considered that the development was cramped onto the site and that the brickwork was out of keeping with the neighbouring street scene. Notwithstanding that it was disappointing that permission had been granted on appeal, any further action which could be taken by the Committee was limited.
- (6) Councillor Miller re-iterated his earlier comments in relation to planting treatment on site requesting that a condition be added requiring climbing plants to be provided. This was seconded by Councillor Hyde and the Members of the Committee present were in unanimous agreement that such a condition be included in any permission granted.
- (7) A vote was taken and the 11 Members who were present when the vote was taken voted unanimously that Planning Permission be granted to include the additional condition suggested.

77.3 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves that it is **MINDED TO GRANT** planning permission subject to a s106 agreement and to the Conditions and Informatives also set out in the report.

D BH2018/02918 -Portslade Sports Centre, Chalky Road, Portslade -Full Planning

Replacement of existing artificial grass surface and associated works including replacement floodlights, fencing, hard standing areas and installation of equipment storage.

Officer Presentation

- (1) The Principal Planning Officer, Maria Seale, introduced the application and gave a presentation by reference to photographs, site plans and elevational drawings detailing the proposed scheme. It was noted that confirmation had been received that Sport England had not objected to the proposed development.
- (2) It was noted that the main material planning considerations in respect of this application were the principle of the development proposed, its design and appearance and the impact on the amenity of neighbouring properties. Impact from the proposed floodlights had been considered in detail as part of the applicant's Design and Access Statement and a separate lighting report. Light spillage would be kept to a minimum, would be below the threshold for an Environmental Zone E2 (a village or relatively dark outer suburban location) and the proposal was therefore in accordance with policy QD26, subject to conditions controlling its installation and hours of use. The proposed replacement pitch would be unsuitable for hockey, but in view of the fact that an excess of hockey pitches had been identified this loss was considered acceptable, particularly when set against the gain in footballing provision which would result. Overall, the proposed development was considered to be acceptable and approval was recommended.

Questions of Officers

- (3) Councillor Littman sought confirmation regarding the location of the three other hockey pitches in the area and it was explained that one was located near Horsham, in Southwick and at the University of Sussex.
- (4) Councillor Morgan enquired whether it was possible to determine the materials to be used for surfacing the pitch. It was explained that they could not, it was understood that all Football Association technical requirements had been met and that no objections had been raised by the relevant technical officers.
- (5) Councillor Gilbey stated that she was not aware that the existing hockey pitch was used by local groups, those using the current facility travelled some distance in order to do so, whereas improved football facilities would answer a local need.
- (6) The Chair, Councillor Cattell, noted that 107 letters of support had been received welcoming improved footballing facilities stating that she was in agreement with the officer recommendation.

Debate and Decision Making Process

- (7) The Committee then moved directly to the vote and the 10 Members present voted unanimously that planning permission be granted.

77.4 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves **TO GRANT**

planning permission subject to the Conditions and Informatives also set out in the report.

Note: Councillor Hyde was not present at the meeting during consideration or determination of the above application.

E BH2018/02525 - 2 Sackville Gardens, Hove - Full Planning

Demolition of existing garage and erection of 1no semi-detached three storey dwelling house (C3).

- (1) It was noted that this application had formed the subject of a Site Visit prior to the meeting.

Officer Presentation

- (2) The Principal Planning Officer, Maria Seale, introduced the application and gave a presentation by reference to photographs, site plans and elevational drawings detailing the proposed scheme. It was noted that in addition to the letter of support received from Councillor Cobb that a letter of support had also been received from Councillor Bewick, attached to the Late/Additional Representations List.
- (3) It was noted that the main considerations in determining the application related to the principle of the development, the impact of the proposal on the Sackville Gardens Conservation Area and the standard of accommodation the proposed dwelling would provide; the impact on neighbouring amenity, transport and sustainability were also material considerations. The existing buildings on the application site formed a uniform semi-detached pair of buff coloured brick dwelling houses with large projecting gables, modest dormers, projecting bays and central entrances underneath a portico and made a positive contribution to the street and conservation areas with their retention of original architectural features. Due to its height, design and narrow footprint compared to other buildings in Sackville Gardens, the proposed dwelling would appear as a large side extension and would interrupt the important uniformity and rhythm of the semi-detached pairs in the street and in consequence would cause significant harm to the streetscape and surrounding conservation area. The proposed form of development was contrary to the Local Plan and therefore by reason of its height and constrained footprint, was considered to represent an incongruous addition to the street scene which would cause unacceptable harm to the Sackville Gardens conservation area and refusal was therefore recommended.

Public Speakers

- (4) Mr Henderson, the applicant, spoke in support of his application stating that he disagreed with the officer view that the proposed development was at variance with the street scene. Whilst there were blocks of semi-detached buildings to one side, the proposed development would be at the end of the row, the buildings on the other side of the highway were taller and of a differing scale and on that basis he contended that the development would not be out of keeping. Thought had been given to its scale and design to seek to ensure that it was sympathetic.

Questions of Officers

- (5) Councillor Littman sought confirmation as to whether the proposed development would be of two or three storeys in height and it was confirmed that it would be two storeys with a bedroom located in the roof space.
- (6) Councillor Moonan referred to the fact that the development would provide another dwelling seeking confirmation regarding what could be acceptable at that location. It was confirmed that a development which did not unbalance the uniformity of the street scene could be considered acceptable.

Debate and Decision Making Process

- (7) Councillor Miller stated that he considered the proposal to be acceptable in that was a modest modern building which in his view did not compromise the street scene.
- (8) Councillor C Theobald stated that she considered that “harm” had already occurred in consequence of the large neighbouring development
- (9) Councillor Hyde stated that she considered the proposed development would be totally out of place and was far too narrow when viewed in the context of the neighbouring dwellings. It reminded her of a similar development in Saltdean which she had also considered was unacceptable.
- (10) Councillor Littman also agreed that this addition, at variance with the neighbouring mirror pairs of dwellings would be out of keeping.
- (11) Councillor Morgan was in agreement that the proposed dwelling was very narrow when viewed in relation to its neighbours. Councillor Gilbey concurred in that view considering that the proposal would be too cramped and that the proposed fenestration would also be inappropriate.
- (12) Councillor Mac Cafferty was of the view that damage had already occurred due to development which had already been permitted, he did not consider that this would result in any greater harm and on that basis he considered the proposal was acceptable.
- (13) Councillor Moonan stated that on balance she considered the scheme was acceptable as did Councillor O’Quinn who considered that this would represent an improvement on the existing garage.
- (14) The Chair, Councillor Cattell stated that she considered the appearance of the proposed scheme was dreadful and would spoil the rhythm of the existing building line and would be out of character with the neighbouring street scene.
- (15) A vote was taken and the 11 Members of the Committee - who were present when the vote was taken voted on a vote of 6 to 5 with no abstentions that Planning Permission be refused.

77.5 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **REFUSE** planning permission for the reasons also set out in the report.

F BH2018/02219 -Media House, 26 North Road, Brighton- Variation of Conditions

Variation of condition 1 of application BH2017/01596 (Change of use of the Coach House from office (B1) to 1no three bedroom residential dwelling (C3) with associated erection of a single storey side extension and revised fenestration) to allow amendments to approved drawings.

Officer Presentation

- (1) The Principal Planning Officer, Liz Arnold, introduced the application and gave a presentation by reference to photographs, site plans and elevational drawings detailing the proposed scheme.
- (2) It was noted that the main considerations in considering the application were the standard of accommodation to be provided and the impact of the proposed changes on the character of the area. It was noted that the size of the bedrooms and the total floor area of the proposed dwelling were both in excess of the level prescribed in the Government's Nationally Described Space Standards. Although the Council had not yet adopted these standards as policy they nonetheless gave an indication that the standard of accommodation to be provided would be adequate and approval was therefore recommended.

Debate and Decision Making Process

- (3) Councillor C Theobald requested to see additional photographs of the site following which the Committee moved directly to the vote.
- (4) The 10 Members of the Committee who were present when the vote was taken voted unanimously that planning permission be granted.

77.6 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives also set out in the report.

Note: Councillors Bennett and Hyde were not present at the meeting during consideration or determination of the above application.

G BH218/01884, 97 Hornby Road, Brighton -Full Planning

Change of use from three bedroom single dwelling (C3) to six bedroom small house in multiple occupation (C4) with alterations to fenestration and provision of cycle storage.

Officer Presentation

- (1) The Principal Planning Officer, Liz Arnold, introduced the application and gave a presentation by reference to drawings, elevational drawings floorplans and

photographs. The application site was a semi-detached, two-storey property on the northern side of Hornby Road and the application sought planning permission to change the use of the property from a residential dwelling (C3) to a six-bedroom small House in Multiple Occupation (C4).

- (2) It was noted that the main considerations in determining the application related to the principle of the proposed change of use, the visual impact of the proposed external alterations, the impact of the proposal on neighbouring amenity and the standard of accommodation the proposed HMO would provide. Sustainable transport was also a material consideration. The applicant was seeking to alter the internal layout of the property to create 2no ground floor bedrooms, with one bathroom on each floor. The proposed bedrooms met the minimum national space standards and were adequate in terms of size, circulation space and layout, providing good levels of natural light and outlook. The standard of accommodation the proposal would afford to future occupants was considered to be acceptable. If, however, the communal space was converted to a bedroom in future, this would severely restrict the level of shared space available to the occupants. Therefore, a condition would be applied to any permission granted restricting the use of this room to communal use only to ensure an acceptable layout and level of communal space was retained.
- (3) There appeared to be parking onsite for several vehicles and the site was not in a CPZ so on-street parking was available. The proposed change of use was therefore not considered to have a significant or negative impact on the highway and for these reasons approval was recommended.

Questions of Officers

- (4) Councillor Gilbey queried whether the letter of objection received from Councillor Meadows related to the most recent application in respect of this site and it was confirmed that it did.
- (5) Councillor Miller sought clarification regarding the number of properties in HMO use within close proximity to the site as this had been referenced in Councillor Yates' letter of objection. Also, whether the number of occupants could be limited by condition. It was confirmed that this was addressed by proposed Condition 4 which would be attached to any planning permission granted. Councillor C Theobald also sought confirmation regarding the number of HMO's and it was confirmed that those referred to by the local ward councillors in their letters of objection fell outside the radius to be considered.

Debate and Decision Making Process

- (6) Councillor O'Quinn noted all that had been set out in the report regarding the distance from other HMO's in the neighbourhood and in respect of the removal of permitted development rights which meant that planning permission would be required in order for any further works to be carried out to the property. Whilst recognising that not all HMO's were student lets a number were and where there was a concentration of them as was the case in some areas of the city it could impact negatively on other residents and they had genuine and founded concerns in relation to such a proliferation of use. Residents often expressed the view that their concerns were not

taken seriously and it was not clear to them that often Members' hands were tied in terms of refusal in the absence of planning grounds on which to do so, or that when refused permission could be granted by a Planning Inspector following an appeal by the applicants. Councillor O'Quinn stated that she wanted to raise this matter to give it a higher profile for residents and to urge that by whatever means could practically be used in line with existing legislation that further thought could be given to how these issues might best be addressed.

- (7) A vote was taken and the 10 Members present when the vote was taken voted by 9 with one abstention that Planning Permission be granted.

77.7 **RESOLVED** - 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 Conditions and Informatives also set out in the report.

Note: Councillors Bennett and Hyde were not present at the meeting during consideration or determination of the above application.

H BH2018/01160, 10 Selham Close, Brighton - Full Planning

Change of use from residential dwelling to 6no bedroom small House in Multiple Occupation (C4) incorporating revised fenestration, sound proofing, cycle stands and associated works

Officer Presentation

- (1) The Principal Planning Officer, Liz Arnold, introduced the application and gave a presentation by reference to drawings, elevational drawings, block plans, floorplans and photographs. It was noted that the main considerations in the determining this application related to the principle of the change of use, the design of the external works, the standard of accommodation which the use would provide, impact upon neighbouring amenity and transport issues.
- (2) The proposed bedrooms would meet the minimum national space standards and were adequate in terms of size, circulation space and layout to cater for the furniture needed and with good levels of natural light and outlook within the unit. The communal area, consisting of an open planned kitchen, lounge and dining area, measuring approximately 20sqm, would be fairly tight for a 6 person property, with the plans only detailing space for a 4 person sofa. However, the communal space did have a functioning layout, the property benefitted from a large rear garden space and the bedroom sizes were adequate in terms of size and circulation space. On that basis, with access to a large rear garden, a functional communal space and bedrooms with adequate amounts of useable floor space, the future occupants would likely benefit from an acceptable standard of accommodation and the application could be supported on that basis. If however the communal space was converted to a bedroom in future, this would severely restrict the level of shared space available to the occupants and, therefore, a condition would be applied to any permission granted restricting the use of that room to communal use only to ensure an acceptable layout and level of communal space was retained. The proposed change of use would result in a more intensive use of the property including the number of trips made to/from the

property and a greater impact on the immediate and surrounding area. It was not considered however that this would be of such magnitude to warrant refusal of planning permission and approval was therefore recommended.

Debate and Decision Making Process

- (3) The Committee then moved straight to the vote. A vote was taken and the 10 Members present when the vote was taken voted 9 to 1 that Planning Permission be granted.

77.8 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives also set out in the report:

Note: Councillors Hyde and Bennett were not present at the meeting during consideration or determination of the above application.

I BH2018/01118- 103 Norwich Drive, Brighton - Full Planning

Change of use from three bedroom dwelling house (C3) to six bedroom small house in multiple occupation (C4) with alterations to fenestration. (Part-Retrospective)

Officer Presentation

- (1) The Principal Planning Officer, Liz Arnold, introduced the application and gave a presentation by reference to drawings, elevational drawings, block plans, floorplans and photographs. It was noted that the main considerations in the determining this application related to the principle of the change of use, the design of the external works, the standard of accommodation which the use would provide, impact upon neighbouring amenity and transport issues. The application site was a two-storey semi-detached property located in a residential area on the south west side of Norwich Drive; an Article 4 Direction was in place restricting the conversion of single dwelling houses to small HMO's (C4).
- (2) The proposed changes to the internal layout of the property would result in 2no bedrooms at ground floor level with an open planned kitchen living and dining area and shower room and 4no bedrooms and 1no shower room at first floor level. The communal area, consisting of an open planned kitchen, lounge and dining area, measuring approximately 21sqm, would be fairly tight for a 6 person property. However, the communal space did have a functioning layout, the property benefited from a large rear garden space and the bedroom sizes were adequate in terms of size and circulation space. On that basis, with access to a large rear garden, a functional communal space and bedrooms with adequate amounts of useable floor space, the future occupants would likely benefit from an acceptable standard of accommodation and the application could be supported on that basis. If however the communal space was converted to a bedroom in future, this would severely restrict the level of shared space available to the occupants. Therefore, a condition would be applied to any planning permission granted restricting the use of this room to communal use only to ensure an acceptable layout and level of communal space was retained.

- (3) The proposed change of use from a C3 dwelling house to six bedroom C4 HMO would result in a more intensive use of the property including trips to/from the property and would have a greater impact on the immediate and surrounding area. It was considered that the increased impact likely to be caused in this case would not be of a magnitude which would cause demonstrable harm to neighbouring amenity and would not warrant the refusal of planning permission and planning approval was therefore recommended.

Questions of Officers

- (4) Councillor C Theobald sought clarification regarding the number and location of the bathrooms/shower rooms to be provided.
- (5) Councillor Gilbey referred to the concerns which had been expressed regarding additional noise which could arise from a more intensive use of the property enquiring whether these could be considered as a material planning consideration. It was confirmed that they could but would need to be deemed such that they would constitute a demonstrable harm. They were not considered to be such in this case to justify grounds for refusal of planning permission.

Debate and Decision Making Process

- (6) Councillor O'Quinn noted all that had been said but re-iterated her concerns that there was apparently little leeway in refusing applications expressing concern that there could be a number of unlicensed HMO's in any given area and the differing nature of the planning and licensing regimes in respect of this matter. This concerned her a lot.
- (7) Councillor Cattell, the Chair, concurred with Councillor O'Quinn stating that the need for greater integration of licensing and planning was recognised and the practicalities of strengthening the existing Article 4 Direction were being assessed. The number of HMO's was being monitored but if the grounds on which an application was refused were not sufficiently rigorous the reality was that an permission was likely to be granted on appeal and the Council could be exposed to an application for costs.
- (8) A vote was taken and the 9 Members who were present when the vote was taken voted 7 to 2 that planning permission be granted.

77.9 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives also set out in the report:

Note: Councillors Bennett, Hyde and C Theobald were not present at the meeting during consideration or determination of the above application.

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

86.1 There were none.

79 INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS

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

80 NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

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

81 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

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

82 APPEAL DECISIONS

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

The meeting concluded at 6.45pm

Signed

Chair

Dated this

day of

BRIGHTON & HOVE CITY COUNCIL**PLANNING COMMITTEE****2.00pm 9 JANUARY 2019****COUNCIL CHAMBER, HOVE TOWN HALL****MINUTES**

Present: Councillors Cattell (Chair), Gilbey (Deputy Chair), Mac Cafferty (Group Spokesperson), Bennett, Hyde, Inkpin-Leissner, Miller, Phillips, O'Quinn, Robins and Wealls

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

Officers in attendance: Paul Vidler, Planning Manager, Jonathan Puplett, Principal Planning Officer, Luke Austin, Senior Planning Officer, Laura Hamlyn, Planning Officer, David Farnham, Development and Transport Assessment Manager, Alison Gatherer, Lawyer and Penny Jennings, Democratic Services Officer

PART ONE**83 PROCEDURAL BUSINESS****83a Declarations of substitutes**

83.1 Councillor Robins declared that he was in attendance in substitution for Councillor Moonan. Councillor Wealls declared that he was in attendance in substitution for Councillor C Theobald and Councillor Phillips declared that she was present in substitution for Councillor Littman.

83.2 It was noted that Councillor Morgan had tendered his apologies for the meeting.

83b Declarations of interests

83.3 There were none.

83c Exclusion of the press and public

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

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

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

83d Use of mobile phones and tablets

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

84 MINUTES OF THE PREVIOUS MEETING

84.1 It was noted that the minutes for the meeting held on 5 December 2018 were in the process of being finalised for and would then be posted on the Council website and would be brought to the next scheduled meeting of the Committee on 7 February 2019 in order for them the Chair to be authorised to sign them off formally.

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

85 CHAIR'S COMMUNICATIONS

85.1 The Chair, Councillor Cattell, noted that this would be Jonathan Puplett's last meeting as he would be leaving the Council at the end of January. She wished to place on record her thanks and those of the Committee for his work whilst employed as a Principal Planning Officer and to wish him well in his future career. The Committee concurred unanimously in that view.

85.2 **RESOLVED** - That the position be noted.

86 PUBLIC QUESTIONS

86.1 There were none.

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

87.1 There were none.

88 CALLOVER

88.1 The Democratic Services Officer, read out items 89 A – G and 90 and all of the items appearing on the agenda were called for discussion with the exception of items D and F which are referred to below. It was noted that Major applications and any on which there were speakers were automatically reserved for discussion.

88.2 The Chair, Councillor Cattell explained that this measure intended to expedite the business of the Committee and to avoid the necessity of those who had an interest in applications on which there were no speakers spending hours waiting for the

Committee to get to their application(s). She wished to reassure the public however, that in any instances where an application was not called for discussion members had read the officer report and any supporting information in advance of the meeting. However, having given the officer recommendation(s) their due consideration they had no questions nor required further clarification on any aspect of the application before moving to their decision.

- 88.3 In respect of the following applications Members moved directly to the decision and the officer recommendation(s) were agreed without debate:

Application D, BH2018/01635 – 12 Norman Road, Hove – Full Planning

Demolition of existing bungalow and erection of two storey building with roof accommodation comprising 1no two bedroom flat and 1no three bedroom flat (C3);and

Application F, BH2018/01032 – 84 Tongdean Lane, Brighton – Full Planning

Erection of 1no. four bedroom house with landscaping and car parking to land fronting 84 Tongdean Lane.

89 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

MAJOR APPLICATION(S)

A BH2017/04050 -35-39 The Droveway, Hove -Full Planning

Change of use from former Dairy Crest depot (B8) to Mixed-use flexible commercial development of 1383sqm (Flexible between use classes B1(a), A1, A2, A3, D1) incorporating alterations including removal of northern extension and erection of a new wing with 14no residential units (C3). Erection of a new central wing to court yard, onsite car parking, cycle storage and areas for storage of waste and recycling.

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.

Officer Presentation

- (2) The Principal Planning Officer, Jonathan Puplett, introduced the application and gave a detailed presentation by reference to site plans, photographs, elevational drawings and detailing the proposed scheme. It was explained that as the applicants had now lodged an appeal against non-determination that the Committee were unable to determine the application but would need to consider the application and to confirm whether they would have been minded to grant planning permission subject to a s106 Planning Obligation and the Conditions and Informatives set out in the report. The site was situated on the north side of the Droveway, and was a locally listed heritage asset comprising a single storey, early 19th century out-farm buildings associated with a larger dairy farm and had more recently been used as a dairy depot for a number of years.
- (2) It was noted that the main considerations in determining the application were the principle of development on the site, the impacts of the proposed dwellings on the character and appearance of the street, the impacts on the amenities of adjacent occupiers, the standard of accommodation to be provided and sustainability and traffic

issues. The lawful use of the site was for storage/distribution (Use Class B8). The Applicant had cited restrictive conditions on the property as restricting its potential for employment use. In Planning Policy terms however it was clear that the activation of, or redevelopment of the site for, suitable employment uses such as those within the B1 Use Class would in principle be supported and notwithstanding lengthy discussions with the applicant evidence that the site had been marketed for employment use had not been forthcoming. However, significant information had been provided regarding the condition of the existing buildings and their suitability for conversion to employment or alternative uses. The proposed mix of uses would deliver a significant amount of modern office space alongside mixed uses which could include some further office space, and which would in themselves generate employment. Whilst the dilution of B-Class employment space was regrettable, the provision of housing units including dwellings suitable for family occupation and affordable housing would be of benefit to the city. Overall it was considered therefore that the proposed scheme could be supported in principle. The proposed development would provide a significant delivery of B Class employment floor space alongside mixed uses and 14 residential units including a provision of 4 affordable units with a policy compliant tenure mix. Furthermore the proposal would ensure the retention of much of the fabric and character of a locally listed heritage asset and would secure an active use of the site for the future. The proposed development was also considered to be acceptable in transport, sustainability and ecological terms, subject to the s106 requirements referred to in the report being met. On that basis the officer recommendation had been that Minded to Grant planning approval be given.

Public Speakers

- (3) Mr Hunt spoke as a neighbouring resident setting out objections to the proposed scheme. He stated that his property located at 6 Mallory Road would be detrimentally impacted by the proposed form of development as 8 units would be facing directly towards his property and in consequence a high degree of overlooking would result. There were already existing traffic, highway safety and parking problems on the Drove way and the proposed development would worsen them.
- (4) Mr Dowsett spoke on behalf of the applicant in support of their application. He explained that careful thought had been given to the most appropriate means by which this redundant site could be sympathetically developed.
- (5) Councillor Mac Cafferty asked regarding marketing of the site which had been undertaken as it was not clear to him from the submitted report to what extent and for what period this had been undertaken.

Questions of Officers

- (6) Councillor Bennett sought further clarification regarding the individual elements of the scheme and the uses to which each constituent element was to be put. It was complicated given the number of different buildings located on site.
- (7) Councillor Miller also asked for clarification regarding the access arrangements to the site and details regarding the rear access way which ran adjacent to Mallory Road, also whether the site could be included within a Controlled Parking Zone.

- (8) Members also sought clarification of the position in relation to the fact that they were unable to determine the application in the light of an appeal having been lodged against non-determination. The Legal Adviser to the Committee, Alison Gatherer, confirmed the position.
- (9) Councillor Mac Cafferty referred to the comments received in relation to the biodiversity of the site. It was confirmed that ecology impact assessments had been undertaken and that no rare or protected species had been identified, nor any plants or animals for whom special arrangements needed to be put into place. It was confirmed that the oldest of the barns located on site was listed as being of local interest, it was not a listed building. Notwithstanding the length of time over which the site had been in use much of its development had been piece meal. Councillor Mac Cafferty referred to the requirements of CP3 had not been met in full and it was explained that account had been made of the practical constraints in relation to the site.
- (10) Councillor Hyde referred to the existing on site buildings which could be observed from Mallory Road enquiring regarding the height of the new buildings and the positioning of the windows looking out from the site.
- (11) Councillor Robins referred to the proposed on-site parking arrangements in relation to imposition of a CPZ enquiring regarding the current situation and the fact that it could change subsequently. It was explained that could always be the case in relation to any site; mechanisms were in place to address any changes which could occur in future.
- (12) Councillor Phillips referred to the objections raised by the Police and it was explained that generally the Police did not favour mixed use developments. However, notwithstanding their concerns it was considered that the amended scheme had sufficient spacing between the C3 elements and additional proposed uses.

Debate and Decision Making Process

- (13) Councillor Hyde stated that in her view there was much to commend the application, the applicants and that sought to minimise the impact on Mallory Road by providing adequate spacing between the new buildings. On balance she considered the scheme to be acceptable.
- (14) Councillor Miller stated that he considered the proposed scheme represented good use of a brownfield site and mitigation to minimise any potential negative impacts had been used. Whilst it was disappointing that CP3 had been unable to be met the rationale for that was understood. Overall he would have supported the scheme. However, he had grave concerns regarding pressure on the existing road network considering that this should be re-assessed and thought given to inclusion of the area into a CPZ.
- (15) Councillor Mac Cafferty stated that he had listened carefully to the concerns of residents in Mallory Road and having the application site in the context of its neighbours and considering the potential benefits which would arise he would have supported the officer recommendation which would result in an imaginative scheme which would return this site which had been empty for some 8 years to use.

- (16) Councillor Phillips confirmed that she would have supported the scheme which she considered supported an imaginative range of uses.
- (17) Councillor Robins stated that he was in agreement with much that had been said considering that any flaws could be easily remedied.
- (18) Councillor Gilbey considered that the proposed development was acceptable although she shared the concerns which had been voiced in relation to potential parking issues which could arise. Notwithstanding that she would have supported the officer recommendation.
- (19) Councillor O'Quinn stated that whilst welcoming some elements of the scheme for example retention of the flint walls she would not have felt able to support the proposed scheme. She considered that the houses which would be provided facing towards Mallory Road would be overbearing particularly in relation to no 6 and that the houses themselves would have a poor aspect looking out towards a tall fence.
- (20) Councillor Bennett stated that she also considered the proposed scheme represented overdevelopment of the site and that she would not have voted in support of it.
- (21) Councillor Cattell, the Chair, stated that in her view this represented an imaginative use of the site which had sought to address a number of complex elements, she would have supported it.
- (22) Councillor Miller suggested that in order to address Members concerns regarding potential parking issues in relation to the site that notwithstanding that the Committee were unable to determine the application that the Planning Inspectorate should have submitted to it suggested conditions for their consideration as to whether at that stage a condition could be suggested removing future occupants' rights to parking permits, with regard to the progression of the CPZ adoption and legal advice at the time. It was voted that the decision on whether such a condition can be suggested be agreed by the Planning Manager in conjunction with the Chair and the opposition spokespersons. Councillor Hyde concurred in that view and was prepared to second that. The Legal Adviser to the Committee, Alison Gatherer, confirmed that it would be in order for the Committee to vote on that.
- (23) A vote was taken and the 11 Members present when the vote was taken voted by 9 to 2 Members voted that had they been able to determine the above application they would have been Minded to Grant planning approval. A further vote was taken in respect of the proposed additional condition and that was agreed on a vote of 7 to 4.
- 89.1 **RESOLVED** – That had the Council determined the application prior to an appeal being lodged, the decision of the council would have been to be **MINDED TO GRANT** planning permission subject to the expiry of the re-consultation period and no new planning considerations arising and subject to a s106 Planning Obligation and to the Conditions and Informatives set out in the report and to the additional recommendations agreed as set out below:

In addition the Committee resolved:

That the Planning Manager be authorised to agree the s106 Planning Obligation to be submitted to the Planning Inspectorate.

The Committee also resolved:

At the time the council submits suggested conditions to the Planning Inspectorate, it should be considered whether at that stage a condition can be suggested removing future occupants' rights to parking permits, with regard to the progression of the CPZ adoption and legal advice at the time. It was voted that the decision on whether such a condition can be suggested be agreed by the Planning Manager in conjunction with the Chair and the opposition spokespersons.

MINOR APPLICATIONS

B BH2018/02558 -106, 108 & 110 Downs Valley Road, Woodingdean, Brighton- Full Planning

Construction of four detached family houses (C3) together with associated parking, cycle parking and landscaping.

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.

Officer Presentation

- (2) The Planning Officer, Laura Hamlyn, introduced the application and gave a presentation by reference to site plans, floor plans, elevational drawings in relation to the proposed scheme. It was noted that the main considerations which were material to this application were the principle of development of the site, the impact of the proposed dwellings on the character and appearance of the street, the impact on the amenities of adjacent occupiers, the standard of accommodation to be provided and sustainability and traffic issues. This application was a resubmission of previously refused application BH2018/00336 and had been amended in order to seek to overcome the previous reasons for refusal. Additional information not contained in the Late/Additional representations List had been provided by the Transport Team stating that having revisited the scheme, they were of the view that the proposed access way would be too narrow and wished to raise objections on those grounds. In order for vehicles to have safe access/egress to/from the site there needed to be a sufficient turning space; this was not possible with the scheme as designed.
- (3) It was noted that the proposed dwellings would be sited in residential gardens to the rear of three existing bungalows. The proposed dwellings excluding the access road would be uncharacteristically small and whilst this scheme had been amended to increase the gaps between the proposed dwellings this had been at the expense of the gaps to the neighbouring boundaries. Whilst this and other amendments had been made to this scheme it not was considered that they had adequately addressed the previous reasons for refusal. The current proposal, by reason of the limited plot size, the width, height, form, detailing, and proximity of the houses, would represent a cramped form of development representative of overdevelopment of the site. The proposed access would result in a much greater level of activity, including vehicle activity, with resultant comings and goings adjacent to nos. 108 and 110 Downs Valley Road. It is considered that this represented significant harm for occupiers of these properties in terms of noise and disturbance. The proposed development, by reason of

its height, and positioning of windows, would enable harmful overlooking of the rear gardens to 106, 108 and 110 Downs Valley Road. It was considered that this represented significant harm for occupiers of these properties and whilst the proposed development would provide an additional 4 dwellings with a good standard of accommodation, it was not considered that this would outweigh the identified harms and refusal was therefore recommended.

Public Speakers

- (4) Mr Burgess attended on behalf of the applicants and spoke in support of their application. He explained that it was very distressing to be notified at this late stage that there were objections in relation the proposed access arrangements when the applicants had been advised previously that these were considered to be acceptable. The existing plot on which new dwelling was to be built was substantial and could support the form of development proposed. The information provided by the officer was contested as the applicants were not aware that the officer had had access to the site in order to verify the information set out in their report. The applicants also contended that the proposed scheme would not generate any increase in noise levels.

Questions of Officers

- (5) Councillor Hyde enquired regarding the level overlooking of neighbouring properties which would occur as a result of the proposed scheme. Having attended the site visit the previous day it had appeared that the site was well screened.
- (6) Councillor Miller sought clarification regarding which windows facing out from the site would provide secondary lighting and asked for clarification in respect of additional noise generated in close proximity to neighbouring dwellings considering that this would not be significantly different to that experienced currently.
- (7) Councillor Wealls sought details regarding the window treatment proposed and it was explained that sliding windows would be provided behind a hit and miss brickwork frontage.
- (8) Councillor O'Quinn, having attended the site visit referred to the existing annex which could be viewed when entering the site asking for clarification regarding the relationship between that and the proposed development.
- (9) Councillor Hyde requested to see a photograph of the plot as having visited the site she considered that it was larger than she had anticipated. It was explained that the available photograph was not helpful in that it did not show all of the buildings on site clearly nor the shrubs and planting which bounded it.
- (10) Councillor Miller sought clarification regarding the width of the access way when taking account of the need for vehicular movements and vehicular and pedestrian access. It was explained that the width of 4.7m referred to in the report did not take account of the overhang of the eaves of building nor the gaps between buildings. Councillor Miller asked whether in real terms that equated to a distance of 2.5 metres which would be tight. The applicant' architect queried that stating he was of the view that would be at least 3m.

- (11) The Chair, Councillor Cattell, asked for clarification of the length of the access way and also arrangements for collection of refuse. Councillor Cattell seeking to ascertain what these arrangements would be, as, if it was not possible for vehicles to access the site arrangements would need to be made for it conveyed the length of the access way in order for an alternative collection point to be used. The issue of access for emergency vehicles was also raised.
- (12) In an attempt to clarify these matters the site was located on google earth, but neither that image nor the width of the access way to the proposed new dwelling were able to be determined as the available figures seemed to be at variance with each other.
- (13) The Chair, Councillor Cattell, stated that there appeared to be confusion/lack of clarity in relation to key elements of the site and on that basis she did not consider that members had sufficient information to determine the application and she proposed therefore that consideration be given to deferring it in order to receive clear photographs of the site, showing existing boundary treatments, precise details in respect of the access way, its width, length and access and egress arrangements and size of any turning space which could be provided. Also refuse storage and collection arrangements and arrangements for access to the site by emergency vehicles should such need arise.
- (14) A vote was taken on the proposal that further consideration and determination of the application be deferred pending clarification of information requested and on a vote of 8 to 3 it was agreed that consideration of the application be deferred.

89.2 **RESOLVED** – That consideration of the above application be deferred pending clarification on the matters referred to above.

C BH2018/03117 - 9 The Upper Drive, Hove -Full Planning

First and second floor extensions to enlarge existing first floor flat and create 2no flats at second and third floor level, with associated parking.

Officer Presentation

- (1) The Principal Planning Officer, Jonathan Puplett, introduced the report and gave a presentation detailing the proposed scheme by reference to site plans elevational drawings and photographs. It was noted that the application related 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 was one of 5 similar blocks on a wider site providing a total of 41 flats. The existing blocks varied 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 was finished in mainly painted render with some minor timber clad detailing.
- (2) It was noted that the main considerations in determining this application related to the impact of the development on the character and appearance of the existing building, site, and street scene, the impact on residential amenity, the standard of accommodation provided and highways and sustainability. 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 was considered that the increased height of the block would not appear out of context with the neighbouring properties or within the prevailing street scene. It was 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 were flatted development with fewer traditional dwelling houses remaining. 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. Accordingly, it was considered that the works were appropriate in terms of the impact upon the host building and the wider street scene. Subject to the conditions set out in the report I was considered that the development had overcome the previous reasons for refusal and was appropriate in terms of design, scale and impact on amenity and would provide two new dwellings of an acceptable size and standard; approval was therefore recommended.

Questions of Officers

- (3) Councillor Miller requested clarification of details appertaining to the roof plan and confirmation as to whether/how the patio area could be accessed, whether obscure glazing was proposed to the balcony area and the heights of the proposed scheme; stating that he believed that heights of 3 and 4 storeys had been proposed previously and that they would now be of 2 and 3.
- (4) Councillor Mac Cafferty enquired whether precise details of the treatments and finishes proposed had been submitted. Councillor Mac Cafferty referred to other developments where materials used had not been treated and maintained appropriately and his had had a detrimental impact on the exterior appearance of the building in a relatively short time, referring to several recent developments which were covered in lichen. Treatments were available to address this for example by using a sealed render or timber which had been treated with pressurised water and air. Councillor Mac Cafferty also asked for clarification of the enforcement powers available to the local planning authority (LPA).
- (5) The Principal Planning Officer, Jonathan Puplett, explained that the LPA had powers to ensure that buildings were properly maintained and that such issues were remedied.
- (6) Councillor Robins stated that a number of treatments were available and a number of those which were marketed as being maintenance free were not fit for purpose in that they were silicone based and the mould adhered to the surface.
- (7) Councillor Inkpin-Leissner asked whether it was envisaged that there would be significant overlooking from the balcony area and it was confirmed that the distances involved were such that there would not.

Debate and Decision Making Process

- (8) Councillor O'Quinn stated that she considered that the report contained an error in that the site was located in a Controlled Parking Zone (CPZ), also enquiring regarding anticipated levels of increased parking/displacement which could result. The Development and Transport Assessment Manager, David Farnham, confirmed that the

site was located within a CPZ and that whilst that error needed to be addressed, the level of parking available was consistent with local parking demand and was therefore considered acceptable.

- (9) Councillor O'Quinn stated that she was aware within her own ward of the additional pressures created new/additional developments generated increased parking demand to the detriment of existing residents and visitors. Councillor O'Quinn did not feel able to support the proposed scheme, there had been in her view, an increase in such form of development increasing the size of a by adding additional units on top of existing buildings was overdevelopment by stealth.
- (10) Councillor Hyde stated that in her view the current application represented a significant improvement on the previously refused scheme and she was able to support it.
- (11) Councillor Miller concurred stating that he was in agreement that the previous grounds for refusal had been overcome.
- (12) Councillor Inkipin-Leissner considered that this represented an improved application which he could support, notwithstanding that he considered it was important to ensure that suitable materials and finishes were used.
- (13) Councillor Mac Cafferty stated that he had considered the previously refused application to be acceptable and would therefore also be voting in support of the current amended scheme.
- (14) Councillor Phillips considered that this was a good scheme which had addressed the previous grounds for refusal.
- (15) A vote was taken and on a vote of 10 to 1 planning permission was granted

89.3 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives also set out in the report.

D BH2018/01635 -12 Norman Road, Hove - Full Planning

Demolition of existing bungalow and erection of two storey building with roof accommodation comprising 1no two bedroom flat and 1no three bedroom flat (C3).

- (1) Members determined that they did not require a presentation in respect of the above application. They did however note additional information provided by the Planning Manager, Paul Vidler, who explained that a letter of objection had been received from Councillor Nemeth, also that proposed Condition 5 would be removed from any planning permission granted as it was no longer required.
- (2) Members then moved directly to the vote. A vote was taken and the 11 Members present voted unanimously that planning permission be granted.

89.4 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives also set out in the report. This subject to the removal of Condition 5 which was no longer required.

E BH2018/02355 -1 Lindfield Close, Saltdean -Full Planning

Demolition of existing garage and erection of 1no semi-detached two bedroom dwelling (C3) incorporating widened highway crossover incorporating works to existing dwelling including single storey rear extension and a hip to gable roof extension with rear dormer and front and rear roof lights

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.

Officer Presentation

- (2) The Senior Planning Officer, Luke Austin, introduced the application and gave a presentation by reference to site plans, elevational drawings and photographs detailing the scheme. The application site related to a single storey detached property located to the west of Lindfield Close at the junction with Westmeston Avenue. Lindfield Close rose from south to north, with the application site at the highest point of the street, whilst Westmeston Avenue fell from south-west to north-east. The site itself was wedge shaped and located on a corner plot.
- (3) It was noted that the main considerations in determining this application related to the principle of an additional dwelling on site, the visual impact, the standard of amenity provided, the impact on neighbouring amenity, the sustainability impacts and the sustainable transport implications associated with the proposed development. The proposed bungalow would match the ridge height of the existing building and would include a gable roof which would match the roof works to main house. The semi-detached pair would be of similar proportions and, as a result of the roof works to the existing building, works would be well balanced and would appear in keeping with the scale and proportions properties within the vicinity.
- (4) It was acknowledged that the proposed dwelling would be visible within longer views from the south west on Westmeston Avenue due to the rising level of the street, however it was considered that the stepped rear elevation and lower level of the site would successfully avoid an overly dominant structure within the street. On balance, it was considered that the proposed dwelling and works to the existing dwelling were appropriate in respect of their siting, design and scale and would form an acceptable addition to the street scene. It was recommended that a condition be added in respect of materials to ensure the design and finish of the scheme was appropriate; approval was therefore recommended to include the additional conditions set out in the Late/Additional Representations List to include the removal of permitted development rights.

Questions of Officers

- (5) Councillor Phillips sought clarification regarding whether planning permission would be required in order to erect a separate dwelling house on the site of the existing garage which was attached to the house. It was confirmed that it would but that conversion to incorporate it into the existing dwelling house would not.

Debate and Decision Making Process

(6) Members had no further questions and indicated that they wished to move directly to the vote. A vote was taken and the 11 Members who were present when the vote was taken voted unanimously that planning permission be granted.

89.5 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and also Informatives set out in the report.

F BH2018/01032 -84 Tongdean Lane, Brighton - Full Planning

Erection of 1no. four bedroom house with landscaping & car parking to land fronting 84 Tongdean Lane.

(1) Members determined that they did not require a presentation in respect of the above application.

(2) Members then moved directly to the vote. A vote was taken and the 11 Members present voted unanimously that planning permission be granted.

89.6 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives also set out in the report.

G BH2018/03247-40 Graham Avenue, Brighton - Householder Planning Consent

Erection of single storey rear extension incorporating lantern roof light and bi-folding doors. Replacement of existing fence to rear garden with new 2 metre fence.

Officer Presentation

(1) The Principal Planning Officer, Jonathan Puplett, introduced the report and gave a presentation by reference to site plans, drawings, and photographs detailing the scheme. The application under consideration related to a 1930's-built two-storey semi-detached dwelling house, situated to the eastern side of Graham Avenue. Whilst the principle elevation faces west, this application related to the rear of the property to which there are public views from the south and east on Old Farm Road. The application site was not within a conservation area, and was not subject to an Article 4 Direction. Permission was sought to erect a new timber fence and gate to the rear boundary of the site and to erect a single storey extension.

(2) It was noted that the main considerations in determining this application related to the impact upon the character and appearance of the property and surrounding area and the impact on neighbouring amenity. The host property was finished with white-painted render as existing, and featured a single-storey lean-to to the rear which extended from a two-storey projecting wing, and this original form was mirrored by the adjoined No.38 Graham Avenue. White UPVC windows and doors prevail to the rear, and a small patio space led up to a raised garden which extended to the depth of the plot, enclosed by a vertical timber-boarded fence to the southern boundary facing Old Farm Road. A dual-pitched roofed garage sat adjacent to the existing lean-to, with a small greenhouse and outbuilding situated further east within the garden plot. It was considered that the proposed replacement timber fence and gate to the rear of the application site would be

in keeping with the existing timber fence to the adjacent boundary of No.38 Graham Avenue. The proposed rear extension would have a depth of 4m, a height of 3.4m to parapet, and would feature a flat roof, two lantern rooflights, dark grey aluminium doors and windows, and be finished in white-painted render. The scale, form, and detailing of the proposed extension was considered to be in general keeping with the character and appearance of the host building and wider area, and would not result in notable harm to visual amenity. The only identified impact would be to the users of the small, relatively recessed patio space serving No.38 Graham Avenue, relative to which the proposed extension would be sited to the north. On balance, it was considered that the increased sense of enclosure identified for users of the neighbouring patio space did not amount to significant harm. It was however recommended that a condition be added to any planning permission granted in order to ensure that no windows or doors were installed to the southern elevation without planning consent so as to safeguard privacy for the occupants of 38 Graham Avenue; approval was therefore recommended.

Questions of Officers

- (3) Councillor Hyde asked whether the dormer shown on the plans which had been displayed had been installed as a permitted development but it was explained that related to the neighbouring dwelling and did not form part of the application site.

Debate and Decision Making Process

- (4) Councillor Miller stated that he considered the proposed form of development to be acceptable and was pleased to note that it had been possible to process and determine it by the target date.
- (5) Members then moved directly to the vote. A vote was taken and the 11 Members who were present voted unanimously that planning permission be granted.

89.7 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to grant planning permission subject to the Conditions and Informatives also set out in the report.

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

90.1 There were none.

91 INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS

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

92 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

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

93 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

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

94 APPEAL DECISIONS

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

The meeting concluded at 5.55pm

Signed

Chair

Dated this

day of

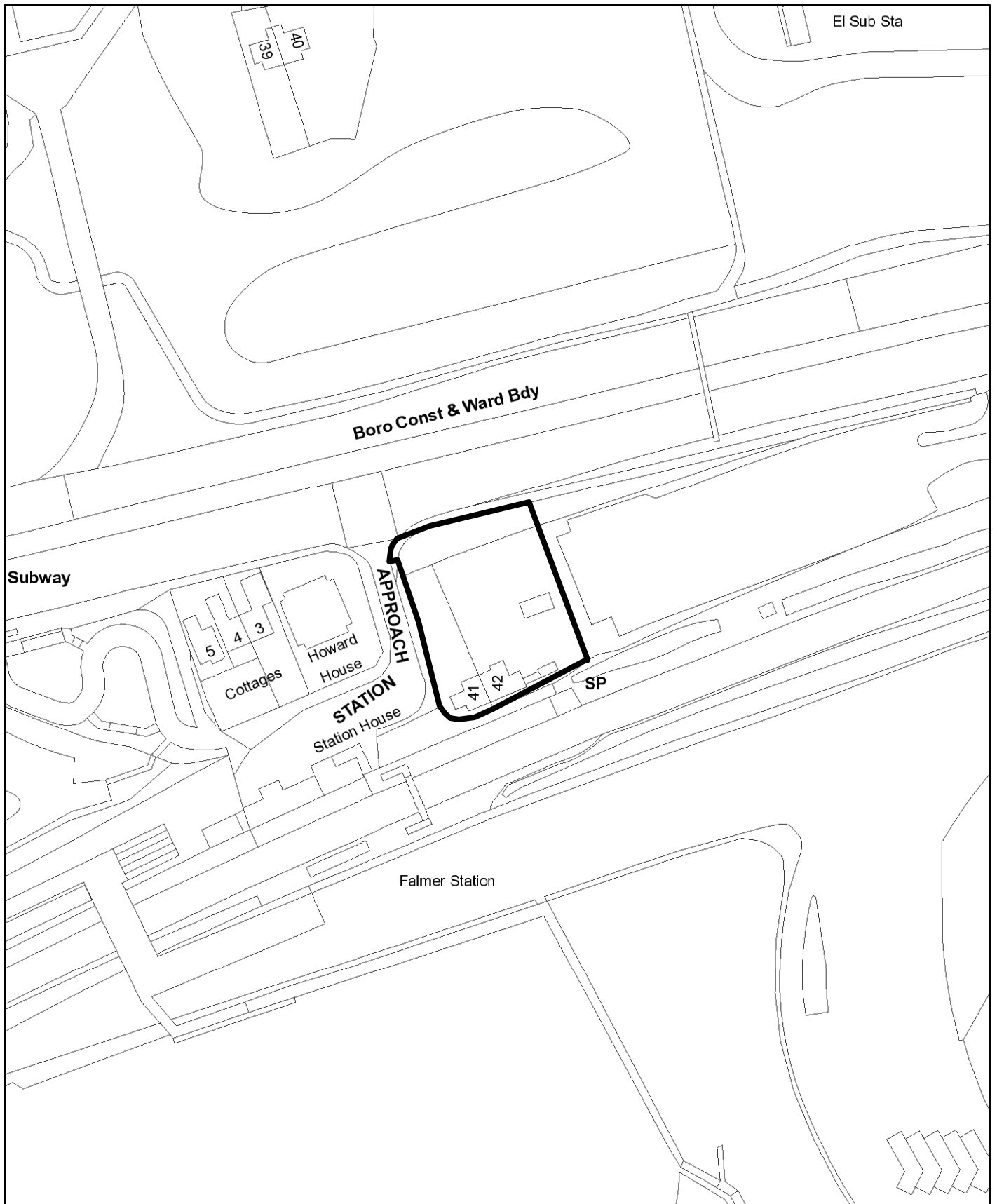
ITEM A

**41 and 42 Park Wall Farm Cottage
Station Approach,
Falmer, Brighton**

**BH2018/02584
Full planning**

DATE OF COMMITTEE: 6 February 2019

BH2018/02854 41 And 42 Park Wall Farm Cottages



Scale: 1:1,250

<u>No:</u>	BH2018/02854	<u>Ward:</u>	Moulsecomb and Bevendean
<u>App Type:</u>	Full Planning Application		
<u>Address:</u>	41 And 42 Park Wall Farm Cottages, Station Approach, Falmer, Brighton		
<u>Proposal:</u>	Demolition of existing houses and erection of a 4 storey student accommodation building with 71no bed spaces and associated access arrangements, cycle parking, car parking and landscaping.		
<u>Officer:</u>	Eimear Murphy, tel: 293335	<u>Valid Date:</u>	12.09.2018
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	12.12.2018
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	
<u>Agent:</u>	Fletcher Rae, 5 Jordan Street, Manchester M15 4PY		
<u>Applicant:</u>	Teckton Student Living LTD, Landmark House, Station Road, Cheadle Hulme, Manchester SK8 7BS		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to be MINDED TO GRANT planning permission subject to a s106 agreement on the Heads of Terms set out below and the following Conditions and Informatives as set out hereunder, SAVE THAT should the s106 Planning Obligation not be completed on or before the 29th May 2019 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 10 of this report:
- 1.2. S106 Heads of Terms
- A formal agreement with one of the City's Universities or other existing educational establishments including details of the student allocation mechanisms with occupancy restricted to students studying at the educational establishment
 - A contribution of **£6,500** toward the Local Employment Scheme
 - Construction Training and Employment Strategy including a commitment to using 20 percent local employment during the demolition and construction phases of the development
 - A Management Plan to include 24 hour on –site security, control of pedestrian and vehicular accesses, door entry and use of the communal areas

- Incorporation of a clause into any tenancy agreement prohibiting students from bringing cars to the site, other than a disability assistance vehicle for use by a person with mobility impairment
- A Travel Plan and a Residential Travel Information Pack to include a Move In/Move Out Strategy
- Developer Contributions of **£29,400** toward Sustainable Transport, in particular toward improved pedestrian and cycle routes serving the site including, but not limited to, the University sites and Lewes Road.
- Developer Contributions toward Open Space of **£85,451.07**
- Construction Environmental Management Plan (CEMP) – To be submitted and agreed prior to the commencement of works on site to include site waste management.

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.

Plan Type	Reference	Version	Date Received
Site Location Plan	17008_PL001		12 September 2018
Existing Site Plan	17008_PL002	A	22 January 2019
Proposed Site and Ground floor Plan	17008_PL100	S	22 January 2019
Proposed 1 st to 3 rd Floor Plan	17008_PL101	M	22 January 2019
Proposed Roof Plan	17008_PL102	I	22 January 2019
Proposed Elevations Sheet 1	17008_PL200	I	22 January 2019
Proposed Elevation Sheet 2	17008_PL201	I	22 January 2019
Contextual Elevation	17008_PL202	A	22 January 2019
Proposed Sections	17008_PL300	G	22 January 2019
Typical Internal Room Layout_ Cluster Beds and Studios	17008_PL400	C	22 January 2019
GIA and Area Schedules	17008_PL500	A	22 January 2019
Visuals Sheet 1	17008_PL900	E	22 January 2019
Visuals Sheet 2	17008_PL901	C	22 January 2019
Drainage Details	51486/SK21		12 September 2018
Drainage Layout	51486/SK20		12 September 2018

LV Distribution + Containment Layout Roof Plan	8745-E06		12 September 2018
Roof Plant Layout – Solar Thermal	8745-M05		12 September 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. No works shall commence on site until a full photographic of the building has been carried out to record the building internally and externally and submitted to Brighton and Hove City Council, together with marked up floor plans and elevations. This record shall be carried out by an archaeologist / building recorder or an organisation with acknowledged experience in the recording of standing buildings to professional standards and guidance, which is acceptable to Brighton and Hove City Council.
Reason: This pre-commencement condition is imposed because it is necessary to ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with Policy CP15 of the Brighton and Hove City Plan Part One
3. Other than demolition, no development above ground floor slab level of any part of the development hereby permitted shall take place until samples of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):
- samples of all facing bricks including colour, tone and texture
 - samples of all cladding to be used, including details of their treatment to protect against weathering
 - samples of all hard surfacing materials
 - samples of the proposed window and door treatment
 - samples of all other materials to be used externally
- Development shall be carried out in accordance with the approved details.
Reason: To ensure a satisfactory appearance to the development and to comply with QD14 and HE3 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton & Hove City Plan Part One.
5. The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.
Reason: To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policy QD27 of the Brighton & Hove Local Plan, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.

6. The development hereby permitted shall not be occupied until a plan detailing the height, design, materials and type of all existing and proposed boundary treatments including access gates (and control mechanisms) have been submitted to and approved in writing by the Local Planning Authority. The boundary treatments and gates shall be provided in accordance with the approved details prior to occupation of the development and shall thereafter be retained at all times.
Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with Policy QD27 of the Brighton & Hove Local Plan, Policies CP12 and CP13 of the Brighton & Hove City Plan Part One.
7. The hard surface hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.
Reason: To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policies CP8 & CP11 of the Brighton & Hove City Plan Part One.
8. No tree shown as retained on the approved drawings including T1 (Sycamore) and T4 (Wych Elm) shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner during the development phase and thereafter within 5 years from the date of occupation of the building for its permitted use, other than in accordance with the approved plans and particulars or as may be permitted by prior approval in writing from the local planning authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
Reason: To enhance the appearance of the development in the interest of the visual amenities of the area, to provide ecological, environmental and biodiversity benefits and to maximise the quality and usability of open spaces within the development in compliance with policies QD15 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.
9. Prior to the commencement of the development hereby approved (including demolition and all preparatory work), the updated tree protection measures which includes T1(Sycamore), T4(Wych Elm) and the G2 (Hedge of hawthorn, goat, willow and elm) shall be implemented on site. An arboricultural method statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority.

Specific issues to be dealt with in the AMS:

- a) Location and installation of services/ utilities/ drainage.
- b) Methods of demolition within the root protection area (RPA as defined in BS 5837: 2012) of the retained trees.
- c) Details of construction within the RPA or that may impact on the retained trees.
- d) a full specification for the construction of any roads, parking areas and driveways, including details of the no-dig specification and extent of the

- areas of the roads, parking areas and driveways to be constructed using a no-dig specification. Details shall include relevant sections through them.
- e) Detailed levels and cross-sections to show that the raised levels of surfacing, where the installation of no-dig surfacing within Root Protection Areas is proposed, demonstrating that they can be accommodated where they meet with any adjacent building damp proof courses.
 - f) A specification for protective fencing to safeguard trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing.
 - g) a specification for scaffolding and ground protection within tree protection zones.
 - h) Tree protection during construction indicated on a TPP and construction and construction activities clearly identified as prohibited in this area, details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment
 - i) materials, fuels and waste as well concrete mixing and use of fires
 - j) Boundary treatments within the RPA
 - k) Methodology and detailed assessment of root pruning

The development thereafter shall be implemented in strict accordance with the approved details

Reason: To satisfy the Local Planning Authority that the trees to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality, in accordance with SPD06 and Policy QD16 (Trees and Hedgerows) of the Brighton & Hove Local Plan.

10. Prior to completion or first occupation of the development hereby approved, whichever is the sooner; details of treatment of all parts on the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. Details shall include:
- 1) a scaled plan showing all existing vegetation and landscape features to be retained and trees and plants to be planted;
 - 2) location, type and materials to be used for hard landscaping including specifications, where applicable for:
 - a) permeable paving
 - b) tree pit design
 - c) underground modular systems
 - d) Sustainable urban drainage integration
 - e) use within tree Root Protection Areas (RPAs);
 - 3) a schedule detailing sizes and numbers/densities of all proposed trees/plants;
 - 4) specifications for operations associated with plant establishment and maintenance that are compliant with best practise; and
 - 5) types and dimensions of all boundary treatments

There shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees unless agreed in writing by the Local Planning Authority. Unless required by a separate landscape management condition, all soft landscaping shall have a written five-year maintenance programme following planting. Any new tree(s) that die(s), are/is

removed or become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Unless further specific permission has been given by the Local Planning Authority, replacement planting shall be in accordance with the approved details

Reason: Required to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality in accordance with SPD 06, QD 16 (Trees and Hedgerows).

11. Prior to the commencement of the development hereby approved (including any ground clearance, tree works, demolition or construction), details of all tree protection monitoring and site supervision by a suitably qualified tree specialist (where arboricultural expertise is required) shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be implemented in strict accordance with the approved details. A letter of engagement will be required between the applicant and the chosen arboricultural consultant.

Reason: Required prior to the commencement of development in order that the Local Planning Authority may be satisfied that the trees to be retained will not be damaged during development works and to ensure that, as far as is possible, the work is carried out in accordance with the approved details pursuant to section 197 of the Town and Country Planning Act 1990 in accordance with SPD06 and Policy QD16 (Trees and Hedgerows) of the Brighton & Hove Local Plan.

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

- a) details of all hard and soft surfacing to include type, position, design, dimensions and materials and any sustainable drainage system used;
- b) a schedule detailing sizes and numbers/densities of all proposed trees/plants including details of tree pit design, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period;
- c) details of all boundary treatments to include type, position, design, dimensions and materials;
- d) detailed plan for the management of the communal open space including hard and soft landscape areas

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

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

13. No development shall take place until an Ecological Design Strategy (EDS) addressing retention and protection of existing habitats during construction, enhancement of the site for biodiversity, and the provision of bird and bat boxes/bricks within the development, has been submitted to and approved in writing by the local planning authority. The EDS shall include the following:
- a) purpose and conservation objectives for the proposed works;
 - b) review of site potential and constraints;
 - c) detailed design(s) and/or working method(s) to achieve stated objectives;
 - d) extent and location /area of proposed works on appropriate scale maps and plans;
 - e) type and source of materials to be used where appropriate, e.g. native species of local provenance;
 - f) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
 - g) persons responsible for implementing the works;
 - h) details of initial aftercare and long-term maintenance;
 - i) details for monitoring and remedial measures;
 - j) details for disposal of any wastes arising from works.
- The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.
- Reason:** To ensure that any adverse environmental impacts of development are mitigated and compensated and to provide a net gain for biodiversity in accordance with Policy QD16 of the Brighton & Hove Local Plan and Policy CP10 of City Plan Part One.
14. 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 and SPD14: Parking Standards.
15. The vehicle parking area(s) shown on the approved plans shall not be used otherwise than to provide for the parking of vehicles associated with the managed access moving in and out of students at an appointed time and shall be kept free at all other times in accordance with a Travel and Management Plan which shall be submitted to and approved in writing by Brighton and Hove City Council. The spaces shall not be used for any other purpose and shall be maintained to ensure their availability for such use at all appointed times.
- Reason:** To ensure that adequate parking provision is retained and to comply with policy CP9 of the Brighton & Hove City Plan Part One and SPD14: Parking Standards.
16. The development hereby permitted shall not be occupied until the extended crossover and access has been constructed.

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

17. The development hereby permitted shall not be occupied until a Delivery & Service Management Plan, which includes details of the types of vehicles, how deliveries servicing and refuse collection will take place and the frequency of those vehicle movements has been submitted to and approved in writing by the Local Planning Authority. All deliveries servicing and refuse collection shall thereafter be carried out in accordance with the approved plan.

Reason: In order to ensure that the safe operation of the development and to protection of the amenities of nearby residents, in accordance with policies SU10, QD27 and TR7 of the Brighton & Hove Local Plan.

18. The development hereby permitted shall not be first occupied until the disabled car parking spaces shown on the submitted plans have been implemented and made available in accordance with the Travel and Management Plan for the management of the moving in and out of students at an appointed time and shall be kept free at all other times. The approved scheme shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.

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

19. The wheelchair accessible student accommodation hereby permitted as detailed on drawing no. PL100S received on 22 January 2019 shall be completed in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings) prior to first occupation and shall be retained as such thereafter. All other dwelling(s) hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.

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

20. Within 3 months of first occupation of the non-residential development hereby permitted a BREEAM Building Research Establishment has issued a Post Construction Review Certificate confirming that the non-residential development built has achieved a minimum BREEAM New Construction rating of 'Excellent' and such certificate has been submitted to, and approved in writing by, the Local Planning Authority.

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

21. None of the student rooms/units hereby approved shall be occupied until each residential unit built has achieved as a minimum, a water efficiency standard of not more than 110 litres per person per day maximum indoor water consumption.
Reason: To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton & Hove City Plan Part One.
22. Prior to first occupation of the development hereby approved, details of the solar and photovoltaic array referred to in the Sustainability Checklist and shown on Drawing No. 17008_PL102 Rev I received on 22 January 2019 shall be submitted to and approved in writing by the Local Planning Authority. The solar and photovoltaic array shall then be installed in accordance with the approved details.
Reason: To ensure that the development is sustainable and makes efficient use of energy, water and materials and has an acceptable appearance and to comply with policies CP8 and CP12 of the Brighton & Hove City Plan Part One.
23. Prior the commencement of development details of approved in writing by Brighton & Hove City Council and shall be implemented prior to the first occupation of the soundproofing of the party ceilings, floors and walls between student rooms including communal areas, shall be submitted to and development and shall thereafter be retained as such.
Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
24. The development hereby permitted shall not be first occupied until
 i) details of external lighting, which shall include details of; levels of luminance, predictions of both horizontal illuminance across the site and vertical illuminance affecting immediately adjacent receptors, hours of operation and details of maintenance have been submitted to and approved in writing by the Local Planning Authority.
 ii) the predicted illuminance levels have been tested by a competent person to ensure that the illuminance levels agreed in part1 are achieved. Where these levels have not been met, a report shall demonstrate what measures have been taken to reduce the levels to those agreed in part i).
 The external lighting shall be installed, operated and maintained in accordance with the approved details and thereafter retained.
Reason: To safeguard the amenities of the area, to reduce light spillage and to comply with policies QD25 and QD27 of the Brighton & Hove Local Plan.
25. No development including demolition shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include, inter alia:
 (i) The phases of the Proposed Development including the forecasted completion date(s) ;
 (ii) A commitment to apply to the Council for prior consent under the Control of Pollution Act 1974 and not to Commence Development until such consent has been obtained;

- (iii) A scheme of how the contractors will liaise with local residents, businesses and elected members to ensure that they are all kept aware of site progress and how any complaints will be dealt with reviewed and recorded (including details of any considerate constructor or similar scheme);
- (iv) A scheme of how the contractors will minimise complaints from neighbours regarding issues such as noise, dust management, vibration, site traffic, parking by staff and contractors and deliveries to and from the site;
- (v) Details of hours of construction including all associated vehicular movements;
- (vi) Details of the construction compound, including the proposed location, design and construction of vehicular accesses to this from the highway, associated measures to manage local traffic movements around this (including those by pedestrians and cyclists) and any associated on-street restrictions and other measures necessary to minimise congestion on the highway and permit safe access by site vehicles;
- (vii) A plan showing construction traffic routes
- (viii) A scheme to minimise congestion, delays and disturbances to traffic and public transport services in the vicinity of the site owing to staff and contractor car parking and site traffic. This will include the identification of areas for staff and contractor parking. The scheme shall be informed by 16 hour parking stress surveys of the streets and public car parks in the vicinity of the site. These shall be carried out in accordance with the Lambeth methodology and shall be conducted on one neutral weekday and one Saturday, with the survey extent, dates and times to be agreed in advance with the Council;
- (ix) An audit of all waste generated during construction works.

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

Reason: As this matter is fundamental to the protection of amenity, highway safety and managing waste throughout development works and to comply with policies QD27, SU9, SU10 and TR7 of the Brighton & Hove Local Plan, policy CP8 of the City Plan Part One, and WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013 an Supplementary Planning Document 03 Construction and Demolition Waste.

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

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

27. The development hereby permitted shall not exceed ground floor slab level until a written scheme has been submitted to the local planning authority for approval which demonstrates how and where ventilation will be provided to each student unit and communal living areas within the development including specifics of where the clean air is drawn from and that sufficient acoustic protection is built into the system to protect end users of the development. The approved scheme shall ensure compliance with Building Regulations as

well as suitable protection in terms of air quality and shall be implemented before to occupation and thereafter retained.

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

28. The development hereby permitted shall not commence until full details of existing and proposed ground levels (referenced as Ordnance Datum) within the site and on land and buildings adjoining the site by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures, have been submitted to and approved by the Local Planning Authority. The development shall then be implemented in accordance with the approved level details.

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

29. Other than demolition works and works to trees, the development hereby permitted shall not be commenced until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

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

30. The development hereby permitted shall not be occupied until details showing the type, number, location and timescale for implementation of the compensatory bird and bat boxes and/or bricks has been submitted to and approved in writing by the Local Planning Authority. This shall include a minimum of boxes as advised by the County Ecologist including types. The scheme shall then be carried out in strict accordance with the approved details and thereafter retained.

Reason: To safeguard these protected species from the impact of the development and ensure appropriate integration of new nature conservation and enhancement features in accordance with policies QD18 of the Brighton & Hove Local Plan and CP10 of the Brighton & Hove City Plan Part One and SPD11: Nature Conservation and Development.

31. Other than demolition works, no development above ground floor slab level of any part of the development hereby permitted shall take place until details of the proposed green walling and maintenance and irrigation programme have been submitted to and approved in writing by the Local Planning Authority. The walls shall thereafter be constructed, maintained and irrigated in accordance with the approved details.

Reason: To ensure that the development contributes to ecological enhancement on the site and visual amenities in accordance with policy CP8 and CP10 of the Brighton & Hove City Plan Part One.

32. Other than demolition works and works to trees, details of the sustainable reuse and recycling of water as referred to in the Sustainability Checklist shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in accordance with the approved details.

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

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

Reason: To ensure the promotion of safe, active and sustainable forms of travel and comply with policies TR4 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One.

34. Before first use or occupation of the development hereby approved, a Management Plan relating to the access gates, entrance doors including cycle store and 24 hour on-site security, the moving of receptacles to the bin store loading area, use of the communal lounge and communal living areas, shall be submitted to and approved in writing by the Local Planning Authority. The use shall thereafter be managed in accordance with the approved Management Plan.

Reason: To ensure the provision of satisfactory management measures for a safe and secure development and to comply with Policies CP12 and CP21 of the Brighton & Hove City Plan Part One.

35. Other than demolition works and works to trees, no development above ground floor slab level of any part of the development hereby permitted shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved details.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with policies SU4 of the Brighton & Hove Local Plan and CP11 of the Brighton & Hove City Plan Part One.

Informatives

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

2. The applicant is advised that advice regarding permeable and porous hardsurfaces can be found in the Department of Communities and Local Government document 'Guidance on the permeable surfacing of front gardens' which can be accessed on the MCHLG website (www.communities.gov.uk).
3. To be read in conjunction with Condition 9:
The following British Standards should be referred to:
 - a) BS: 3998:2010 Tree work – Recommendations
 - b) BS: 5837 (2012) Trees in relation to demolition, design and construction – Recommendations
4. To be read in conjunction with Condition 10:
The following British Standards should be referred to:
 - a) BS: 3882:2015 Specification for topsoil
 - b) BS: 3936-1:1992 Nursery Stock - Part 1: Specification for trees and shrubs
 - c) BS: 3998:2010 Tree work – Recommendations
 - d) BS: 4428:1989 Code of practice for general landscaping operations (excluding hard surfaces)
 - e) BS: 4043:1989 Recommendations for Transplanting root-balled trees
 - f) BS: 5837 (2012) Trees in relation to demolition, design and construction - Recommendations
 - g) BS: 7370-4:1993 Grounds maintenance part 4. Recommendations for maintenance of soft landscape (other than amenity turf).
 - h) BS: 8545:2014 Trees: from nursery to independence in the landscape – Recommendations
 - i) BS: 8601:2013 Specification for subsoil and requirements for use
5. To be read in conjunction with Condition 11:
The following British Standards should be referred to:
 - a) BS: 5837 (2012) Trees in relation to demolition, design and construction – Recommendations
6. To be read in conjunction with Condition 13: Details of proposed species mixes, provenance, and the location of the proposed works on site is required. The EDS is required to provide more information about the timetable for implementation and management. This should also include details of the management of hedges (which should be cut in late winter and on alternative sides not just simply managed outside the bird nesting season. Details should be included of the green including species of plants. The applicant is advised to review the proposed bird boxes as three bird boxes targeting common species is not supported and should target house sparrows, starlings and/or swifts. Consideration should be given to woodcrete boxes.
7. To be read in conjunction with Condition 16: New/extended crossover: The planning permission granted includes a vehicle crossover which requires alterations and amendments to areas of the public highway. All necessary costs including any necessary amendments to a Traffic Regulation Order (TRO), the appropriate license and application fees for the crossing and any costs associated with the movement of any existing street furniture will have

to be funded by the applicant. Although these works are approved in principle by the Highway Authority, no permission is hereby granted to carry out these works until all necessary and appropriate design details have been submitted and agreed. The crossover is required to be constructed under licence from the Head of Asset and Network Management. The applicant is advised to contact the Council's Streetworks Team (permit.admin@brighton-hove.gov.uk 01273 290729) for necessary highway approval from the Highway Authority prior to any works commencing on the adopted highway to satisfy the requirements of the condition.

8. BREEAM: The applicant is advised that details of the BREEAM assessment tools and a list of approved assessors can be obtained from the BREEAM websites (www.breeam.org).
9. To be read in conjunction with Condition 30:
Birds: The applicant is advised that under Part 1 of the Wildlife and Countryside Act 1981 disturbance to nesting wild birds, their nests and eggs is a criminal offence. The nesting season is normally taken as being from 1st March – 30th September. The developer should take appropriate steps to ensure nesting birds, their nests and eggs are not disturbed and are protected until such time as they have left the nest.
Bats: The applicant is advised of the possible presence of bats on the development site. All species of bat are protected by law. It is a criminal offence to kill bats, to intentionally or recklessly disturb bats, damage or destroy a bat roosting place and intentionally or recklessly obstruct access to a bat roost. If bats are seen during construction, work should stop immediately and Natural England should be contacted on 0300 060 0300.
10. The applicant is advised that no mechanical excavation is allowed within 3 metres either side of the Southern Gas Networks pipeline. Vehicle crossings over the pipeline should be kept to a minimum and must be crossed at 90 degrees. The crossing will require the agreement of Southern Gas Networks (SGN) and may require design and calculations, as evidence to prove there is minimal added stress to the pipeline. Method statements must be agreed before works commence.

The pipeline is of prime importance to gas supplies of this area. It is essential that the applicant complies with the restrictions detailed below and in the SGN/W1/SW/2 in order to protect plant and equipment and for the safety of the applicant's operatives. A SGN representative must be contacted before any works commence. Further guidance/restrictions are detailed below:

1. No mechanical excavation is allowed within 3 metres each side of the pipeline.
2. No plant or storage of equipment shall be made within any easement strip.
3. If any metallic pipes or cables are being laid in proximity to gas pipelines then interference testing will be required, the cost of which to be borne by the promoter of the works. A minimum clearance of 600mm is required.
4. All precautions stated in publication SGN/WI/SW2 (Safe Working in the Vicinity of High Pressure Gas Pipelines) shall be fully complied with in all respects. Acceptance of SGN/WI/SW2 shall be acknowledged by the

- responsible site person signing and returning the form Appendix A (back page) to the SGN representative contacted in (7).
5. No thrust boring shall take place within 3 meters of the pipeline.
 6. All planting within the easement strip should comply with 'Notes for Guidance on Tree Proximity'.
 7. Before commencing work on site you must contact SGN's Pipeline Maintenance Section on the number above at least three days before work commences. A Southern Gas Networks representative will then contact you to arrange to visit site. Details of working near to high-pressure gas pipelines can then be discussed.
 8. Pipeline sections that are planned and agreed by SGN to be permanently covered (i.e. by road surface) will require a coating survey. SGN will repair any indicated coating defects free of charge. The survey costs will be borne by the promoter of the works. Prior to any surface cover cathodic protection coupons and reference cells will require installation at no cost to SGN.
 9. This pipeline is cathodically protected and as such has test cables located in test posts, were these to be lost through this work we would look to you for remedial action at no cost to SGN.
 10. Intrusive construction methods will require an agreed method statement prior to work starting.
 11. Any extended period of SGN site supervision may incur charges to the applicant. These will be charged based on visiting times, materials and occurrences. The Applicant will be informed when these come into effect and be invoiced direct.
 12. Any piling or boreholes within 15 metres of the pipeline may require vibration monitoring. No piling or boreholing must take place within 3 metres of the pipeline.
11. Southern Water advises:
- (a) The Applicant is advised that there should be no excavation, mounding or tree planting should be carried out within 7 metres of the public water trunk main without consent from Southern Water.
 - (b) No new soakaways should be located within 5 metres of the water trunk main.
 - (c) All existing infrastructure, including protective coatings and cathodic protection, should be protected during the course of construction works.
 - (d) Due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site.
 - (e) The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk.
 - (f) Initial investigations indicate that Southern Water can provide foul and surface water sewage disposal to service the proposed development. Southern Water requires a formal application for a connection to the public sewer to be made by the applicant or developer.

- (g) A formal application for connection to the public sewerage system is required in order to service this development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk. Please read through our New Connections Services Charging Arrangements documents which has now been published and is available to read through on our website via the following link <https://beta.southernwater.co.uk/infrastructure-charges>.
 - (h) Please note that surface water peak discharge rate from the proposed development must not exceed 5l/s as previously agreed.
 - (i) "A formal application for connection to the water supply is required in order to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk".
 - (j) The site lies within Source Protection Zone 1, approximately 60 metres East from the Falmer Wells and sensitivity of the public water abstraction.
12. As the site is within SPZ1, it will limit activity on the site, such as no chemical storage. Positive drainage is required off-site for all foul and surface water, (car park), drainage, utilising ductile iron, or similar, pipework. The only soakaways allowed are purely for roof drainage. Approved construction method statements are required to prevent spillages of contaminating material entering the aquifer. As a further back-up, contractors, who should be made fully aware of the sensitive nature of the site by the new owners of the land, should carry out an assessment of the risks involved in laying and connecting sewers within an SPZ1. Any significant risks thus identified should be properly managed by liaising with both the regulator, (EA), and the abstractor, (SW), in order to fully comply with the Groundwater Protection Policy.

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The site is located within the development boundary for the city, to the south side of the A27 adjacent to Falmer Station. It is positioned between the A27 dual carriageway and the railway line with access from Station Approach, a partly private road that also serves Falmer Railway Station and the station carpark. Beyond this and to the south is the University of Brighton Falmer Campus. The University of Sussex campus is to the north of the A27. The station is located to the west, a stadium car park to the east and there are a small number of residential properties located towards the west on the opposite side of Station Approach, beyond which is Stanmer Court which is purpose-built student accommodation.
- 2.2. The site currently comprises a pair of unoccupied semi-detached flint cottages that are unoccupied and boarded up. These are positioned to the back of the site with the main gardens being to the north and the access to the east side of Station Approach. Apart from the boundary to the east, the remaining boundaries are defined by existing vegetation and trees.
- 2.3 The buildings are not listed or located within a Conservation Area. The South Downs National Park is located to the north, across the A27. The site is also

outside of the Stanmer Estate which is a Grade II registered park and garden located to the north west and on the opposite side of the A27.

- 2.4 Access to the SDNP is available via the path network and underpass that runs beneath the A27. This also serves as a pedestrian and cycle link for those attending the University. It is within a Nature Improvement Area. It is in close proximity to Special Policy Area DA3 – Lewes Road Area of the City Plan Part One which highlights the need to enhance the offer for Higher Education students studying at the city's two universities.
- 2.5 In addition to Falmer Station the nearest bus stop for south and west bound travel is located approximately 2 minutes on foot either continuing along Station Approach or via the A27. The bus stop for those travelling to the east is located on the opposite side of the A27 and is accessed via the underpass and footpath network within the University grounds. Pedestrian traffic also moves across the railway pedestrian bridge to the west beyond the station entrance to the underpass.
- 2.6 This application seeks planning permission for the demolition of the existing cottages and their replacement with a new 4 storey building comprising 71 student rooms including 55 cluster beds, 15 Studio apartments and 1 Disabled Unit. The building also includes a main reception, communal areas on all floors, bicycle storage, waste and recycling storage and a substation. It represents a revision to the previously withdrawn scheme which proposed a larger building and 90 student bedrooms.
- 2.7 The main differences include a reduction in the overall number of student rooms from 90 to 71; revisions to the layout within the site; a lesser footprint including its overall depth and width; alterations to windows; use of materials and detailing including the provision of signage to the elevations facing the A27(north) and Station Approach (west); the relocation of the disabled bay and pedestrian access.
- 2.8 The most recent set of amended plans indicate that the building would stand to a height between 13.2 and 14.2 metres due to the slope of the land. The elevation facing Station Approach to the west would measure approximately 18.4 metres in length. To the east side facing the stadium car park it would be approximately 19.74 metres in length. The southern elevation would measure approximately 32.33 metres and the northern elevation facing the A27/Falmer Hill would be approximately 32.2 metres.
- 2.9 The attached cycle store would be single storey standing to a height of 2.97 metres with green screening walls. The bin store would be positioned alongside in a fenced area open above.
- 2.10 It is proposed that the elevations would be comprise three tones of brick varying between a darker red/brown to a lighter tone to create a variegated appearance across the elevations, a dark brick coloured base, a dark string course above the top floor windows and a dark capping stone to the top of the parapet. Windows are shown with dark recessed frames with a vertical emphasis and a variation in the size of those to the north and south elevation. In order to alleviate the flat appearance of the brick elevations, sections of the

elevations would also contain expressed flat pilasters rising from the ground to fourth floor stopping below the height of the parapet.

- 2.11 A reduced footprint retains a greater distance between the northern elevation and the site boundary with the A27/Falmer Hill and would provide an improved relationship with existing trees. This would remove the conflict between the disabled parking bay and recycling bin loading bay and allow for the retention of Tree T1 (Sycamore) and T4 (Wych Elm) as well as the existing mixed hedgerow to the northern part of the site.
- 2.12 The roof has been designed to accommodate the installation of mounted solar technologies with the Sustainability Checklist suggesting Solar Photovoltaics over 64sqm.
- 2.13 Four carparking spaces are provided in total including a disabled bay. The purpose of the parking bays is to accommodate students moving in and out of the accommodation, not for permanent parking. Storage for 56 cycles is shown. Due to concerns regarding pedestrian movement, the gated pedestrian access has been separated from the gated vehicular access. It siting has been revised to encourage safer movement across Station Approach to the pavement on the opposite side of the road and onward movement to the pedestrian footbridge, footpath links to the bus stops on the A27 and the underpass to Sussex University and Stanmer Park.
- 2.14 The supporting documents/statements include Planning; Design & Access Statement, Transport Assessment; BREEAM Ecology (New Construction Assessment); Sustainability Checklist Air Quality Assessment; Noise Impact Assessment; Preliminary Ecological Appraisal and Building Inspection (Ecology/Biodiversity including bats, reptiles, badgers); Flood Risk Assessment; a Tree Survey and Landscaping.
- 2.15 Additional information has been submitted to address secured by design, fire protection/escape, refuse storage and collection, and cycle stands/storage issues.

3. RELEVANT HISTORY

- 3.1. Pre-application advice had been sought for the development of the site for 62 student bedspaces involving a part 3 and part 4 storey building in 2015 under reference BH2015/ENQ/00432. At that time, it was advised inter alia, that:
 - As the cottages had been vacant for some time and the need for student accommodation in the city, the overall benefits of the scheme would outweigh the loss of the two houses;
 - The site is considered to be appropriate for student accommodation;
 - The site is close to City Plan Policy Area DA3 where higher education improvements are sought for Lewes Road.

Further discussions occurred during 2016 in relation to a building of 4 storeys providing 91 student studio rooms with the advice that the footprint of the building was too large for the site. The need for a formal agreement with an educational establishment would be required to satisfy Policy CP21; a

Transport Statement would be required to demonstrate that overspill can be accommodated in the vicinity; a Move In/Move Out Strategy would be required to demonstrate how the development would facilitate access at the beginning and end of term time (including a loading/unloading area) as well as noise/vibration; ecology and land contamination assessments.

- 3.2. Additional consultations followed in mid 2017 prior to the submission of a formal application advising on further reductions to footprint and height.
- 3.3. **BH2017/02943:** Demolition of existing houses and Erection of a 3 and 4 storey student accommodation building with 90no rooms and associated cycle parking, car parking and landscaping. Withdrawn 19/12/17

4. REPRESENTATIONS

Forty six (46) letters have been from local residents but also persons from further afield. These relate to the original submission and raise objections for the following reasons:

Principle

- The site is not currently identified as suitable for development of purpose built student accommodation
- Area already over-populated with student accommodation
- Unacceptable loss of family homes

Heritage

- No heritage or archaeological impact assessment has been provided
- Existing cottages are attractive, should be retained, renovated and reused either as family homes or student accommodation
- Cottages should be listed and their loss resisted
- Form part of the farming and architectural history of the area, historic value should be preserved

Design, Scale, Mass, Character

- Inappropriate for the site and setting / too urban
- Does not fit in with the Victorian Railway Station and its cottages
- Aesthetically inappropriate and poor block-line design
- Prison-like
- Inappropriate modern materials
- Will cause more harm to character
- In appropriate height
- Overdevelopment

Residential Amenities

- Detrimental effect on residential amenity through:
- Overshadowing
- Overlooking
- impact on privacy
- will restrict views
- creation of additional noise

- student accommodation will be affected by noise from the A27

Movement (Pedestrian and Vehicular) / Safety and Parking

- Will result in an increase footfall particularly when football matches are on
- Increased traffic generation adding to existing congestion including when students move in and out
- Increase in the risk of accidents occurring
- Inadequate on-site parking
- Local roads are not able to cope at the beginning and end of the academic year

Biodiversity/Ecology

- Adverse impact on biodiversity
- Potential impact on bats noting report states Moderate roosting for bats and a license
- Queries regarding the protection of Great Crested Newts

Other Points

- Light pollution is already high
- Questions if there is a covenant regarding development

- 4.1. **The Regency Society:** No objection. Whilst there is no objection in principle to demolition of the existing buildings they should be replaced with a more sympathetic development. Proposals are unattractive and can be viewed from the South Downs National Park.
- 4.2. **The Royal Society for the Protection of Birds:** Comment. If permission is to be granted urge that 4-6 swift nest boxes/bricks are incorporated given their rapid decline in population.
- 4.3. **South Downs Society:** Comment. Concerns are expressed in relation to the impact on the setting and landscape character of the National Park: light spill and need to protect the dark night sky; building materials to be locally distinctive and accord with the landscape and setting of the Park; could generate additional traffic flow through the Park.

5. CONSULTATIONS

External

- 5.1. **Brighton and Hove Archaeological Society:** Comment. Falmer is a site of archaeological interest with finds from both the Mesolithic and Bronze Age periods. The BHAS would suggest the County Archaeologist is consulted for his recommendations.
- 5.2. **Highways England:** No objection on the basis that the applicant has agreed that:
1. The tenancy Agreement will include wording that prohibits students from bringing cars to the site and its surrounding area other than a disability assistance vehicle for use by a person with mobility impairment;

2. The potential for overspill parking at the start and end of term will be governed by a Management Plan with an arrival and departure strategy, which will need to be agreed by the Local Planning Authority, who shall also consult Highways England; and
 3. A Construction Management Plan will be provided, which will need to be agreed by the Local Planning Authority, who shall also consult Highways England.
- 5.3. **South Downs National Park:** No objection in principle. States that: The application site has the potential to impact upon the setting of the National Park with the proposal constituting a building of significant scale. Brighton and Hove City Council should satisfy themselves that design and scale of the building has taken account of its potential impact upon the landscape character of the National Park (no landscape assessment appears to have been undertaken to inform the design), includes measures to minimise light spill to protect the dark night skies of the National Park and, finally, utilises materials that are locally distinctive enhancing the character of the setting of the National Park.
- 5.4. **Southern Water:** Comment. Initial investigations indicate that South Water can provide foul and surface water sewerage disposal to service the proposed development. Exact position of the public water main must be determined on site by the applicant before the proposed layout is finalised. A formal application for connection to the public sewerage system is required to service this development. Recommends advice / informatives.
- 5.5. **Sussex Police:** Comment. The proposed accommodation is located close to the busy A27 Lewes to Brighton Road and also the Falmer Railway Station entrance. Also nearby is the Amex Football Stadium with a large movement of people at various event times with occasional incidents of public order and antisocial behaviour centred mainly in the vicinity of the Falmer railway station.

The proposed development will also be located nearby other student accommodation to the south of it and Sussex University on the opposite (west) side of the A27 trunk road. Points to note and accommodate include:

- Access control will be an essential element in controlling unauthorised access to vehicle and pedestrian accesses
- The main perimeter vehicle and pedestrian gates must have controlled access and be certified to LPS1175 Issue 7 SR1.
- Public areas should be kept separate from private areas.
- The two metre high paladin weldmesh vehicle gates and pedestrian access gates together with the paladin perimeter fencing around the west and north side of the development will help provide a secure environment for the students.
- Gates must be fitted so that they cannot be lifted off their hinges, and in such a way as to prevent aids to climbing over or gaining access underneath.

- recommend that the wooden boundary fence on the east side of the development, and the brick wall on the south side of the development when both repaired also have their heights matching the 2 metre high paladin fencing to also help deter climbing.
- Suggest fitting wooden trellis where applicable to increase the height. This would provide additional security for all the back bedroom windows on the ground floor.
- recommend the hedgerow planting around the east and southern sides of the perimeter must be dense to help deny pedestrian access through it, as well as provide screening
- External entry doors, ground floor windows or any other easily accessible or vulnerable windows to the accommodation building are to conform to LPS 1175 Issue 7 SR2 specifications and have controlled access.
- Regarding the main entrance to the building, curtain walls and window walls must be installed according to manufacturer's instructions.
- Postal arrangements for the building are through the wall, external or lobby mounted secure post boxes with postal arrangements for students receiving mail formulated with the reception staff or concierge.
- Minimum lighting specifications should include dusk to dawn low energy, vandal resistant switched lighting around the external entrance and internal foyer. Stair wells and stair cases should also be fitted with either dusk to dawn lighting or movement activated switched lighting.
- SBD asks for 'compartmentalisation' internally to create a safe and secure communal environment for residents occupying blocks of multiple flats, bedsits or bedrooms, to reduce the opportunity for antisocial behaviour by restricting access to all areas and floors of the building to all residents including an access control system including from the central core, lift and stairwells where each student is assigned access to the floor on which their room is located via the use of a proximity reader, swipe card or key or door sets on each landing and can prevent unauthorised access to the corridor where their room is located. The application of such is a matter for the specifier.
- Corridor doors should be fitted with vision panels.
- Additional internal features and controls are advised including doors, lighting
- The separate secure cycle store must have movement activated lighting installed and a front door accredited to PAS 24:2016 and which is lockable. A swipe card or keyed mortise lock to BS 3621 would be suitable together with a door closer to ensure it automatically closes for security and that it is not possible to enter or exit with a bicycle without a door key or code. The bicycle store should be fitted with a controlled access door fit for purpose.
- Due to the potential large number of bicycles likely to be stored, and in order to reduce the opportunity for theft of a bicycle or equipment from them, I recommend that the bicycle store is divided into two separate compartments, with a floor to ceiling barrier such as weld mesh, each with its own access controlled door.
- Consideration should be given to any potential CCTV ensuring that the lighting is commensurate with the CCTV equipment.

Note: The Agent has confirmed that all points will be addressed and implemented within the scheme. In the second consultation response it was

stated that there were no major concerns with the proposal but additional measures to mitigate against any identified local crime trends should be considered and re-refers to the earlier consultation as all matters remain extant including that CCTV should be a consideration.

- 5.6. **Scottish Gas Networks:** Comment. Initially SGN stating that there are high pressure pipelines in the vicinity of your proposed work area. Although initially raising an objection due to the presence of high pressure pipelines in the vicinity of the proposed work area, it has been indicated that the gas pipeline will not be affected by the proposal. A list of restrictions are presented and the developer will be required to contact SGN before any works commence.
- 5.7. **UK Power Networks:** Comment. A supply line crosses the site. Advice is provided in respect of excavation and work where supply lines are present.
- 5.8. **Network Rail:** No objection. Recommends advice and informatives regarding construction, safeguard, future maintenance, drainage, containment and prevention of trespass.

Internal:

- 5.9. **Planning Policy:** Support. This application follows the withdrawal of a previous application and now proposes 71 units as opposed to 90 and 1,449 sqm ancillary residential areas to be managed by the development management company. It proposes the loss of 2,222 sqm of gross internal residential floorspace provided by the two vacant semi-detached dwellings that are in a dilapidated state, empty and unmaintained for some years.

The loss of two family homes is regrettable given the lack of interest from marketing, a number of factors, cumulatively, justify an exception to LP Policy HO8 in this instance given:

- The need for additional Purpose Built Student Accommodation (PBSA) in the city, to enhance the offer high quality student accommodation;
 - To reduce the pressure on the private rented sector and free up family-sized homes which have increasingly been used as HMOs for students, but are in high demand due to the shortage of social and affordable housing for families generally.
 - The dwellings are currently vacant and appear to have been so for some time;
 - Close proximity of the site to two university campuses and excellent sustainable transport links making it a very suitable location for a PBSA development.
 - The overall benefits of the scheme would outweigh concerns over the loss of two houses and an exception to this policy is justified.
- 5.10. The site is well positioned in relation to the two university campuses as well as having good public transport and highway links. The land is surrounded by

the A27, the Brighton to Lewes railway line, the American Express Football Stadium and the University of Brighton.

5.11. Proposals for PBSA development are supported City Plan Policy CP21 subject to compliance with seven criteria set out in the policy. No concerns are raised from a planning policy perspective for the reasons set out below.

- Criteria (1), (2) and (5) are for the case officer to assess.
- The site is very well positioned in relation to two university campuses as well as having good public transport and road links, and no concerns are therefore raised with criterion (3)
- The Planning Statement indicates that a Management Plan will be in place which will restrict the right of students to use private vehicles and will control traffic demand during the main arrival and departure periods, satisfying criterion (4)
- No evidence has been provided to demonstrate compliance with criterion (6) which requires schemes to demonstrate that they have entered into a formal agreement with one of the city's two Universities or other existing educational establishments.
- The applicant has stated that a nominations agreement is forthcoming with Study Group. Details of this formal agreement should be required by condition.
- The site is not identified as a potential housing site through a site allocation or in the SHLAA and no concerns are therefore raised with criterion (7).

5.12. The Study Group will be responsible for management and maintenance of the premises and the application form says 5 FTE jobs will be created, which would be welcomed by City Regeneration. The development will bring indirect economic benefits, if approved, for nearby shops, cafes.

In addition the following is advised:

- requests the submission of an Employment and Training Strategy a month prior to commencement, highlighting how the development will provide opportunities for employment and training for local people
- if approved, in accordance with the council's *Developer Contributions Technical Guidance, City Regeneration requests a contribution of £6,500 through a S106 agreement, towards the delivery of the council's Local Employment Scheme. The contributions are based on the number of student accommodation units.
- considers a Management Plan to restrict the right of students to use private vehicles, controlling traffic demand during the main arrival and departure periods meet criterion 4 of Policy CP21.
- A Site Waste Management Plan appropriate for the scale of the development should be required by condition.
- Facilities for efficient management of waste is required.

5.13. **Arboriculture: Objection.** Notes a total of nine trees and three hedges are proposed to be removed including a healthy elm tree (T4) and sycamore (T1)

which are visible from the A27 and users of the railway line. These are worthy of protection by a tree preservation order and should be retained. and protected during the proposed development. In addition to the G2 Hedge of (hawthorn, goat willow and elm) as it is healthy, in good condition and will provide an important visual and sonic screen to the very busy A27 road adjacent to the site. If minded to approve, conditions are recommended in respect of:

- Hard and soft landscaping
- Excavations
- Protection of trees

- 5.14. **Amended Plan Comments:** No objection and recommends conditions. Welcomes the retention of T1 and T4; suggest the three new trees are of a larger specification; the soft landscaping space should be increased to soften the development and improved landscaping with greater detail. Conditions are recommended.
- 5.15. **County Archaeologist:** Comment. Notes that the requirements of Policy 189 of the NPPF has not been met. The proposed development is of archaeological interest due to the demolition of the a mid-19th century building, possibly being the Stations Masters House. Although not designated, it is of local archaeological and historic interest and will require recording by an archaeological contractor prior to demolition. Considers that it is acceptable that the risk of damage to the archaeology is mitigated by the application of planning conditions. Conditions are recommended in respect of a programme of archaeological works
- 5.16. **County Ecologist:** No objection. Recommends approval subject to conditions. Provided the recommended mitigation measures are implemented, the proposed development is unlikely to have a detrimental impact on biodiversity and can be supported from an ecological perspective. A European Protected Species mitigation licence is required. Opportunities for enhancement of the site for biodiversity include the provision of a green wall, wildlife boxes and the use of species of known wildlife value within the landscaping scheme.
- 5.17. **Additional Comments:** Recommends a condition requiring a more detailed Ecological Design Strategy as the recent submission is too vague and unspecific. It should include details of proposed species mixes, provenance, and the location of the proposed works on site is required. More information is also required about the timetable for implementation and management. No information is provided about the green wall. It is stated that the hedges either side of the access will be allowed to form an archway or that elms will be planted either side and allowed to form a continuous canopy. It is not clear which option will be implemented. The EDS states that three bird boxes will be provided, all of which target common species. This is not supported. All boxes should be woodcrete if possible and should target species of local conservation concern e.g. house sparrows, starlings and/or swifts.

- 5.18. **County Landscape Architect:** Approve subject to conditions. If permitted the proposed development would need to incorporate suitable landscape mitigation measures to ensure that it would meet the design requirements of the NPPF. This would include appropriate design details for external works and planting schemes.

Site Context: There are views into the site from vehicles moving past on the A27 and from Station Approach. These views are partially screened by tall scrubby vegetation on the boundaries of the site. There are more open views across the site from the railway and the Brighton University campus to the south. These views need to be considered in the context of other development along the road corridor.

Brighton Urban Characterisation Study (January 2009): Places the site in the Suburban Downland Fringe Character Area, a compact, low rise self-contained campus development with a strong landscape focus. The finer grained assessment identifies the site and surrounding area as the University Neighbourhood Space neighbourhood area. The character of the site is influenced by the presence of the A27 on one side and the railway to the other side. The Amex stadium and its car parks do dominate this part of the neighbourhood area. This document divides the neighbourhood into two character areas and the site falls within area a) below:

- a) The Universities: compact, low rise self-contained educational campuses on the edge of the Downs, with mixed late 20th century building styles and a strong landscape focus.
- b) Waterworks: a small 'island' of water company commercial buildings between the A27 and the railway line

Existing vegetation: The existing tall native vegetation which forms the boundary between the road and the various developments along the southern side is important in having a softening effect and retaining the impression of a green corridor. This is identified in the tree survey as a group of native shrubs including elm suckers. There is a semi-mature elm tree within this group which would appear to be worthy of retention due to the contribution it makes to local landscape character.

Potential Landscape and Visual Impacts and Mitigation Measures: A high quality student accommodation building on this site would not be out of character with the local townscape setting. It is stated on the landscape masterplan that the proposed development would retain the vegetation along the boundary with the A27. The group of trees on this boundary do contribute to the green corridor along the A27 and it is noted that the wych elm is categorized as B class for the contribution that it makes to the local landscape. Retention of this tree would be important in helping to integrate the proposed development into this setting. The tree survey would not appear to have been updated to ensure the proposed retention of these trees.

If minded to grant permission, it is recommended that the following should be considered by condition:

- Retention and positive management of the trees and shrubs on the boundaries of the site.
- three proposed *Malus sylvestris* (crab apple) trees on the north eastern corner of the building are substituted with an ultimately taller and more compact species of tree.
- a green wall is proposed to cover the elevations of the bin store and plant room. The precise details and specification for this would need to be provided by condition along with an ongoing management and a cycle of plant replacement.
- plain brick elevations for the proposed building are bland and austere. If the proposed development were to be permitted some consideration would need to be given to creating variety in the brickwork with the use of mixed bricks colours, textures and detailing

Conclusion and Summary Recommendations: It is recommended that the principle of a high quality development on this site could be supported. Should the planning authority be minded to support the application it is recommended that full consideration is given to the detailed design and landscape treatments as outlined above.

5.19. **Waste Management: Comment.** Policy WMP3d of the Waste and Minerals Plan requires development proposals to minimise and manage waste produced during construction demolition and excavation. A Site Waste Management Plan appropriate for this scale of development should be required by condition. Paragraph 49 of the National Planning Practice Guidance provides guidance on what could be covered in the SWMP in order to meet the requirements of the policy. Policy WMP3e of the WMP requires proposals for new development to identify the location and provision of facilities intended to allow for the efficient management of waste, e.g. location of bin stores and recycling facilities.

5.20. **Heritage:** Do not wish to comment.

5.21. **Private Sector Housing: Comment.** Expresses concern with Means of Escape in case of fire, there appears to be only 1 stairway for the building to be vacated. It is unclear from the plans if there is adequate fire suppressions system in place to alleviate these concerns.

An updated Fire Report has been provided to address the concerns raised.

5.22. **Environmental Health: No objection.** Approve with suggested conditions to address

- Construction Environmental Management Plan (CEMP)
- Acoustic and noise report
- Contamination
- Time restrictions on communal areas/services
- Restrictions on service and delivery times
- Sound proofing

- Mitigation measures in respect of acoustics and ventilation
- Control of lighting and luminance

5.23. **Environmental Health: Air Quality:** Approve with conditions. Advises an informative be added that air or ground source heat pumps and photovoltaics are definitely preferred to combustion on site.

5.24. **Sustainability:** Approve providing above ratings are achieved. Standard BREEAM condition to be added. Notes that the information provided in the sustainability checklist is encouraging but that it is difficult to comment further when no context or narrative is provided regard the sustainability solution (including energy strategy) for the development. As a major development the scheme is expected under City Plan Part One Policy CP8 to achieve BREEAM 'Excellent'.

A sustainability checklist has been submitted, however no further information (such as sustainability or energy strategy) has been documented. This makes it difficult to comment at length on the proposals. The scheme offers:

- EPC Rating - A
- BER - 20.8
- TER - 27.3
- Green wall - 50 sqm
- BREEAM - Excellent
- Solar thermal
- Air source heat pump: 258kW
- Solar PV
- Cycle parking: 56 spaces

Although encouraging, no further clarification or technical calculations (e.g. BREEAM pre-design information/BER/TER calculations/system operating conditions/monitoring procedures etc) have been provided, nor any information on how the proposals address parts 2d, e, g, j, m, n, o, p of CP8.

Given its proximity to DA3, which makes explicit reference to the potential for future district heating networks, it would significantly strengthen the application were it to consider the potential for a future connection. Given the proposed ASHP energy solution, this should not be too onerous - perhaps as little effort as identifying a potential pipe run.

5.25. **Flood Risk Management Officer:** Comment. Recommends conditions are imposed. Largely agrees with the flood risk assigned to the site with the exception of groundwater flood risk. Comments include:

- Applicant should be aware that there was a flooding incident approximately 50m north-east from the site on the A27 in 2006 which was likely caused by surface water flooding.
- Sustainable Drainage Systems SPD show the site located in an area defined as 'groundwater levels are between 0.025m and 0.5m below the

ground surface'. In intrusive site investigation at a later design stage will determine the GW level.

- Agrees with assumptions regarding existing surface water drainage
- Queries some existing and proposed calculations
- A drainage layout drawing shows 3 no. attenuation tanks with hydrobrakes but are not mentioned in the FRA and require confirmation that they are no longer being put forward as an option as there is no other information other than a detailed design drawing only showing 1 no. of the tanks.

5.26. **Sustainable Transport:** No objection in principle but express concerns/require additional information/amended plan. Recommends conditions.

- Recommends that Highways England is consulted as the proposed development is accessed via the A27 and the station access which is not adopted by Brighton & Hove City Council.
- Recommends further details are provided on pedestrian access arrangements and provided prior to determination including a pedestrian footway connecting the proposed pedestrian access to the existing pedestrian infrastructure on Falmer Hill.
- Where footways of a suitable standard cannot be provided wholly within the applicant's land, confirmation of the necessary agreements with adjacent land owners will be necessary.
- A sustainable transport S106 Agreement is recommended to mitigate the impacts of the development and provide for sustainable travel to the development.

Pedestrian access - no pedestrian access to the site. Applicant has proposed to provide a pedestrian access to the south of the vehicular access. As the majority of the trips to the site will be pedestrian movements, suitable and safe pedestrian access is required (BHCC CPP1 Policy CP9 and BHC LP Policy TR7). Issues include:

- The current lack of pedestrian footways leading to the site;
- No pedestrian crossings to allow safe crossing to and from the site;
- No tactile paving or dropped kerbs, which would ensure safe and convenient access for users of all abilities; and
- Poor quality, disconnected pedestrian infrastructure at the junction of Station Approach and the A27.
- widening the pedestrian access to the south falls outside the applicant's control
- no safe route for pedestrians connecting to existing pedestrian infrastructure on Falmer Hill
- proposed pedestrian route would not comply with NPPF, paragraph 108
- site layout does not provide safe pedestrian route to the site especially as the student accommodation caters for disabled users
- suggested that further investigation is undertaken to ascertain whether a footpath to the east of Station Approach as shown in application no. BH2017/02943 could be implemented.

- Station Approach is not a public highway so could not be secured through a S278 Agreement. The development should not be occupied until plans have been submitted to and agreed in writing and constructed in full

Vehicle Access: No objection from a highway perspective. Highways England should be consulted.

Car parking should be provided at a maximum of 0.25 spaces per bedroom. 4 car spaces are provided which meets maximum standards. The management plan should be secured by condition or as part of a S106 agreement if consent is granted. This is detailed within the Travel Plan and Measures section.

Disabled Parking: SPD 14 requirements are not met. SPD14 indicates that the minimum disabled parking requirements is 1 space per wheelchair accessible unit plus 50% of the minimum parking standard for ambulant disabled people and visitors.

Cycle Parking: 56 bicycle parking spaces are provided which meets the minimum standards.

BHLP 2006 Policy TR14 requires cycle parking to be secure, convenient, well lit, well signed and wherever practical sheltered. This is as shown in the proposal but cycle parking is provided within a two-tier system. The Highway Authority prefer the use of Sheffield Stands spaced in line with 'Manual for Streets' guidance but are not unacceptable and should be provided in line with the 'London Cycle Design Standards'. 5% of stands should cater for larger custom bikes. Visitor cycle parking spaces should be typically located externally and publicly accessible, in a well-lit area and preferably covered. If internal, they must be easy to find and access without assistance or approval from others. A condition is recommended.

Deliveries and Servicing: The proposed bin store is approximately 20 metres from the road and just within the Manual for Streets requirement (25m). However, the location of the Bin Store loading area would block the entry/exit of a vehicle parked in the disabled space. The bin loading area needs to be relocated but further details could be secured by a Delivery and Servicing Management condition.

Travel Plans and Measures: A Travel Plan is requested to promote sustainable transport to and from the site and should include a Residential Travel Information Pack with strong measures included and particularly targeted at the reduction of private car ownership to mitigate the potential impact of overspill car parking and its impact on the surrounding highway and transport network. This could include mitigation measures in respect of:

- contributions towards bus travel taster tickets or contributions towards the purchase of bikes
- promoting alternative, sustainable modes of travel including use of train, bus, coach and taxi
- allocated dates and times when permitted to move in and out with use of a secure room at ground floor level

- Information pack including details as well as location of nearby car parks/parking locations to enable parking prior to and after loading into the building at their specific time slot
- Additional staff at hand to assist

Both plans to be secured by condition or through the S106 Agreement.

Trip Generation/S106: It is anticipated that there will be an uplift in trips. The applicant has estimated vehicle trips only. The Highway Authority calculations using TRICS analysis was calculated at approximately 196 person trips would be undertaken each day. Developer Contributions indicated at £29,400 and will be allocated toward improved pedestrian and cycle routes serving the site including, but not limited to, the University sites and Lewes Road.

Note: The Applicant and Agent have identified that part of Station Approach does not fall within the ownership of Network Rail. Ownership has not been identified and therefore the Applicants unable to negotiate for footpath improvements as suggested outside the application site. The pedestrian access has been modified to a location where it encourages crossing to the pavement on the opposite side of the Station Approach. Disabled bays have been provided to accord with SPD14. The conflict between deliveries, waste collection and the use of the disabled bay.

5.27. **City Regeneration:** No adverse comments. S106 contributions required.

This new application proposes 71 no. units as follows:

- Cluster beds = 55
- Studio apartments = 15
- Disabled Studio apartments = 1

In addition, it proposes 1,449 sqm ancillary residential areas to be managed by the development management company.

The application proposes the loss of 2,222 sqm of gross internal residential floorspace. City Regeneration notes that the existing buildings (two vacant semi-detached residential dwellings) are in a dilapidated state having been empty and unmaintained for some years. Demolition of the two properties has been viewed as acceptable by BHCC taking into account the current condition, lack of interest from marketing and not in a specific identified area for development. The buildings will be replaced by much needed, high quality student accommodation.

Policy DA3 – Lewes Road Area of the City Plan Part One highlights the need to enhance the offer for Higher Education students studying at the city's two universities including access to suitable accommodation, freeing up family-sized homes which have increasingly been used as HMOs for students, but are in high demand due to the shortage of social and affordable housing for families generally. Brighton & Hove is home to two universities, with a total of over 35,000 students learning in the area and the number of students is increasing annually, with the British & Irish Modern Music Institute, the Study Group and a number of language schools adding to the overall student population. The residents of the accommodation are likely to be students

attending courses provided by The Study Group either at the University of Sussex Falmer campus or at the Brighton Study Centre (1 Billinton Way).

The site is well positioned in relation to the two university campuses as well as having good public transport and highway links. The land is surrounded by the A27, the Brighton to Lewes railway line, the American Express Football Stadium and the University of Brighton. The Study Group will be responsible for management and maintenance of the premises and the application form says 5 FTE jobs will be created, which would be welcomed by City Regeneration. In addition City Regeneration welcomes the indirect economic benefits the application, if approved, would have on nearby shops, cafes

In the event this application or any amended application is approved, an Employment and Training Strategy will be required to be submitted one month before site commencement (including demolition) which should include the developer's commitment to using an agreed percentage of local labour for any permanent or temporary opportunities. It is proposed for this development that the minimum percentage of 20% local employment for both the demolition (where appropriate due to the specialist nature of the works) and construction phase is required.

The council's Local Employment Scheme Co-ordinator is available to provide guidance in the production of the strategy and will be the council's key liaison during the life of the project with regards to monitoring of KPIs relating to employment and training. The strategy should be submitted one month in advance of site commencement and early contact with the council's Local Employment Scheme Co-ordinator is recommended to avoid any delays in site start and to negotiate the use of the developer contributions for training purposes, linked to the needs of the site. The CITB (Construction Industry Training Board) Client-Based Approach should be referred to as a guide in the preparation of the strategy in respect of expected outputs to be included, for a development of this size and value.

The formula applied to calculate the amount of developer contributions is as follows :

- Number of student units contribution per unit Total 71 At £100 = £7,100
- The sum of £7,100 would be subject to a reduction resulting from the existence of two dwellings, creating a net gain.
- The reduction is based on an assumption that these are 2bed dwellings as both the application and the Planning Statement indicated 'unknown' regarding this information.
- The sum applied also relates to 1 bed dwellings. The developer contribution applied to a 2 bed dwelling is £300, therefore the deduction would be $2 \times £300 = £600$. $£7,100 - £600 = £6,500$

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).
- 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) (2018)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development
DA3 Lewes Road Area
CP1 Housing delivery
CP2 Sustainable economic development
CP5 Culture and tourism
CP7 Infrastructure and developer contributions
CP8 Sustainable buildings
CP9 Sustainable transport
CP10 Biodiversity
CP11 Flood risk
CP12 Urban design
CP13 Public streets and spaces
CP14 Housing density
CP15 Heritage
CP18 Healthy city
CP19 Housing mix
CP21 Student housing and Housing in Multiple Occupation

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

TR4 Travel plans
TR7 Safe Development
TR14 Cycle access and parking
SU9 Pollution and nuisance control
SU10 Noise Nuisance
QD5 Design - street frontages
QD14 Extensions and alterations
QD15 Landscape design
QD16 Trees and hedgerows
QD18 Species protection
QD27 Protection of amenity
HE6 Development within or affecting the setting of conservation areas
HE10 Buildings of local interest

- HE12 Scheduled ancient monuments and other important archaeological sites
- HO8 Retaining Housing
- SA5 The Setting of the National Park
- SA6 Sustainable Neighbourhoods

Supplementary Planning Documents:

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

8. CONSIDERATIONS & ASSESSMENT

8.1 The main considerations in the determination of this application relate to the principle of the development including the loss of two existing units of accommodation, the proposed provision of student accommodation; the impact on the street scene, character and appearance of the area which includes the setting of the South Downs National Park and Stanmer Village Conservation Area; amenity for existing and new occupants; sustainability and sustainable transport, traffic generation, parking and pedestrian safety; landscaping; ecology/biodiversity and contribution to other objectives of the development plan.

8.2 Planning Policy

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

8.3 The Council's most recent land supply position was published in the 2017 SHLAA Update (February 2018) which showed a marginal surplus (5.0 years supply). However, the inspector for the recent planning appeal on Land south of Ovingdean Road (APP/Q1445/W/17/3177606) considered that the Council's delivery timescales for two sites were over-optimistic and concluded that there would be a five year supply shortfall of at least 200 dwellings. The Council's five year housing land supply figures are currently being updated as part of the annual monitoring process and an updated five year housing position will be published later this year. In the interim, when considering the planning balance in the determination of planning applications, increased weight should be given to housing delivery in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).

8.4 Principle of Development:

The principle of development in this case primarily relates to the loss of two existing residential units and their replacement with 71 student bedrooms on a site that has not been allocated for purpose-built student development. 'Saved' Policy HO8 of the Brighton & Hove Local Plan (2016) seeks to resist the net loss of existing residential accommodation unless the proposal is considered to represent an exception such as where the result would be a net gain in units of affordable housing.

- 8.5 Purpose-built student accommodation does not fall within the NPPF's definition of affordable housing but paragraph 61 sets out the national policy requirement for the provision of accommodation needed for different groups in the community which includes student accommodation.
- 8.6 The supporting information indicates that the two semi-detached dwellings have been vacant for several years and are in a dilapidated state. Despite having been marketed by GVA Grimley and Bilfinger, there was no significant interest in the premises for residential purposes. On that basis and although representing the loss two potential family homes, with the lack of interest expressed, cumulatively the proposals justify an exception to 'saved' Policy HO8 of the Local Plan.
- 8.7 The need for additional Purpose Built Student Accommodation (PBSA) in the city is recognised as well as the need to reduce the pressure on the private rented sector from the student population. The site is within Special Policy Area DA3 – Lewes Road Area where the main thrust for the strategy is to promote and enhance the role of the area for high education which includes the development of high quality accommodation for students.
- 8.8 The site is not identified as an allocation site but Policies DA3 and CP21 of City Plan Part One would support the provision of PBSA on this site. It is close proximity to the two main university campuses with good access to sustainable transport links making it a very suitable location for a PBSA development.
- 8.9 It would provide 71 no. student units with a mix as follows:
- Cluster beds = 55 (ranging from 13.18 – 13.77 sqm)
 - Studio apartments = 15 (ranging from 22.79 – 23.45 sqm)
 - Disabled Studio apartments = 1 (25.80 sqm)
- 8.10 Each room/unit would be provided with an ensuite. Typical room layouts demonstrate that in addition to a cabin bed (with storage beneath), a wardrobe, desk, wall units and low seat with drawers can be accommodated in the 'cluster beds.' The Studio apartments are shown as being capable of accommodating a small double bed, design, wardrobe, wall units or desk-mounted bookcase with drawers, two seater sofa and kitchenette. The accessible unit would be provided with an accessible shower room, space for a double bed, for a sofa and kitchenette. In addition, the ground floor includes a communal lounge and two living room areas. The floors above would also include two living room areas.
- 8.11 There are no specific standards for student rooms, it is considered that the room sizes are considered to be within an acceptable range. Although 55 cluster beds are provided, it has been demonstrated that they can provide a sufficient amount of sleeping, study and storage base for students. In any event, the provision of communal space with dedicated living rooms offsets that smaller size of the cluster beds. Together with the communal lounge and living areas, on the whole, the areas provided are considered to be sufficient to provide for needs of 71 students.

- 8.12 Although dating from the mid -19th century, an approach to Historic England to consider the building for listing was rejected. The buildings are not identified on the Local List of Buildings of Interest. Nevertheless, the benefits to be derived from the provision of Purpose Built Student Accommodation (PBSA), high quality student accommodation, in this sustainable location, taking pressure of the existing supply of private family homes and putting the site to an optimal viable use carries material weight. In this instance, the benefits can be considered to be substantial and would outweigh the loss of the pair of buildings. The principle of the development is supported by Policies SS1, DA3 and CP21 of City Plan Part One.
- 8.13 Design and Appearance:
Policies SS1, CP12 and DA3 support the design of high quality sustainable buildings that respect the surroundings, make a positive contribution to the streetscene and embrace local distinctiveness through various means including the choice and use of materials as well as articulation and detailing of the elevations.
- 8.14 The building has evolved since its earlier iteration under application reference BH2017/02943 (withdrawn). As well as a reduction in the number of student rooms, the footprint, height and mass has been reduced. Although of a regular form, the design seeks to diminish the mass and flatness of the elevations by including recessed and projecting sections, rising flat pilasters and a framing effect to the recessed window openings, set in dark frames. The elevations facing Station Approach and the A27 are also stepped ensuring that the expanse of the respective elevations is lessened. The windows to main areas of the north and south elevations are staggered in contrast to the more regular stacked vertical arrangement.
- 8.15 The use darker bricks to the base, string course above the top floor windows and coping along with three brick colours variegated across the elevations assisted in enlivening the elevations. At the same time, this create a more interesting relief when viewed in close proximity and from the opposite side of the A27 and within the South Downs National Park.
- 8.16 Impact on the setting of the South Downs National Park,
The South Downs is a landscape of national importance. As set out above the application site is located within the setting of the SDNP. Policy SA5 requires proposals within the setting of the National Park (SDNP) to have regard to its impact. Development within the setting of the Park should be consistent with and not prejudice the Park's purposes and must respect and not significantly harm the Park and its setting and should have due regard to the Council's priorities for the South Downs where appropriate. This approach accords with the policy intent set out in the National Planning Policy Framework (2018) (NPPF) which emphasises the great weight that should be given to conserving the landscape and scenic beauty in National Parks.
- 8.17 Heritage Assets:
This area of the SDNP also includes the Stanmer Park Village Conservation Area and the Stanmer Park Registered Historic Park and Garden which, and according to the glossary of the NPPF are designated heritage assets. The

conservation area is designated and the statutory requirement for the protection of its special interest is set out in the Planning (Listed Buildings and Conservation Areas) Act 1990. The NPPF affords each the appropriate weight in its policy content.

- 8.18 The site is located within the Suburban Downland Fringe Character Area, a compact, low rise self-contained campus development with a strong landscape focus but is separated from the main downland fringe by the A27. Along with the railway station, the Amex Stadium and other built form, the character of area has more of built appearance where the landscape focus is not as strong as the north side of the A27.
- 8.19 There are views of the site from the north side of the A27 but are interrupted by the 4 lanes of carriageway, the slip road and crash protection barriers. The existing mature vegetation to the boundaries of the site, particularly to the north with the A27, filter views to and from the SDNP, conservation area and registered historic park and garden.
- 8.20 Due to diminishing levels of visibility and perception of the site, it is considered that it is capable of accommodating the proposed building without causing harm to the SDNP, the conservation area and registered historic park and garden. This includes those views where the site can be seen in conjunction with the designated areas and heritage assets without causing harm, particularly as the amended scheme would retain the two mature trees to the northern boundary and hedgerows. The design of the building along with the variegated brick colour and tone would be integrated into the wider landscape setting and the green corridor of that exists at presence. The development would therefore meet the statutory duties set out in the National Parks and Access to the Countryside Act 1949, the Planning (Listed Buildings and Conservation Areas) Act 1990 and the NPPF (2018) as well as Policies SA5 and HE6 of the 2006 Local Plan and Policy CP15 of City Plan Part One.
- 8.21 Historic England did not consider the mid-19th century cottages to be candidates for listing. Although not on the council's Local List, the County Archaeologist considers that they are of local interest and should be recorded pair of cottages are of local interest and should be recorded by an archaeological contractor prior to demolition. In this instance and having regard to the test of reasonableness, it is considered that as opposed to an archaeological recording of the pair of cottages that a condition should be imposed to require the photographic recording of the pair, internally and externally with corresponding marked up existing floor plans and elevations. The loss of the cottages when considered against the benefits that would be gained from the provision of PBSA outweighs their loss in the planning balance.
- 8.22 Landscaping and Trees:
The new development would cover a greater ground area than the existing pair of dwellings including its existing access road, internal footpath and parking spaces. Its reduced footprint and position on site has accommodated the retention to two key mature trees locate close to the northern boundary that contribute to the visual amenities of the area and its landscape character.

This 'green' character of the area and site is complemented by the inclusion of a green wall to cover the elevations of the bin store and plant room.

- 8.23 It is considered that the landscaping of the proposed development, including the retention of trees 1 and 2, management of the existing hedgerows, introduction of additional planting as well as the green wall and appropriate tree protection would satisfy the requirements of the County Landscape Officer and the council's Arboriculturist.
- 8.24 Further details regarding landscaping of the proposal can be secured through appropriate and relevant conditions and associated management through a S106 Planning Agreement.
- 8.25 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.
- 8.26 There are limited individual private units of accommodation within the vicinity of the site and proposed building. For example, Howard House which is on the opposite side of Station Approach is a Catholic Chaplancy visited by staff and students. Beyond this are two houses, one of which includes a hairdressing salon. Overall it is considered that levels of residential amenity would not be affected.
- 8.27 Environmental Health has commented that there should be a restriction on the use of communal areas. This has been considered but it would be difficult to control to enforce such a condition without being unduly invasive. Should noise emanating from the building arise and be to such an extent that it causes detriment, a noise abatement order can be served under the Environmental Health legislation.
- 8.28 Policy QD27 also seeks to ensure that future occupiers of the PBSA are also provided with appropriate standards of amenity. The siting of the building located between the A27 and the railway line, with Station Approach to one side and the carpark to the Amex Stadium to the other give rise for concern in respect of noise. Environmental Health have indicated that conditions be imposed requiring the submission of acoustic and noise reports, mitigation measures in respect of acoustics and ventilation, details of sound proofing, restrictions on service and delivery times. Through appropriate controls and inclusion of appropriate measures, it is considered that the occupants of the PBSA will be provided with high quality accommodation.
- 8.29 Although an area of open space is retained within the site, the development is required to contribute to Open Space provision within the city in accordance with Policy CP7 of City Plan Part One.
- 8.30 Sustainable Transport:
Policy CP9 of City Plan Part One seeks to ensure that development is directed into areas with good sustainable transport links and where measures

can be taken to secure accessibility improvements for all. It is accepted that the site is in a sustainable location, within walking distance of the two university campuses, Falmer Train Station and bus stops. The Transport Statement points out that the Universities and city can be accessed on segregated footways and cycle paths for most, if not all, of the routes. The bus stop which is approximately 110 metres to the west provides access to 6 bus routes which connect the site to all part of the city. The bus stop on the north side of the A27 provides access to the east. Services run 7 days per week with some services running for 24 hours each day. The statement also lists the distance from local amenities including health care, convenience store and post office and banking facilities.

- 8.31 Falmer Train Station is 50 metres from the site and provided direct services to Brighton, to Lewes and beyond. Services run approximately every 20 minutes during the day and every 10 minutes during peak hours.
- 8.32 Taking account of the nature of the use and potential for trips, the Transport Statement indicates that the applicant is agreeable to entering into a S106 Planning Agreement to provide a Management Plan to prevent students from bringing and keeping a vehicle at the site, to control times for moving in and out as well as drop-off/pick-up. With the appropriate controls, a Travel Plan that manages vehicular access to and from the site including servicing and waste collection would satisfy the requirements of Policy TR4 of the Local Plan and Policy CP9 of City Plan Part One.
- 8.33 Access – Vehicular and Pedestrian
No objections have been raised to the use and reconfiguration of the existing vehicular access off Station Approach to serve the new development. It would have a gated controlled entry system with access agreed in advance, the details of which would be set out in a Travel Management Plan. Concerns regarding conflicts between waste collection vehicles and disabled bays have been addressed with the submission of amended plans.
- 8.34 The pedestrian access has raised more concern but this is largely focussed on the fact that Station Approach is poorly served by the existing footpath network. It is understandable that the Applicant was requested to provide improvements to and new footpaths to provide safer movement to the station, the footbridge and underpass. However, the land including the first section of the Station Approach is not within the Applicant's ownership or control. Despite checking with Network Rail, the council and Land Registry, no owner has been revealed. Therefore, the position of the gated entrance slightly to the south of vehicular access, is considered appropriate as it would encourage a natural desire line to cross at a point where the pavement on the opposite side of Station Approach. This position would also be clear of the existing car parking spaces for the station, and would be afforded clear visibility in both directions to see vehicles entering Station Approach and leaving the station forecourt. The Transport Assessment and Supplementary Technical Note indicates that 'Formally segregated footways are not necessary to serve the development site' and that 'Station Approach is used by circa fifty vehicles per day. Manual for Streets explains 'that there is a self-limiting factor on pedestrians sharing space with motorists, of around 100 vehicles per hour. Above this, pedestrians treat the general path taken by motor vehicles as a

road to be crossed rather than a space to be occupy. The volume of traffic using Station Approach is well below this self-limiting factor.'

8.35 The Applicant has however, sought to provide a pedestrian access in a position that would encourage safer crossing of Station Approach, further away from the junction with the A27 and separate from the vehicular access. As such and having regard to the advice in Manual for Streets and quantum of vehicular movements, it is considered that the development would not increase or present danger to existing and additional pedestrians and cyclists using Station Approach. It is therefore considered that the proposal accords with the intentions of Policy TR7 of the Local Plan.

8.36 Vehicle and Cycle Parking:

Policy TR14 of the Local Plan requires all new development to provide sufficient access for cyclists in accordance with the parking guidance. Policy TR18 requires that developments provide for people with a mobility related disability. SPD14 'Parking Standards' set out the latest parking standards for the city. The standards require 0.25 car parking spaces per bedroom, short stay parking facilities based on 1 space per 10 bed spaces, one space per wheelchair accessible unit plus 50% of the minimum parking standards for ambulant disabled people and visitors. The standards also required servicing on-site for loading and unloading.

8.37 With this sustainable location in mind and having regard to TRICS data for a site in this location, the application includes the provision of 56 cycle parking spaces, 4 car parking spaces (1 of which would be a blue badge holder).

8.38 The development over provides for cycle parking but this is considered to be appropriate compensation given the fact that the occupants are more likely to travel by bus, train, bicycle and on foot as opposed to the private car. 4 car parking spaces, with 1 disabled bay it considered to be sufficient for a development that seeks to encourage sustainable modes of transport, particularly in this location. This is confirmed by the TRICS data submitted in the Transport Report. In addition, a management plan with controls similar to Varley Halls, Coldean restricting car usage and a Travel Plan controls would overcome concerns relating to increases in traffic generation and overspill parking. A management plan would allocate students a time slot when they can access the PBSA to load or unload. A student arrival and departure strategy can be secured through a planning condition and/or a S106 Planning Agreement.

8.39 Servicing:

Apart from moving in and out, the main servicing activity associated with the proposed development is considered to be that of the collection of refuse and recycling. Having addressed the conflict between the disabled bay, the bin collection area is now shown closer to the entrance. This location would accord with the requirement to be able to get within 25m of the storage point. In this case, the collection area would be within this parameter and would facilitate easier collection from the road and utilise the turning space at the end of Station Approach.

- 8.40 S106:
To comply with the Brighton and Hove Local Plan 2005 policy TR7, TR11 and TR12, Policy CP7 and CP9 of the City Plan Part One, the National Planning Policy Framework and the Council's Guidance on Developer Contributions the applicant is expected to make a financial contribution towards highway infrastructure in the vicinity of the site.
- 8.41 The Highway Authority indicates that a requirement for a S106 contribution of £29,400 towards pedestrian and public transport infrastructure improvements within the vicinity of the site.
- 8.42 Sustainability:
City Plan Policy CP8 requires that all new development achieves minimum standards for energy and water performance as well as demonstrating how the proposal satisfies an exhaustive range of criteria around sustainable design features. 'Major' non-residential developments are expected to achieve BREEAM 'Excellent'.
- 8.43 The application was accompanied by a BREEAM Ecology and New Construction Assessment that is more focussed on ecology and habitats. The Sustainability Checklist states that BREEAM 'Excellent' would be achieved and indicates inclusion of the following:
- materials for the build would be derived from local sources within a 50km radius
 - materials would have low embodied energy, offer enhanced durability
 - timber to be from sustainable sources
 - passive design measures have been incorporated
 - roof designed to accommodate the installation of mounted solar technologies including for hot water and energy
 - green walls are included
 - provision of water efficiency standard or 110/litres/person/day
 - incorporation of rainwater harvesting and greywater recycling
 - solar hot water
 - use of 6 x Air Source Heat Pumps
 - sustainable drainage
 - site waste management plan
- 8.44 Aside from a roof plan showing the area for siting of a solar array and whilst not objecting to the proposals, the Sustainability Officer considers that the information provided in the sustainability checklist is encouraging but is without clarification. In order to meet the requirements of Policy CP8 and to demonstrate that a rating of BREEAM 'Excellence' is achieved, suitable conditions are recommended.
- 8.45 Biodiversity:
'Saved' Policy QD18 indicates that the presence of protected species is a material consideration in planning decisions and requires that measures are required to avoid any harmful impact of a proposed development on such species and their habitats. Applicants are also expected to enhance habitats irrespective of the presence of species. Policy CP8 of City Plan Part One also

requires new development to improve to enhance biodiversity. Policy CP10 of City Plan Part One requires that development proposals conserve existing biodiversity protecting it from the negative and indirect effects of development and to improve the existing biodiversity of a site as well as protecting protected species. Where EU protected species are present, Applicants are required to acquire a license to undertake works and are limited to specific times in the calendar year for certain activities.

- 8.46 The Biodiversity report submitted with the application indicated that the buildings yielded secondary evidence of bats in the existing buildings including droppings and feeding remains. A semi-mature apple tree within the north eastern extent of the site was noted as containing suitable roosting features for bats and that bats would utilise the site for foraging and commuting due to the connectivity to off-site habitat along the railway embankment. Additional surveys revealed that a pipistrelle species was observed emerging from the lean-to building attached to No.42. Overall and following a third survey, it was considered that bat activity was low and the structures were not considered to provide features suitable for a roost of high significance. Nevertheless, as the proposed demolition of the buildings has the potential to negatively impact on bats through the loss of a roost, irrespective of its importance, mitigation measures are proposed.
- 8.47 Bats receive protection under The Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) and European legislation. A European Protected Species Mitigation License is likely to be required from Natural England once planning permission is granted and before works can proceed and to complete any necessary mitigation.
- 8.48 A reptile survey involving 7 survey visits between April and May 2017 returned no records for the presence of reptiles. A badger survey revealed no evidence of setts or foraging, primary or secondary. As a precautionary approach to vegetation clearance in respect to breeding birds is recommended to minimise any adverse impacts on this species group. It was noted that the on-site hedgerow, scattered trees and shrubs provide suitable nesting opportunities for breeding birds.
- 8.49 The survey also revealed the presence of Japanese Knotweed at the time of the survey which is an invasive species. Although it is not illegal to have species listed under the Schedule 9 of the Wildlife and Countryside Act 1981 (as amended), it is illegal to permit these species to spread and grow in the wild. The Biodiversity Report indicates that a Japanese Knotweed Management Plan (JKMP) is produced to guide the development process and control the spread of this invasive species in accordance with current legislation.
- 8.50 Due to the presence of nesting birds and bats, the report indicates that additional nesting and roosting opportunities could be installed in trees and/or incorporated into the design of the new building or through the use of boxes and/or bricks. Details will be required through conditions. The County Ecologist has also indicated that a more detailed Ecological Design Strategy is submitted.

Other Considerations:

8.51 Construction Environmental Management Plan

Due to the nature and scale of the development proposed and its location adjacent to the strategic road network, a Construction Environmental Management Plan is requested. This should include measures to mitigate the highway impact of the construction phase of the proposed building and should seek to ensure that construction traffic avoids peak hours.

8.52 Financial Contributions:

The financial Planning Obligations are set out at the beginning of this report and result in the need for a S106 Planning Agreement to be entered into. The contributions toward local employment and sustainable transport have been calculated and are based on the methodology set out in the Council's Developer Contributions Technical Guidance (March 2017) and based on the maximum amount of development proposed.

8.53 Conclusion

Given the close proximity of the site to the two university campuses and its sustainable location, the provision of 71 student bedspaces in a purpose built building would not only add to the much needed stock of accommodation for this sector but would also reduce pressure on the existing family housing stock which often become small HMOs.

8.54 Since the withdrawal of the previous application the footprint, scale, mass and appearance have been amended to produce a building that respects its context including the setting of the SDNP. This is also assisted by the retention of planting to the boundary with the verge to the A27 including 2 mature trees and hedgerows.

8.55 The revised design takes account of its presence and address to both the A27 and Station Approach and through the choice and subtle use of materials its appearance would be improved. Its mass would be further alleviated by the staggering of windows to sections of the main road facing elevations. Its vertical emphasis would be counterbalanced with the use of a darker brick base, the variegated pattern across the elevations, the dark string course and coping.

8.56 The design of the building, including space designations, internally and externally, has given due consideration to how it functions in terms of providing safe and secure access for vehicles, pedestrians and cyclists; parking for students moving in and out including disabled persons; refuse collection and having regard to movement patterns in the immediate area. As a result it is considered that and in conjunction with appropriate conditions and Travel and Management plans that the building and its use for student accommodation would not cause detriment to the immediate area, the amenities of existing dwellings, traffic flow or pedestrian movement.

8.57 The NPPF's presumption in favour of sustainable development means that development proposals that accord with the development plan should be approved without delay. In this instance it is considered that the proposal accords with the City Plan Part 1 and the Brighton & Hove Local Plan 2005, represents sustainable development and as such approval is recommended.

9. EQUALITIES

- 9.1 If overall considered acceptable conditions are proposed which would ensure compliance with Building Regulations Optional Requirement M4(2)(accessible and adaptable dwellings) and that 5 percent of the overall development would be built to Wheelchair Accessible Standards.

10. DEVELOPER CONTRIBUTIONS

10.1 S.106 Agreement

The contributions required would be allocated and spent as follows:

- Sustainable Transport
 - Improved pedestrian and cycle routes serving the site, including but not limited to, the University sites and Lewes Road
- Local Employment
 - 20% local employment during demolition and construction phases
- Open Space Contributions
 - outdoor amenity spaces including formal and informal areas for passive and active amenity

- 10.2 In the event that the draft S106 agreement has not been signed by all parties, the application shall be refused for the following reasons:

1. The proposed development fails to provide necessary sustainable transport infrastructure improvements in the vicinity of the site and therefore fails to address the requirements of Policies CP7 and CP9 of the Brighton and Hove City Plan Part One.

ITEM B

25 Preston Park Avenue, Brighton

**BH2018/02536
Full Planning**

DATE OF COMMITTEE: 6 February 2019

BH2018/02536 25 Preston Park Avenue



Clock Tower

PRESTON PARK AVENUE
The Ride

Park Court

Whistler

Bellevue

El Sta

Court



Scale: 1:1,250

<u>No:</u>	BH2018/02536	<u>Ward:</u>	Preston Park Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	25 Preston Park Avenue Brighton BN1 6HL		
<u>Proposal:</u>	Demolition of existing garage and side extension, and erection of three storey rear extension. Conversion of existing house into 6no flats (C3). Erection of 2no two storey dwellinghouses (C3) in rear garden with associated landscaping.		
<u>Officer:</u>	Luke Austin, tel: 294495	<u>Valid Date:</u>	28.08.2018
<u>Con Area:</u>	Preston Park	<u>Expiry Date:</u>	23.10.2018
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	
<u>Agent:</u>	Studio Wolsey Ltd Millers Junction Unit 1 10-28 Millers Avenue E8 2DS		
<u>Applicant:</u>	Mr Ben Evans 25 Preston Park Avenue Brighton BN1 6HL		

1. RECOMMENDATION

1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to be Minded to Grant planning permission subject to the expiry of the re-consultation period expiring on the 31st of January 2019 and no new planning considerations arising, and subject to a s106 Planning Obligation and the Conditions and Informatives as set out hereunder, SAVE THAT should the s106 Planning Obligation not be completed on or before the 15th of May 2019 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 11 of this report:

1.2. S106 Heads of Terms

- Affordable Housing: a contribution of £182,250
- Sustainable Transport: a contribution of £6,900 to be allocated towards pedestrian facility improvements within the vicinity of the site.

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.

Plan Type	Reference	Version	Date Received
Location and block plan	1704 (00)050	P2	28 August 2018
Proposed Drawing	1704 (02)000	P2	7 December 2018
Proposed Drawing	1704 (02)001	P2	7 December 2018
Proposed Drawing	1704 (02)01B	P2	7 December 2018
Proposed Drawing	1704 (02)002	P2	7 December 2018
Proposed Drawing	1704 (02)003	P2	7 December 2018
Proposed Drawing	1704 (02)051	P2	7 December 2018

Proposed Drawing	1704 (02)100	P2	7 December 2018
Proposed Drawing	1704 (02)101	P2	7 December 2018
Proposed Drawing	1704 (02)102	P2	7 December 2018
Proposed Drawing	1704 (02)103	P2	7 December 2018
Proposed Drawing	1704 (02)200	P2	7 December 2018
Proposed Drawing	1704 (02)201	P2	7 December 2018
Proposed Drawing	1704 (02)110	P1	13 August 2018
Proposed Drawing	1704 (02)111	P1	13 August 2018
Proposed Drawing	1704 (02)010	P2	17 January 2018
Proposed Drawing	1704 (02)011	P2	17 January 2018
Proposed Drawing	1704 (02)012	P2	17 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. No extension, enlargement, alteration of the dwellinghouses or provision of buildings etc incidental to the enjoyment of the dwellinghouse within the curtilage of the of the dwellinghouse(s) as provided for within Schedule 2, Part 1, 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 and CP12 of the Brighton & Hove City Plan Part One.

4. The external finishes of the extensions to the existing building 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 and HE6 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton & Hove City Plan Part One.

5. No development above ground floor slab level of any part of the new build development hereby permitted shall take place until samples / details of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):

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

e) details of all other materials to be used externally

Development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and to comply with policies QD14 and HE6 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton & Hove City Plan Part One.

6. The development hereby permitted shall not commence until full details of existing and proposed ground levels (referenced as Ordnance Datum) within the site and on land and buildings adjoining the site by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures, have been submitted to and approved by the Local Planning Authority. The development shall then be implemented in accordance with the approved level details.

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

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

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

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

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

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

- a. details of all hard and soft surfacing to include type, position, design, dimensions and materials and any sustainable drainage system used;
- b. a schedule detailing sizes and numbers/densities of all proposed trees/plants including details of tree pit design, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period;
- c. details of all boundary treatments to include type, position, design, dimensions and materials;

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

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

10. 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 and SPD14: Parking Standards.

11. The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.

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

12. The rear first floor balcony serving flat 3 shall not be brought into use until the obscure glazed screening has been installed. The screening to the balcony shall be retained as such thereafter.

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.

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 three storey detached property located to the east of Preston Park Avenue. The property is currently occupied as a single dwelling and has been subject to a number of ad hoc alterations including dormer windows, single storey rear extensions and projecting gables. Several sections of the property are currently in a poor state of repair. The existing building is of traditional design with ornate detailing and is set within a generous plot. The front elevation remains largely intact.

- 2.2. The property is within the Preston Park Conservation Area and is set adjacent to a five storey modern block of flats and a three storey property which has been heavily extended to the rear and at roof level. In the wider context the site

lies within an area of mixed character consisting of several modern blocks of flats and traditional buildings, many of which have also been converted into flats. A number of properties within the street have constructed back-land residential developments.

- 2.3. The site rises from street level to the rear boundary and the rear garden steps up considerably in comparison to the ground floor level of the property.
- 2.4. The application proposes the subdivision of the dwelling into six flats, involving external extensions and alterations to the building, in addition to the erection of two new dwellings within the rear garden involving substantial excavation.
- 2.5. Amendments have been sought during the assessment of the application including the removal of the vehicular access to the proposed dwellings to the rear in addition to the retention of the front boundary wall and the existing side extension to the south elevation of the dwelling on site. A pedestrian footpath access is now proposed to the rear dwellings. The landscaping has also been revised in order to provide further detail on the central communal garden.

3. RELEVANT HISTORY

- 3.1. None identified.

4. REPRESENTATIONS

- 4.1. **Twenty Six (26)** letters has been received, objecting to the proposed development for the following reasons:
 - Impact on conservation area
 - Additional traffic / parking
 - Damage to trees
 - Detrimental to property value
 - Inappropriate height
 - Noise impact
 - Overdevelopment
 - Poor design
 - Overshadowing
 - Restriction of view
 - Too close to boundary
 - Damage to local ecology
 - Damage to flint wall
 - Overlooking of neighbouring gardens
 - Disruption from building works
 - Increased traffic / waste disposal
 - It would involve the destruction of part of a distinguished house
 - Will destroy front boundary wall
 - Not comparable to local precedents
 - Light pollution
 - Security compromised
 - Harm to wildlife

- 4.2. **Councillor Kevin Allen** objects to the proposal. A copy of the objection is attached to this report.

5. CONSULTATIONS

5.1. **Heritage:** Initial Comment: Object

The proposed demolition of this historic southern gable is not supported due to the contribution it makes to the existing dwelling and the lack of justification for its removal (other than to provide vehicular access to the rear of the site).

The part removal of the front boundary wall and the provision of car parking to the front of the dwelling are not supported.

The proposal also includes the demolition of the c.1920s terracing and stairs to the rear garden which adds to the value of this historic dwelling and demonstrates the pattern of development of the site.

Overall, the proposal is an over development of the site which requires partial demolition of a dwelling of historic value to gain access to the site.

Second Comment: (verbal) 16.01.19

The scheme is an improvement without the removal of the side gable element to allow vehicle access to the rear of the site. The retention of the front boundary wall is welcomed. The alteration of the front boundary wall to allow two car spaces is not ideal as the original boundary wall would not be reinstated, however the proposed parking is considered an improvement in comparison to the existing garage.

No objections are raised to the proposed dwellings to the rear as they would not be readily visible within the streetscene.

5.2. **Private Sector Housing:** Comment

The bedrooms on the first floors of both houses are inner rooms; you have to go through the kitchen/ living room to escape should there be a fire.

There should either be a means of escape through the property without going through high risk rooms or an escape window in the bedroom. It is unclear from the plans if the windows in the bedrooms are a suitable means of escape.

5.3. **Planning Policy:** No Comment

5.4. **Sustainable Transport:** Comment

The access road width of 2.4m would be suitable for one vehicle only. In this case, as there is a low volume of pedestrians and vehicles accessing two dwellings only, no objections are raised.

Beyond the site, there are a number of kerbs along Preston Park Avenue which are not dropped. In order to provide access to the development for all users in accordance with the Brighton & Hove City Plan Part One policies CP9 and

CP12, it is recommended that the applicant be required to make a contribution towards pedestrian route improvements. Further details are provided in the trip generation comments below.

The applicant is proposing five off-street spaces. 2011 Census data indicates that average car ownership in this area (Census output area E020003504) is approximately 0.8 per household (six spaces). Therefore, it is not considered that there would be a significant increase in demand for on-street parking permits in this instance.

The applicant is proposing 14 cycle spaces which is therefore acceptable in principle. The design is unclear but appears to be using vertical racks for the flats and a communal store for the houses. Vertical racks are not compliant with Local Plan policy TR14. A scheme of cycle parking is therefore recommended.

Any deliveries would take place from Preston Park Avenue as they do at present. The access road would not be sufficiently wide for a refuse vehicle and bins would either need to be left by residents at the kerbside or collected from the access road. It is recommended that the case officer confirm that these arrangements are acceptable with City Clean.

In order to provide for the additional trips that are forecast and provide for future residents of all abilities accessing the site, it is recommended that a sustainable transport S106 contribution of £6,900 be secured.

5.5. Conservation Advisory Group: Objection

The group recommends refusal. The demolition of the gable end of the existing house represents the loss of a substantial original element and it seems that the two brick piers at the front boundary would also be lost although no clear information is evident in this respect. The new houses proposed for the rear garden would be visible from the public realm. They would obscure the view of the trees which form an important aspect of setting of the main house and the character of the conservation area which would both be further harmed by the houses' unsympathetic design.

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
- CP2 Sustainable economic development
- CP7 Infrastructure and developer contributions
- CP8 Sustainable buildings
- CP9 Sustainable transport
- CP10 Biodiversity
- CP12 Urban design
- CP14 Housing density
- CP15 Heritage
- CP18 Healthy city
- CP19 Housing mix
- CP20 Affordable housing

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

- TR7 Safe Development
- TR14 Cycle access and parking
- SU9 Pollution and nuisance control
- SU10 Noise Nuisance
- QD14 Extensions and alterations
- QD15 Landscape design
- QD16 Trees and hedgerows
- QD18 Species protection
- QD27 Protection of amenity
- HO5 Provision of private amenity space in residential development
- HO9 Residential conversions and the retention of smaller dwellings
- HO13 Accessible housing and lifetime homes

Supplementary Planning Documents:

- SPD06 Trees & Development Sites
- SPD09 Architectural Features
- SPD11 Nature Conservation & Development
- SPD12 Design Guide for Extensions and Alterations
- SPD14 Parking Standards

8. **CONSIDERATIONS & ASSESSMENT**

The main considerations in the determination of this application relate to the principle of development on site, the affordable housing provision, the visual impact of the proposal on the site and surrounding conservation area, the

impact on neighbouring amenity, the standard of accommodation provided for future occupiers, sustainability and sustainable transport impacts.

8.1. Principle of Development:

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

8.2. The Council's most recent land supply position was published in the 2017 SHLAA Update (February 2018) which showed a marginal surplus (5.0 years supply). However, the inspector for the recent planning appeal on Land south of Ovingdean Road (APP/Q1445/W/17/3177606) considered that the Council's delivery timescales for two sites were over-optimistic and concluded that there would be a five year supply shortfall of at least 200 dwellings. The Council's five year housing land supply figures are currently being updated as part of the annual monitoring process and an updated five year housing position will be published in due course. In the interim, when considering the planning balance in the determination of planning applications, increased weight should be given to housing delivery in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).

8.3. The application submission is split into two distinct parts including the conversion of the existing building and the erection of two new dwellings within the rear garden.

8.4. The Proposed Subdivision

The proposal includes the subdivision of the existing dwelling into six flats. Local Plan Policy HO9 states that subdivisions of dwellings will be accepted, provided the following criteria are met:

- a. the original floor area is greater than 115 sq m or the dwelling has more than 3 bedrooms as originally built;
- b. at least one unit of accommodation is provided which is suitable for family occupation and has a minimum of two bedrooms;
- c. the proposal is not detrimental to adjoining properties, including those within the same building, in terms of noise and nuisance and there is adequate provision for the storage of refuse;
- d. secure, covered cycle parking is provided (if off-street cycle parking is not available and provision cannot be made on-street, then a contribution may be sought towards cycle parking nearby);
- e. the proposal will not result in an unacceptable level of on-street car parking; and

- f. if the building is listed, the proposal preserves the character of the listed building.
 - g. if the building is in a conservation area, the proposal preserves or enhances the character of the conservation area.
- 8.5. The original floor area is greater than 115m² and has more than 3 bedrooms as originally built. Several of the units within the conversion would be suitable for family occupation and the two ground level flats would each have a private garden area whilst the remaining flats would have access to a communal landscaped garden area. .
- 8.6. The proposed conversion is not considered to have a significant impact on neighbouring amenity, as set out in detail below. Suitable refuse and recycling storage is proposed which shall be secured by condition, and whilst cycle parking is proposed, further detail shall be secured by condition.
- 8.7. The proposal is not considered to result in unacceptable levels of on street parking, as set out in detail below. The proposed conversion is considered to preserve the character and appearance of the conservation area.
- 8.8. The principle of the subdivision is therefore considered acceptable, subject to the detailed assessment set out below.
- 8.9. The Proposed New Dwellings
The surrounding area comprises a mixture of dwellings type including a number of large detached two/three storey buildings (similar to the existing building on site) the majority of which have been extended and converted into flats. There are also several larger purpose built blocks of flats, including Whistler Court which is directly adjacent to the north of the site and Bellevue Court which is three plots to the south. There are also a number of other blocks within the street, some of which are up to eight stories in height.
- 8.10. A number of the properties have constructed additional dwellings to the rear and the majority of the blocks of flats include parking areas / garages to the rear meaning there is a well-established precedent for back-land development.
- 8.11. Additional residential development on site to the rear would not be resisted in principle, but must be carefully assessed and considered in respect of the harm it may cause.
- 8.12. **Affordable Housing:**
CP20 of the City Plan Part One requires developments of between 5 and 9 (net) residential units to provide 20% affordable housing as an equivalent financial contribution. In this instance, based on the methodology set out in the Developer Contributions Technical Guidance Paper the representative provision of affordable housing for a net of 7 units would equate to a 2 bedroom flat, which in Zone 2 results in a total contribution of £182,250.

- 8.13. The applicant has agreed to pay the required contribution which will be sought via a Section 106 Agreement.
- 8.14. **Design and Appearance:**
- 8.15. The Proposed Subdivision
The existing rear elevation includes a number of extensions including a hipped roof projection with an adjoining gable projection, two single hipped extensions and a single storey extension with a roof terrace above. At roof level the property also includes two dormer windows; one of which abuts the hipped roof projection. The accumulation of these extensions / alterations gives the rear elevation a somewhat disjointed appearance with a number of features that do not relate to one another. The proposed rear works would involve the removal of the existing harmful extensions and the erection of a replacement rear extension which would span the majority of the width of the rear elevation, including a three storey gable which would match the height of the existing extension and would project the same depth as the existing ground floor extension. The gable extension would also include an adjoining hipped roof section with a dormer window at second floor level. To the rear the works would also include a single storey projection with a roof terrace above. To the front elevation, a central dormer is proposed which would match the style of the existing with a reduced width and an existing rooflight would be replaced.
- 8.16. The additional bulk and height of the extensions proposed to the rear would be significant, and would add notable depth to the dwelling. Given the scale of the plot however, and the set-back of the adjacent block of flats in addition to the numerous additions to other properties within the vicinity; it is considered that extensions of this scale and form can be accommodated on site. Furthermore, as noted above, the proposal would remove a number of older ad-hoc additions which would unify the rear elevation into a readable and rational extension with sympathetic detailing.
- 8.17. To the front of the site, the proposed removal of the garage is welcomed and whilst it would be preferable for the front boundary wall and garden to be reinstated, the implementation of two parking spaces is considered an improvement in comparison to the existing arrangement and is therefore accepted.
- 8.18. The Proposed New Dwellings
The existing site steps up significantly from west to east with raised rear garden and lawn area. The proposed dwellings to the rear of the site would be arranged in an 'L' shape with house 1 set lengthways, running parallel to the northern boundary of the site and house 2 running perpendicular across the site. The site would be partially excavated in order to set the ground floor of the buildings into the ground, with the first floor providing access to the gardens at the rear.
- 8.19. The design of the dwellings would be fairly unobtrusive, with the upper storey of house 1 set into a gable roof and house 2 with a lower flat roof. Both dwellings, although set on higher ground, would be set down from the ridge of the main building and would cover a relatively modest footprint. The plots would be

significantly smaller than the majority of adjacent buildings however, as identified above, the majority of the buildings within the street have been converted into flats and several include back-land dwellings of a similar scale to that proposed within this application.

- 8.20. Overall it is considered that two dwellings of this scale can be supported within this back-land plot, and although non-traditional in design, the proposed design and finish of the dwellings would be modest and discreet, ensuring the main building would retain primacy. The material finish of a mixture of render and timber would soften their appearance and further reduce the prominence of the buildings in relation to the main property on site. Full details of materials shall be secured by condition.
- 8.21. **Landscaping:**
In terms of landscaping, as noted above, the majority of the rear garden would be excavated in order to accommodate the proposed dwellings to the rear of the site. The area immediately adjacent to the main building would also be excavated in order to allow for the extension whilst creating a private amenity area for the lower ground level flats. Within the centre of the site, a terraced landscaped garden is proposed which is for communal use of all occupiers of the site which is welcomed.
- 8.22. The new houses would have areas of hardstanding and lawn to the front of the dwelling in addition to raised gardens at the rear. The existing boundary treatment would be retained. Full details of the proposed landscaping, including details of the planting scheme proposed in addition to details of boundary treatments shall be secured by condition.
- 8.23. **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.
- 8.24. The properties most likely to be affected would be those directly adjacent including the flats within 24 Preston Park Avenue to the south and Whistler Court to the north. Given the level of separation of the works from properties to the rear, it is not considered that any significant harm would arise in this direction.
- 8.25. 24 Preston Park Avenue is a 3 storey property which has been subdivided into 12 flats in addition to two further ground floor flats, one of which is set within a rear single storey extension, known as The Cottage, 24B Preston Park Avenue.
- 8.26. Whilst the extensions to the existing building would be visible from a number of side facing windows, in addition to several rear facing windows in oblique views, the predominant outlook of the flats to the front and rear would be retained. It is also noted that a new side window is proposed and new windows are proposed at upper levels to the rear elevation, which would provide additional sight lines

towards neighbouring gardens. The new side window would retain a similar outlook to the existing window and therefore is not objected to and the overlooking from rear windows is considered acceptable in a residential setting such as this.

- 8.27. Turning to the north, Whistler Court is a five storey block of flats which is set to the rear of the application building and affords a number of views over the application site and the building itself. A number of the flats have outlook to the south from living rooms and kitchens which look at / over the application site. As a result, the proposed extensions to the existing building would be visible and would result in some loss of outlook to the lower level flats. Given the level of separation, the existing arrangement in addition to the fact that the main outlook to the front, and over Preston Park would not be impacted, the resultant relationship is considered acceptable. Furthermore, subject to the securement of the privacy screen to the northern edge of the terrace, it is not considered that any significant overlooking / loss of privacy would occur.
- 8.28. Turning to the new dwellings, it is clear that they would be visible from both Whistler Court and the Flats within 24 Preston Park Avenue. Given the modest scale of the dwellings and the adequate separating distance, there would be no significant harm to the occupiers of Whistler Court as a result of the new dwellings.
- 8.29. Similarly, it is not considered that the new dwellings would result in any significant harm to the flats within the main building at no. 24, in terms of loss of outlook or overlooking. The dwellings would be evident when viewed from the rear windows and garden area on 24B Preston Park Avenue, particularly due to the changes in levels, as the garden of 24B is set into the ground. As noted above the new dwellings are to be set into the ground, and their scale is relatively modest. Given these points and the 15m-20m separating between the new dwellings and the adjacent 24B, it is considered that the new dwellings can be accommodated without resulting in significant harm to neighbouring amenity.
- 8.30. **Standard of Accommodation For Future Occupiers:**
- 8.31. The Proposed Subdivision
The proposed conversion of the main building would include a 3 bedroom flat and a 2 bedroom flat at ground floor level, two 2 bedroom flats at first floor level and two 1 bedroom flats at second floor level.
- 8.32. The nationally described space standards, although not formally adopted by the Council do provide a useful guide against which to assess the overall unit size and bedroom sizes. All of the units would comply with the guidance. The units would also benefit from adequate levels of light and outlook. Two of the flats would have private external amenity areas, one of the first floor flats would benefit from a balcony and all units would have access to the proposed communal garden.
- 8.33. The outlook of the bedroom within flat 6 at second floor level would be confined to two rooflights which would be fairly restricted, however given the outlook from the living room and the overall size of the unit with adequate circulation and

storage space, the standard of accommodation is considered acceptable and in accordance with Local Plan Policy QD27.

8.34. The Proposed New Dwellings

The proposed new dwellings would be set to the rear of the site and would be accessible via a stepped pathway running parallel to the southern boundary. House 1 would include 2 double bedrooms and a bathroom at ground floor level with a third double bedroom at first floor level in addition to the main kitchen / living / dining room at first floor level with access doors to the rear garden. House 2 would include two bedrooms at ground floor level (one single, one double) and a third double bedroom at first floor level, with access doors to the raised gardens. Both units would meet the nationally described space standards and would benefit from adequate levels of light and outlook. The private amenity area would be fairly restricted in size for the two dwellings, however in combination with the front garden / courtyard area, the overall garden areas are considered commensurate for the level of occupation proposed.

8.35. In terms of the relationship between the flats and the new dwellings, the level of separation between the two is considered acceptable to alleviate any severe inter-overlooking.

8.36. Local plan policy H013 requires new residential development to be adaptable and accessible for all users and to meet optimal Building Regulations access standards. Whilst it is not considered reasonable to secure the standards on the conversion, they would normally be expected on new build dwellings. The new dwellings are however set at a higher level than the street and require stepped access. Due to the constraints of the site, the scale of development proposed, in addition to the scale of works that would be required in order to achieve a level access, it is not considered reasonable or practical to secure the optimal standards in this instance.

8.37. **Sustainable Transport:**

The sub-division of the existing dwelling and the provision of two additional dwellings on site would result in an uplift of trip generation. This has been calculated as an additional generation of 46 trips. Based on the council's developer contribution technical guidance, this would equate to a contribution of £6,900. This shall be secured via a legal agreement and will be allocated towards highway improvements within the vicinity of the site.

8.38. The applicant is proposing 14 cycle parking spaces which is in line with SPD14 guidance. The spaces are to be secured via Sheffield stands and will be covered by a canopy. This is considered acceptable and shall be secured by condition.

8.39. The applicant has submitted a parking survey which demonstrates that there is sufficient capacity (47% occupancy) which would accommodate the parking demand that the proposed development is likely to create. The applicant is proposing two off-street parking spaces and census data indicates that car ownership in this area is 0.8 per household (six spaces). Therefore, it is not considered that there would be a significant increase in demand for on-street

parking permits in this instance and the development shall not be conditioned to be car free.

8.40. Sustainability:

Policy CP8 of the City Plan Part One requires new development to demonstrate a high level of efficiency in the use of water and energy. Policy CP8 requires new development to achieve 19% above Part L for energy efficiency, and to meet the optional standard for water consumption. These standards shall be secured by condition on the new build dwellings only.

9. CONCLUSION:

9.1. Whilst the scale of development proposed is significantly intensified in comparison to the existing use and the development would be noticeable by immediate neighbours, this is considered acceptable. It is also noted that the overall development would provide a net gain of 7 residential units including a provision of a policy compliant affordable housing contribution. Furthermore the proposal would ensure the retention of much of the character of the building whilst upgrading and refurbishing the interior. Approval is therefore recommended.

10. EQUALITIES

10.1. None identified

11. DEVELOPER CONTRIBUTIONS

S.106 Agreement

The contributions required would be allocated and spent as follows:

- A contribution of £182,250 to be allocated towards offsite affordable housing provision.
- A sustainable transport contribution of £6,900 to be allocated towards pedestrian facility improvements, to include dropped kerbs and tactile paving on routes between the site and local amenities including, but not limited to, Preston Park and those on Preston Drove and Preston Road.

In the event that the draft S106 agreement has not been signed by all parties, the application shall be refused for the following reasons:

1. The proposed development fails provide a provision of affordable contribution housing which addresses the requirement of Policies CP1, CP19 and CP20 of the Brighton and Hove City Plan Part 1.
2. The proposed development fails to provide a sustainable transport contribution towards local pedestrian facility improvements and therefore

fails to address the requirements of Policies CP7 and CP9 of the Brighton and Hove City Plan Part One.

Cllr Kevin Allen

BH2018/02536 - 25 Preston Park Avenue

I wish to register my objection to this application on the following grounds:

- 1) Although a back garden development may in principle be acceptable, this is an over-development;
- 2) Residents of Flat 2 24 PPA and of the Garden Cottage 24 PPA would be adversely affected by overlooking and the extreme proximity of the drive;
- 3) There is in fact no need for vehicular access or off-street parking as there is already a surfeit of on-street parking on PPA;
- 4) The application would entail damaging alteration to the existing cohesive look of the two Victorian houses

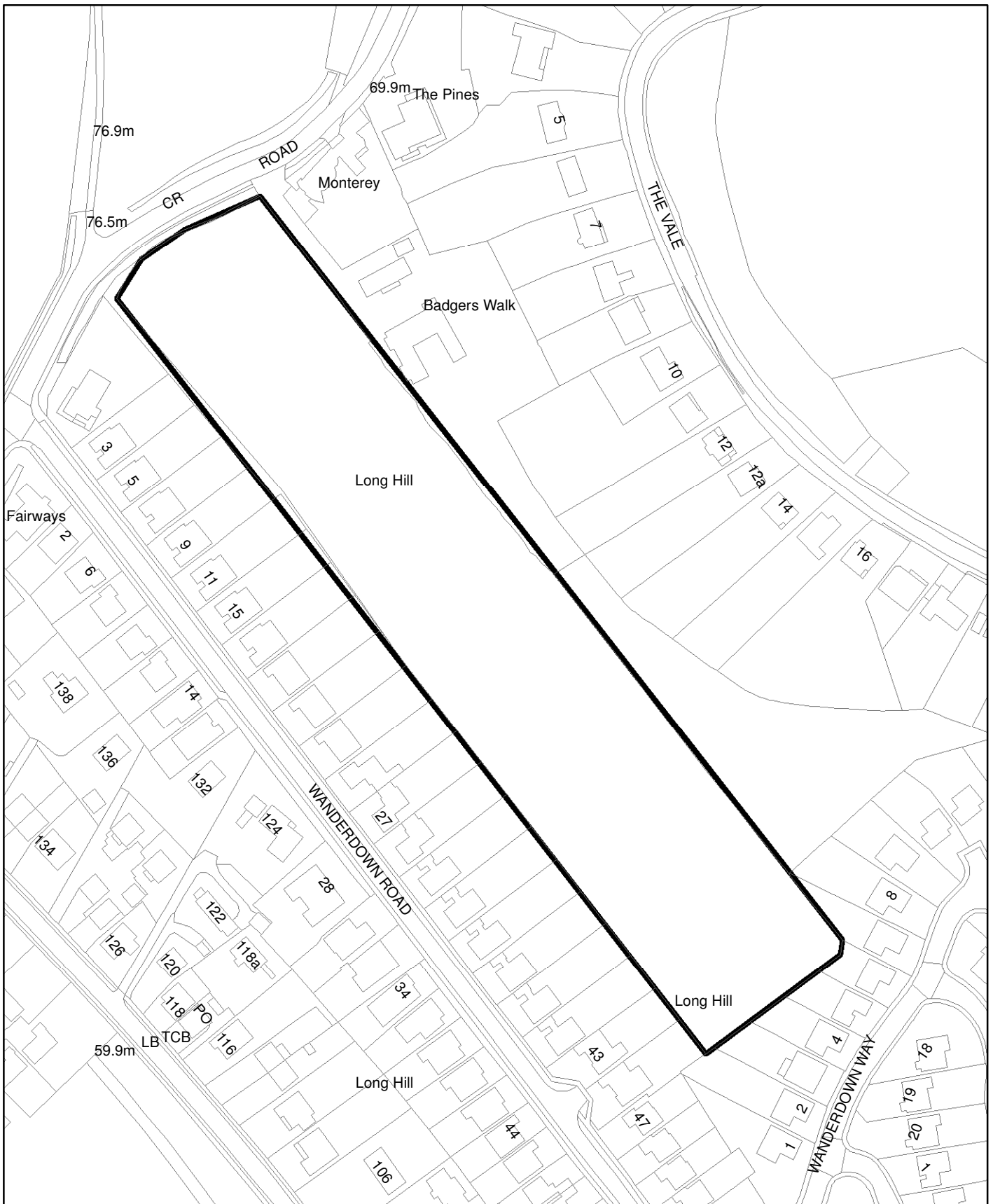
ITEM C

Land At Rear Of 1-45 Wanderdown Road

**BH2018/01336
Full Planning**

DATE OF COMMITTEE: 6 February 2019

BH2018/01336 Land At Rear Of 1-45 Wanderdown Road, Brighton



Scale: 1:1,873

<u>No:</u>	BH2018/01336	<u>Ward:</u>	Rottingdean Coastal Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Land At Rear Of 1-45 Wanderdown Road Brighton		
<u>Proposal:</u>	Erection of 3no residential dwellings comprising of 2no four bedroom dwellings and 1no three bedroom dwelling incorporating parking, landscaping and associated works.		
<u>Officer:</u>	Jonathan Puplett, tel: 292525	<u>Valid Date:</u>	26.04.2018
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	21.06.2018
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	TBC
<u>Agent:</u>	ECE Planning Limited Worthing BN12 4AP	Brooklyn Chambers	11 Goring Road
<u>Applicant:</u>	Mr Peter McDonnell Goring Road Worthing BN12 4AP	C/O ECE Planning Brooklyn Chambers	11 Goring Road

1. RECOMMENDATION

1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to be MINDED TO GRANT planning permission subject to the Conditions and Informatives as set out hereunder, SAVE THAT should the s106 Planning Obligation not be completed on or before the 29th May 2019 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 10 of this report:

1.2. S106 Heads of Terms

A contribution of £6000 towards sustainable transport infrastructure in the vicinity of the site.

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.

Plan Type	Reference	Version	Date Received
Site Location Plan	6512 PL01	Rev B	14/12/2018
Proposed Site Plan	6512 PL02	Rev F	14/12/2018
Proposed Site Plan Upper Floor	6512 PL03	Rev E	14/12/2018
Proposed Site Plan Roof Plan	6512 PL04	Rev D	14/12/2018
Proposed Floor Plans	6512 PL05	Rev D	14/12/2018
Proposed Floor Plans	6512 PL06	Rev D	14/12/2018
Proposed Street and Garden Elevations	6512 PL07	Rev B	14/12/2018
Proposed Sections	6512 PL08	Rev A	14/12/2018

Proposed Elevations	6512 PL10	Rev A	14/12/2018
Proposed Elevations	6512 PL11	Rev A	14/12/2018
Proposed Elevations	6512 PL12	Rev A	14/12/2018
Proposed Access Road	141102- TK03		14/12/2018

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.

Materials / Permitted development

3. No development above ground floor slab level of any part of the development hereby permitted shall take place until samples of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):

- a) Samples of cladding and wall finishes;
- b) Details of all hard surfacing materials
- c) Details of the proposed window, door and balcony treatments
- d) Samples of all other materials to be used externally

Development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and to comply with policies QD14/HE6 of the Brighton and Hove Local Plan and CP12/CP15 of the Brighton and Hove City Plan Part One.

4. No extension, enlargement, alteration of the dwellinghouses or provision of buildings etc incidental to the enjoyment of the dwellinghouse within the curtilage of the of the dwellinghouses 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. No gate, fence, wall or other means of enclosure shall be constructed other than those which form part of the approved scheme of landscaping, without planning permission obtained from the Local Planning Authority.

Reason: The Local Planning Authority considers that further development could cause detriment to the character of the area and for this reason would wish to control any future development to comply with policy QD14 of the Brighton and Hove Local Plan and policies CP12 and SA5 of the Brighton and Hove City Plan Part One.

Transport

5. The vehicle parking areas shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles and motorcycles

belonging to the occupants of and visitors to the development hereby approved and shall be maintained so as to ensure their availability for such use at all times.

Reason: To ensure that adequate parking provision is retained and to comply with policy CP9 of the Brighton and Hove City Plan Part One and SPD14: Parking Standards.

6. No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include:
- (i) The phases of the Proposed Development including the forecasted completion date(s)
 - (ii) A commitment to apply to the Council for prior consent under the Control of Pollution Act 1974 and not to Commence Development until such consent has been obtained
 - (iii) A scheme of how the contractors will liaise with local residents to ensure that residents are kept aware of site progress and how any complaints will be dealt with reviewed and recorded (including details of any considerate constructor or similar scheme)
 - (iv) A scheme of how the contractors will minimise disturbance to neighbours regarding issues such as noise and dust management vibration site traffic and deliveries to and from the site
 - (v) Details of hours of construction including all associated vehicular movements
 - (vi) Details of the construction compound
 - (vii) A plan showing construction traffic routes

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

Reason: As this matter is fundamental to the protection of amenity, highway safety and managing waste throughout development works and to comply with policies QD27, SU9, SU10 and TR7 of the Brighton and Hove Local Plan, policy CP8 of the Brighton and Hove City Plan Part One, and WMP3d of the East Sussex, South Downs and Brighton and Hove Waste and Minerals Local Plan 2013 and Supplementary Planning Document 03 Construction and Demolition Waste.

7. Notwithstanding the submitted details, no development above ground floor slab level of any part of the development hereby permitted shall take place until full details of the access road including pedestrian footway, shall have been submitted to and approved in writing by the Local Planning Authority. The approved works shall be completed prior to the occupation of the development, from which point the access road shall be available for use at all times by all vehicles accessing and servicing the site and the footway retained for pedestrian use.

Reason: To provide safe and inclusive access in accordance with Brighton and Hove City Plan Part One policies CP9 and CP12 and Local Plan policy TR7. The pre-commencement condition is required in order to ensure that construction is not progressed to a stage where adequate footway provision cannot be retrospectively incorporated.

8. No development above ground floor slab level of any part of the development hereby permitted shall take place until a scheme for landscaping and highway works at the site access shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include full details of all proposed vegetation clearance and regrading of the bank either side of the access from Ovingdean Road that is required to achieve visibility splays as per guidance in DfT's Manual for Streets. The scheme shall also include full details of the junction design and pedestrian crossing treatment, including dropped kerbs and tactile paving. No part of the development hereby approved shall be occupied until the approved highway works have been carried out in accordance with the approved scheme.
Reason: In the interests of highway safety and to comply with policies TR7 of the Brighton and Hove Local Plan and CP9 of the City Plan Part One. The pre-commencement condition is necessary as further details are required to ensure that the access and associated earthworks can be constructed as shown.
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 and Hove Local Plan and SPD14: Parking Standards.

Sustainability / access standards

10. None of the residential units hereby approved shall be occupied until each residential unit built has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).
Reason: To ensure that the development is sustainable and makes efficient use of energy to comply with policy CP8 of the Brighton and Hove City Plan Part One.
11. None of the residential units hereby approved shall be occupied until each residential unit built has achieved as a minimum, a water efficiency standard of not more than 110 litres per person per day maximum indoor water consumption.
Reason: To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton and Hove City Plan Part One.
12. The development hereby permitted shall not be occupied until the dwelling(s) hereby permitted have been completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) and shall be retained in compliance with such requirement thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.

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

13. The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.

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

Landscaping / Ecology / Trees

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

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

15. The development hereby permitted shall not commence until full details of existing and proposed ground levels (referenced as Ordnance Datum) within the site and on land and buildings adjoining the site by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures, have been submitted to and approved by the Local Planning Authority. The development shall then be implemented in accordance with the approved level details.

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

16. Prior to the first occupation of the development hereby approved, details of landscaping treatment of all parts on the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. Details shall include:

- a) A scaled plan showing vegetation to be retained and trees and plants to be planted. Trees to be planted will include driveway, plots 1-3 and woodland areas;
- b) The additional screening tree planting to be planted to the north of plot;

- c) Proposed hard landscaping and boundary treatments;
- d) a schedule detailing sizes and numbers of all proposed trees/plants;
- e) Sufficient specification to ensure successful establishment and survival of new planting.

No gate, fence, wall or other means of enclosure shall be constructed other than those which form part of the approved scheme of landscaping, without planning permission obtained from the Local Planning Authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

- 17. There shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees unless agreed in writing by the Local Planning Authority. Any new tree(s) that die(s), are/is removed, become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Replacement planting shall be in accordance with the approved details (unless the Local Planning Authority gives its written consent to any variation).
Reason: Required to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality in accordance with SPD 06, QD 16 (Trees and Hedgerows).
- 18. Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be implemented in strict accordance with the approved details.
Reason: As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to comply with policies QD16 of the Brighton and Hove Local Plan and CP12 of the Brighton and Hove City Plan Part One and SPD06:Trees and Development Sites.
- 19. Prior to the commencement of the development hereby approved (including any ground clearance, tree works, demolition or construction), details of all tree protection monitoring and site supervision by a suitably qualified tree specialist (where arboricultural expertise is required) shall be submitted to and approved

in writing by the Local Planning Authority. The development thereafter shall be implemented in strict accordance with the approved details.

Reason: As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to comply with policies QD16 of the Brighton and Hove Local Plan and CP12/ CP13 of the Brighton and Hove City Plan Part One and SPD06:Trees and Development Sites.

20. Prior to the commencement of the development hereby approved (including any ground clearance, tree works, demolition or construction), a pre-commencement meeting shall be held on site and attended by the developers' appointed arboricultural consultant, the site manager/foreman and a representative from the Local Planning Authority to discuss details of the working procedures and agree either the precise position of the approved tree protection measures to be installed OR that all tree protection measures have been installed in accordance with the approved tree protection plan. The development shall thereafter be carried out in accordance with the approved details or any variation as may subsequently be agreed in writing by the Local Planning Authority.

Reason: As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to comply with policies QD16 of the Brighton and Hove Local Plan and CP12 of the Brighton and Hove City Plan Part One and SPD06:Trees and Development Sites.

21. Prior to the occupation of the development hereby approved details of the proposed Access Facilitation Pruning (see BS5837:2012) shall be submitted to and approved in writing by the Local Planning Authority. The approved tree pruning works shall be carried out in accordance with BS3998:2010. Due to the importance of elm trees to the City of Brighton and Hove (Brighton and Hove City Plan - Policy QD16 3.70) and home to the National Elm Collection, and to help elm disease management in the City, elm trees must be pruned between the dates 1st October to 31st May.

Reason: To avoid any irreversible damage to retained trees pursuant to section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality, in accordance with policy QD16 of the Brighton and Hove Local Plan and CP12 of the Brighton and Hove City Plan Part One and SPD06: Trees and Development Sites.

22. Prior to the commencement of any site works, a repeat survey for the presence of badgers on the site and surrounding suitable habitat shall be carried out within the period of 6 months leading up to the commencement of development, the result of this survey and updated associated mitigation/compensation measures, shall be submitted to and approved in writing by the local planning authority in consultation with specialist advisors. Site works shall be carried out in complete accordance with the survey unless otherwise agreed in writing by the local planning authority.

Reason: To appropriate protection and mitigation/compensation measures associated with badgers and to comply with policy QD18 of the Brighton and Hove Local Plan and policy CP10 of the Brighton and Hove City Plan Part One.

23. No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers from being trapped in open excavations are/or pipe and culverts are submitted to and approved in writing by the Local Planning Authority. The measures may include:
- a) Creation of sloping escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations or by using plans placed into them at the end of each working day; and
 - b) Open pipeworks greater than 150 mm outside diameter being blanked off at the end of each working day.

Reason: To ensure badgers are not trapped or harmed on site and to prevent delays to site operation and to comply with policy QD18 of the Brighton and Hove Local Plan and policy CP10 of the Brighton and Hove City Plan Part One.

24. Prior to the first occupation of the development hereby approved, a “lighting design strategy for biodiversity” shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall:

- a) identify those areas/features on site that are particularly sensitive for bats and badgers and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
- b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.
- c) Confirm internal lighting proposals and measures to reduce spillage from internal lighting sources. Internal light spill should be designed out wherever possible.

All lighting and mitigations shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Regard should be had to the Institute of Lighting Professionals Guidance Note 8 ‘Bats and Artificial Lighting’ (September 2018).

Under no circumstances should any external lighting other than that which forms part of the approved scheme be installed without prior consent from the Local Planning Authority.

Reason: Many species active at night (e.g. bats and badgers) are sensitive to light pollution. The introduction of artificial light might mean such species are disturbed and /or discouraged from using their breeding and resting places, established flyways or foraging areas. Such disturbance can constitute an offence under relevant wildlife legislation. To comply with policy QD18 of the Brighton and Hove Local Plan and policy CP10 of the Brighton and Hove City Plan Part One.

25. The development hereby permitted shall not commence until an ecological design strategy (EDS) addressing retention and protection of existing habitats

during construction, habitat removal and reinstatement, provision for wildlife corridors and habitat connectivity, reptile rescue and translocation, and creation of new wildlife features (including green roofs, bird and bat boxes) has been submitted to and approved in writing by the local planning authority. The EDS shall include the following:

- a) Purpose and conservation objectives for the proposed works;
- b) Review of site potential and constraints;
- c) Detailed design(s) and/or working method(s) to achieve stated objectives;
- d) Extent and location /area of proposed works on appropriate scale maps and plans;
- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance;
- f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- g) Persons responsible for implementing the works;
- h) Details of initial aftercare and long-term maintenance;
- i) Details for monitoring and remedial measures;
- j) details for disposal of any wastes arising from works.

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

Reason: To ensure that any adverse environmental impacts of development activities can be mitigated, compensated and restored and that the proposed design, specification and implementation can demonstrate this and to comply with policy QD18 of the Brighton and Hove Local Plan and policy CP10 of the Brighton and Hove City Plan Part One.

26. The development hereby permitted shall not commence until a landscape and ecological management plan (LEMP) covering the long term management of the Wanderdown Road Open Space Local Wildlife Site, including the long term management of retained scrub and woodland and the road bank, has been submitted to, and approved in writing by, the Local Planning Authority. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed;
- b) Ecological trends and constraints on site that might influence management;
- c) Aims and objectives of management;

- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions, together with a plan of management compartments;
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- g) Details of the body or organisation responsible for implementation of the plan;
- h) Ongoing monitoring and remedial measures. The LEMP shall also include details of the legal and funding mechanism(s) by which the longterm implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.

The plans shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan shall be implemented in accordance with the approved details.

Reason: Biological communities are constantly changing and require positive management to maintain their conservation value. The implementation of a LEMP will ensure the long term management of habitats, species and other biodiversity features and to comply with policy QD18 of the Brighton and Hove Local Plan and policy CP10 of the Brighton and Hove City Plan Part One.

27. Notwithstanding the approved details and any references to sedum roofs, no development above ground floor slab level of any part of the development hereby permitted shall take place until details of the construction of chalk grassland roofs to the dwellings hereby approved have been submitted to and approved in writing by the Local Planning Authority. The details shall include a cross section, construction method statement, the seed mix, and an ongoing maintenance and irrigation programme. The chalk grassland roofs shall then be constructed in accordance with the approved details and shall be maintained in accordance with the approved details thereafter.

Reason: To ensure that the development contributes to ecological enhancement on the site and in accordance with policy CP10 of the Brighton and Hove City Plan Part One.

Archaeology

28. The development hereby permitted shall not commence until a programme of archaeological works in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority. A written record of any archaeological works undertaken shall be submitted to the Local Planning Authority within 3 months of the completion of any

archaeological investigation unless an alternative timescale for submission of the report is first agreed in writing with the Local Planning Authority.

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

Drainage / Water Source Protection

29. No development shall commence until full details of a Surface Water Drainage Strategy as detailed in the Sustainable Drainage and Flood Risk Assessment (December 2018), has been submitted to and approved in writing by the Local Planning Authority. The Strategy shall include:

- Full details of how the surface water arrangements will be maintained for the life of the development i.e. a Maintenance Plan.
- Full details of adequate treatment of surface water runoff prior to infiltration to prevent pollution of the underlying aquifer;
- Full details of all Microdrainage calculations.

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

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton and 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 reminded that, under the Wildlife and Countryside Act 1981, as amended (Section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Trees and scrub are likely to contain nesting birds between 01 March and 31 August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity during this period and has shown that it is absolutely certain that nesting birds are not present.

2. SITE LOCATION AND APPLICATION DESCRIPTION

- 2.1. The application relates to an area of land referred to as 'Long Hill', between Wanderdown Road to the West and The Vale to the East. To the north of the site is Ovingdean Road with the land beyond forming part of the South Downs

National Park. To the west of the site is the Ovingdean conservation Area. In distanced views from the west, north and east the site appears as an undeveloped ridge and a break between the houses to either side of the hill.

- 2.2. Alongside the site to the east are two detached dwellings; 'Monterey' and 'Badgers Walk'. Badgers Walk has an access to the rear of its garden through to the site; two stable buildings are sited in this area along with a manege set on raised land. The manege does not have planning permission but may have been in situ for more than four years.
- 2.3. The site is designated as a Site of Nature Conservation Interest (SNCI). There are live badger setts within the site. There are two Tree Preservation Orders on the site; one dates from 1990 and covers a number of individual trees on the site. A Woodland TPO was adopted in April 2015 following site clearances which were carried out at the end of 2014.
- 2.4. Permission is sought for the residential development of the site; a group of dwellings would be sited in the southern part of the site, with the remainder of the site retained as chalk grassland / woodland.
- 2.5. The application follows a pre-application submission where five dwellings were proposed. The application as originally submitted proposed four dwellings. Following discussions with the applicant, the scheme has been amended to omit the northern-most dwelling which has been replaced with proposed tree planting to screen the development now proposed which comprises three dwellings and an access road.

3. RELEVANT HISTORY

- 3.1. **BH2015/04273:** Outline application with some matters reserved for 9 detached houses and access with maintenance and protection of the existing chalk grassland meadow to the north. Appeal lodged against non-determination; appeal dismissed 4th January 2017. This appeal was dismissed as the Inspector considered that the landscape impact / visual impact of the proposed development would have been harmful and this harm warranted the refusal of planning permission.
- 3.2. **BH2012/02414:** Application for Approval of Details Reserved by Conditions 1 and 3 of application BH2011/03586. Approved 27/09/2012.
- 3.3. **BH2011/03587:** Change of Use of grazing land to domestic manège. (Retrospective). Refused 14/05/2012 for the following reason:

The change of use from grazing land to a domestic manège, as a result of the loss of important habitat, has had an adverse impact upon the nature conservation features of the Wanderdown Road Open Space Site of Nature Conservation Importance contrary to policy NC4 of the Brighton and Hove Local Plan.

Notwithstanding this refusal the manège remains in situ.

- 3.4. **BH2011/03586:** Erection of buildings to provide two loose boxes, a hay store and a tack room with enclosing fence and yard. (Retrospective). Approved 14/05/2012 subject to the following conditions:
1. *Notwithstanding the Chalk Grassland Management Plan received on the 22nd November 2011, an amended Management Plan shall be submitted to and approved in writing by the Local Planning Authority within 2 months of the date of the permission, demonstrating how the grassland will be maintained at a height of no less than 5cm at any time to ensure overgrazing is avoided. The amended plan should not include the use of fertilizers or cultivation at any time. The maintenance of the Wanderdown Road Open Space Site of Nature Conservation Importance shall be carried out in strict accordance with the approved plan.*
Reason: To ensure an adverse impact on the Site of Nature Conservation Importance is avoided in accordance with policy NC4 of the Brighton and Hove Local Plan.
 2. *No vehicular access to the development hereby approved shall be permitted through the Site of Nature Conservation Importance at any time. All vehicle access to and from the buildings shall be via the garden area of Badgers Walk.*
Reason: To ensure an adverse impact on the Site of Nature Conservation Importance is avoided in accordance with policy NC4 of the Brighton and Hove Local Plan.
 3. *Details of no less than 5 bat boxes and a plan showing their proposed location shall be submitted to and approved in writing by the Local Planning Authority within 2 months of the date of permission. The boxes shall be installed in strict accordance with the details submitted within 3 months of the approval of the details.*
Reason: In the interests of nature conservation and to comply with policy QD17 of the Brighton and Hove Local Plan.
- 3.5. **BH2009/01186:** Erection of buildings to provide 2 loose boxes, a hay store and a tack room, with enclosing fence and yard. Approved 01/12/2009.
- 3.6. **BH2005/02352/FP:** Mower shed (Retrospective). Refused 21/09/2005, appeal allowed 06/10/2006.
- 3.7. **BH2004/00097/OA:** Detached dwelling. Refused 06/02/2004, appeal dismissed 07/12/2004.

4. REPRESENTATIONS

- 4.1. **Sixty-seven (67)** letters have been received objecting to the scheme of four dwellings originally proposed **for the following reasons:**
- The proposed development would cause additional overlooking of neighbouring properties.

- The proposed development will cause additional noise, disturbance, and pedestrian and vehicular comings and goings to/from the site.
- Use of the proposed vehicular access would cause an increased highway safety risk.
- If this scheme is granted, further applications will follow for more dwellings on the site.
- The site is an open space of nature conservation importance; SNCI, wildlife corridor.
- The site provides a green gap between housing and the development of the site would harm the landscape character of the area.
- The site supports wildlife including numerous bird species, butterflies and dragonflies, bats, badgers, pheasants, foxes and peacocks and the development of the site would be harmful to this wildlife.
- There are other sites which could be developed for housing which would be less harmful.
- The development would cause additional traffic harming the character of the area.
- The development would cause increased flood risk.
- The increased access into the site could create an increased security risk for adjoining properties.
- The site contains rare chalk grassland and protected trees.
- Local Doctors, Dentists and schools are full to capacity already.
- The proposed houses will not be affordable.
- The proposal represents urban sprawl.
- Ovingdean has a rural character and this development would have an urbanising impact.
- The bus services in the area are very poor.
- A housing scheme has already been dismissed at appeal at the site.
- The sewer and drainage system in the area are inadequate.
- The development would cause additional air and light pollution.
- The proposed construction works could damage trees and their roots.
- Any new trees planted will take many years to mature and provide screening.
- Development should be on brownfield sites first not greenfield sites like this.
- The new City Plan does not designate the site for housing.
- The proposed dwelling designs are out of character with the area.

4.2. Following the submission of an amended scheme of three dwellings, neighbouring residents were consulted and a further **fifty-three (53) letters** were received objecting to the revised scheme of three dwellings originally proposed for the following reasons:

- The amended scheme does not address the objections raised previously.
- Overdevelopment
- Impact upon neighbouring amenity; overshadowing, loss of privacy, light pollution
- Traffic / highways issues / additional traffic and pollution; in addition to the traffic associated with other approved schemes in the vicinity of the site.

- This section of Ovingdean Road is very busy with pedestrians and horses, and dog walkers crossing the road, on a 'blind bend'; the proposed access would be an accident waiting to happen.
- Adverse impact upon a Site of Nature Conservation Importance / wildlife corridor / the wildlife and biodiversity within the site including protected species, bats and badger setts.
- Adverse impact upon landscape character / setting of / views from the South Downs National Park
- Much of the site is covered by Tree Protection Orders; removal of trees should not be permitted.
- The development is about greed; the area doesn't need more luxury homes.
- Brownfield sites should always be considered as a first option rather than developing greenfield sites.
- The proposed development should be considered in conjunction with other developments approved in the area. Additional traffic and any loss of trees will add to traffic and air quality issues in the area.
- The proposed houses will be very expensive and unaffordable to most residents of Brighton and Hove. The proposed development will not alleviate housing pressures amongst those who already live in the city.
- Construction works associated with the development would generate traffic and noise.
- Destroying more green space will impact our health and the health of our children.
- The site is no longer listed in the city plan for development
- The site is exposed therefore any new tree planting may fail or may take a significant period to establish and in the meantime the visual impact of the proposed houses would not be mitigated.
- The site should be designated as an open access site for the benefit of the local community and sheep should be allowed to graze on the site to help it be restored to its natural beauty.
- Adverse impact on the Ovingdean Conservation Area
- Detrimental effect on property value
- Inappropriate height of development
- Too close to the boundary
- All the reasons the council and the Government Inspector rejected the planning application remain the same and I cannot see that any buildings would be allowed on this conspicuous hill.
- The local Doctors, Dentists and schools are already full.
- The proposed development would introduce a rural character.
- Impact on archaeology
- The approval of the proposed development could lead to further applications for more dwellings on the site.
- The potential negative impact on tourism as the area loses some of its appeal and the traffic issues become more acute.
- Increased flood risk
- The development will add to the problems of the Air Quality Management Area (AQMA) and does not mitigate from the additional harm which would be caused.

- The proposed houses are hideous and completely out of character with other housing designs in the area.
- The Badger surveys which have been carried out are not sufficient as they do not consider connectivity to other setts in the hillside adjacent to the site.

4.3. **Councillor Mary Mears** has written two letters in objection to the application, copies of these letters are attached.

5. **CONSULTATIONS** External Consultees

5.1. **Brighton and Hove Archaeological Society:** Comment.

The proposed development is close to the location of several important archaeological finds spots dating to the Bronze Age and the Anglo-Saxon period. There have also been a number of Anglo-Saxon burials found in this location. It is recommended that the County Archaeologist be consulted.

5.2. **County Archaeologist:** Comment.

The proposed development is partially situated within an Archaeological Notification Area defining evidence for late Neolithic/Early Bronze Age burials following the discovery of one burial along the northern edge of the site during roadworks in the 1930s and a further burial during the evaluation excavation assessment of this site in relation to application BH2015/04273. In the light of the potential for impacts to heritage assets with archaeological interest resulting from the proposed development, the area affected by the proposals should be the subject of a programme of archaeological works which should be secured by planning condition.

5.3. **Natural England:** No comment.

5.4. **South Downs National Park Authority:** Comment.

Landscape and visual impact

The site is located to the south of the National Park boundary which runs along the Ovingdean Road. The topography of the land rises to the north to a peak at Mount Pleasant which is roughly 500m north of the site. The site is highly visible in views from a number of viewpoints within the SDNP. These include close range views from the bridleway immediately to the north of the access point, and also in longer distance views of the rest of the site from the higher parts of the bridleway further to the north and from the trig point at Mount Pleasant which is on permissive access land, and also from land around The Bostle to the north east.

The SDNPA have reviewed the comments provided by the ESCC Landscape Officer (dated 08.01.19) and would generally agree with the conclusions reached in terms of the impact on views from the National Park and its setting.

If the Council were minded to recommend approval, the SDNPA would request that the recommendations of the ESCC Landscape Officer and ESCC Ecology Officer are secured by condition or s106 as appropriate. Conditions to secure the following details are recommended: final level details; full soft and hard landscaping details including a comprehensive and detailed landscaping scheme and an appropriate long term management/biodiversity enhancement plan for the site including the chalk grassland, site boundaries, road bank and green roofs. Material samples should be secured to ensure they are of a high quality. The SDNPA would welcome the opportunity to comment on any of these details at the appropriate stage.

The SDNPA would recommend that consideration is given to the removal of permitted development rights from the new residential units in order to ensure the design/landscaping objectives are not undermined and to prevent the proliferation of further built form, roof alterations, outbuildings, enclosures and hardstanding on the site. The removal of permitted development rights for fencing and other enclosures across whole the site is also recommended, especially in the northern section of the site which should remain as open chalk grassland as proposed.

The submitted indicative sketch of the access on to Ovingdean Road (drawing PL017, published 9th Jan) shows a reasonably low key entrance which maintains the existing land levels and avoids hard engineering features or excavation and re-profiling of the land. The Council should ensure their Highways Team are fully satisfied that this style of entrance will be acceptable from a highways safety perspective in order to ensure that the entrance design is not significantly amended further down the line as this could have an adverse impact on the local character at the edge of the National Park and therefore fail to be acceptable. The SDNPA would recommend that the detailed design of the access point (including cross and longitudinal sections, full soft and hard landscaping details, material samples etc) are secured by condition and the SDNPA would welcome the opportunity to comment on these details.

Lighting

The South Downs National Park is a designated International Dark Sky Reserve and dark skies and tranquillity are a special quality of the National Park which need to be protected. Paragraph 180(c) of the NPPF 2018 outlines that development should limit the impact of light pollution on intrinsically dark landscapes and nature conservation.

Full details on external lighting have not been provided at this stage. The SDNPA would request that full details for any external lighting across the site are secured and controlled by condition. The SDNPA would welcome the opportunity to comment on these details as and when they are submitted. The SDNPA would prefer to see no street/bollard lighting and any domestic light fittings should be kept to a minimum and should ideally be no more than 500 lumens, be angled downwards, have a colour temperature of less than 3000K and use proximity sensors or timers.

Further information/advice on sensitive lighting can be found in the SDNPA's Dark Skies Technical Advice Note TLL 10 (2018).

Light trespass from glazed openings and rooflights can potentially have a significant impact on dark skies and also have a visual impact in terms of visibility of light sources in the landscape. The SDNPA would recommend consideration is given to the removal of permitted development rights for further glazed openings and rooflights in order to ensure the design objectives are not undermined and that light trespass from the development can be appropriately controlled by the Council in the future.

Access to National Park

The access point at Ovingdean Road would involve alterations to the existing footway/pavement which currently forms a point where local residents cross the road to access the National Park. The Council need to ensure that any access alterations and additional traffic associated with the development will not compromise the safety of public rights of way users, or affect the legibility of layout for members of the public trying to cross the road and access the National Park. Opportunities to enhance the experience of public rights of way users should be explored and secured if possible.

5.5. Sussex Wildlife Trust: Object.

Thank you for re-consulting the Sussex Wildlife Trust on the above amended application. We recognise that the applicants have reduced the number of dwellings by one and have now submitted further ecological information. However we still object to this proposal.

The application site is a Local Wildlife Site (LWS) and part of the South Downs Way Ahead Nature Improvement Area and as such there should be a presumption against development as per paragraph 170a of the National Planning Policy Framework (NPPF) and policy CP10 of the City Plan Part 1 (CPP1). The CPP1 is clear that BHCC wants to ensure that the city's natural environment is protected and enhanced, with the vision stating that 'The downland countryside will be conserved and its links to urban green spaces strengthened via a green network across the city where biodiversity is enhanced and equality of access to natural open space is achieved'. Similarly Policy CP10 requires BHCC to link and repair habitats and nature conservation sites within the South Downs Way Ahead NIA, whilst conserving, restoring, recreating and managing priority habitats.

This site functions as a green corridor which brings the downland countryside into the City as per the aims of the Living Coast Biosphere, of which Brighton and Hove City Council (BHCC) is a lead partner. The Sussex Wildlife Trust cannot see how developing this LWS complies with these commitments to the natural environment.

We are very concerned that BHCC are allowing the countryside to be slowly degraded and nibbled away at. LWS are an integral component of the City's Ecological Network and we have no confidence that BHCC understand the true

impact the continued loss of LWSs is having on this network and the functions that network provides for the City.

We note that the County Ecologist has recommended a condition on the lighting scheme as this has still not been agreed. We support the condition, however the Sussex Wildlife Trust is concerned that there has been no reference in the application to the internal lighting scheme which, given the large areas of glazing in the designs, may spill out from the dwellings onto the adjacent habitat. We note from Table 7 and Map 4 of the Amended Ecological Report that some of the areas with the most records of foraging and commuting bats are adjacent to the area of the site designated for the dwellings and access road. Whilst we still strongly object to the proposal, if the Council is minded to approve the application, this needs to be rectified.

BHCC has a duty under the NERC Act 2006 to have regard for biodiversity, but this does not seem to be influencing the decisions being made in relation to the buffering area between existing housing and the wider countryside. We urge the Council to demonstrate their commitment to the environment by counteracting the view of some, that a degraded LWS is suitable for development. Instead working to ensure these sites deliver the ecosystem services the City so desperately needs for a sustainable future.

Internal Consultees

5.6. **Planning Policy Team:** Comment

The application site lies outside the built up area boundary and was included in the 2014 and 2015 Urban Fringe Assessments (UFA). The site has been subject to a previous outline planning application (BH2015/04273) for 9 dwellings which was dismissed on appeal in January 2017 due to the harm to the landscape character and setting of the South Downs National Park and negative visual impact. The current application proposes a reduced scheme of 4 dwellings, with amendments to the proposed location and design of development aimed at reducing the potential visual impact.

The UFA studies identified some potential to deliver a small amount of development at the northern tip of the site, subject to measures to mitigate landscape and ecological impacts. The site has not been included as a potential site allocation in the draft CPP2 because the development potential falls below 10 dwellings (which was the site threshold used for proposed site allocations in CPP2), however the UFA studies should be treated as a material consideration.

The current application is proposing development within the central part of the site which lies outside the area identified in the UFA as a 'Potential Development Area' and is more visible from within the SDNP to the north. However, following the approach taken by the inspectors at the previous outline planning appeal for this site, and the appeal involving another 'urban fringe' site at Falmer Avenue, Saltdean (BH2014/03394), it is necessary to consider the current application on its planning merits to determine whether it would deliver

sustainable development when assessed against development plan policies (in particular policies SA4 and SA5) and the NPPF.

In addition, following the South of Ovingdean Road appeal inspector's conclusion that the Council cannot demonstrate a five year housing supply, it is necessary to give increased planning weight to the potential for housing delivery in line with the presumption in favour of sustainable development set out in the NPPF. Effectively this means that the application should be permitted unless it is considered that the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against development plan policies and the NPPF.

Determination of the application will require specialist input from the County Landscape Architect regarding the degree of potential development impact and harm to the landscape setting of the city and the SDNP, and extent to which any adverse impacts of development can be minimised and adequately mitigated. The views of the County Ecologist and Council Heritage officers will also be important.

5.7. **Arboriculturalist:** Comment based upon the original proposal of four houses:

The proposal is for four dwellings and this is on a smaller footprint than the previous application for nine houses that was refused and later lost at appeal. There are two TPO's at the site and these protect a large number of trees. The proposal recommends the removal of eleven trees, three groups and parts of some groups and some of these are protected by the woodland and area tree preservation orders. However, the majority of these are c grade trees and the proposal has attempted to limit the removal of these and has retained the important boundary trees. In view of this the arboricultural team do not object to this proposal subject to conditions to secure:

- A full landscaping scheme including replacement tree planting;
- A Tree Protection Plan and an Arboricultural Method Statement;
- Supervision of tree protection measures;
- Details of any required tree pruning.

Updated comment based upon the amended proposal of three houses:

Again no objection is raised subject to the above conditions.

5.8. **County Ecologist:** Comment 11/07/2018 based upon the original proposal of four houses:

The Ecological Appraisal Report submitted sets out that a number of updated surveys are required (for bats, reptiles, vascular plants and invertebrates). These surveys must be carried out before full comments can be provided.

Given the proximity of the proposed development to a main badger sett, if permission is granted, the sett will need to be closed under licence, and an artificial sett will need to be provided. As the artificial sett will need to be

constructed prior and proof of its use demonstrated before the main sett is closed, this may take some time. The impacts of the construction of an artificial sett should be included in the assessment of impacts on habitats and other protected species

Further comments 26/11/2018 following the submission of an updated Ecological Appraisal Report:

Potential impacts on biodiversity

The site lies within Wanderdown Road Open Space Local Wildlife Site (LWS or Site of Nature Conservation Importance). The LWS is designated for its relict chalk grassland, rough grassland and scattered scrub and associated species. The site includes the existing access strip which, despite disturbance, retains patches of chalk grassland, and chalk scrub and deciduous woodland to the south. Following a review of LWS in 2013, a revised boundary and citation has been proposed through the City Plan Part Two which includes the road verge.

The proposed development would lead to the direct loss of approximately a third of the LWS, although it is recognised that this area may be slightly reduced by the proposals to remove one house and to amend the access route. The loss includes buildings and hard standing (stables and manege). Approximately 0.37ha of semi-improved grassland at the north western end of the site will be retained and protected. In my opinion, the harm to the LWS remains significant, even with the proposed mitigation and compensation.

However, in light of the Inspector's comments in relation to a previous scheme with a similar overall footprint, given the proposed mitigation and proposals for future management, the loss is acceptable.

The mitigation and compensation for the chalk grassland outlined in the EclA, including protection and sensitive management of the retained grassland, removal of invasive species from the road bank, natural recolonisation of the road bank and the provision of chalk grassland green roofs, is acceptable and should be designed and implemented through an Ecological Design Strategy (EDS) and Landscape and Environmental Management Plan (LEMP). The funding for the latter should be secured through a S106 agreement. The LEMP should include long term management of the remaining scrub and woodland within the LWS. In addition to the proposed mitigation and compensation within the EclA, it is recommended that seed is collected from the Sussex Scarce Cat-mint that is found in the southern part of the site, and that consideration is given to translocating the species to a suitable location within the site. Advice on seed collection and propagation should be sought from the UK Native Seed Hub based at the Millennium Seedbank at Wakehurst.

The revised site layout shows indicative screening planting between the access road and the northernmost house. Whilst it is recognised that screening may be required for landscape purposes, tree planting within the retained grassland should be avoided, and species should be native, appropriate to the local area and of local provenance. The revised route of the proposed access track is

preferred to the original proposal. To minimise the impact on the retained grassland, the footprint should be kept as small as possible.

Badgers

Badgers are protected under the Protection of Badgers Act 1992. A main badger sett is present on site. The proposed development will require the closure of the sett under licence, for which an alternative artificial sett will be required. As closure cannot take place before the artificial sett has been constructed and there is evidence that badgers are using it, this process should be clearly programmed into the timetable for works. There will be a net loss of foraging and commuting habitat. Any boundaries within the site should be made permeable to badgers. Best practice working methods should be employed during construction.

Bats

All species of bats are fully protected under the Wildlife and Countryside Act 1981, as amended, and the Conservation of Habitats and Species Regulations 2010, making them European Protected Species. The site offers moderate potential for foraging and commuting bats. Artificial light can negatively impact on bats through e.g. causing disturbance at the roost, affecting feeding behaviour, avoidance of lit areas and increasing the chances of bats being preyed upon. All lighting design should therefore take account of national best practice guidance. Bat boxes should be provided on retained mature trees within the site, the maintenance of which should be included within the LEMP.

Breeding Birds

The site has the potential to support breeding birds. Under Section 1 of the Wildlife and Countryside Act 1981 (as amended), wild birds are protected from being killed, injured or captured, while their nests and eggs are protected from being damaged, destroyed or taken. To avoid disturbance to nesting birds, any demolition of buildings or removal of scrub/trees that could provide nesting habitat should be carried out outside the breeding season (generally March to August). If this is not reasonably practicable within the timescales, a nesting bird check should be carried out prior to any demolition/clearance works by an appropriately trained, qualified and experienced ecologist, and if any nesting birds are found, advice should be sought on appropriate mitigation. Bird boxes should be provided as recommended in the EclA.

Reptiles

Slow worms, grass snakes, common lizards and adders are protected against intentional killing or injuring under Schedule 5 of the Wildlife and Countryside Act 1981, as amended. The site supports low populations of slow worms and common lizards. The proposal is to retain the population on site within the retained grassland, with log piles to be created within the retained woodland. In addition to log piles, a hibernaculum such as that recommended in the Great Crested Newt Mitigation Guidelines 2001. A method statement for the rescue and translocation of reptiles within the site, which should accord with best practice guidance, should be included in the EDS. The EclA proposes trapping for a minimum of 20 days, continuing until there have been five clear days

without capture. The recommended minimum capture effort for low populations of slow worms and common lizards is 60 suitable days.

Other species

The site should be managed in the long term to enhance it for invertebrates, including those species listed within the LWS citation.

The site has the potential to support hedgehogs. The hedgehog is listed as a Species of Principal Importance under Section 41 of the NERC Act. Care should be taken during site clearance to avoid harm to hedgehogs and any boundaries within the site should be made permeable for wildlife.

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

Conditions are recommended to secure:

- Badger protection measures
- External lighting strategy
- Ecology Design Strategy
- Landscape and Ecological Management Plan

Updated comment based upon the amended proposal of three houses:

The updated ecological report (Ecological Impact Assessment, Ecosa Ltd, 13/12/18) notes that with the reduction to three houses, there will be a small reduction in the amount of semi-improved chalk grassland and broadleaved woodland to be lost. The updated report has also taken account of my comments with respect of the minimum effort required for translocation of reptiles to the area of retained grassland. I reiterate that in relation to reptiles, in addition to the proposed log piles, a hibernaculum such as that recommended in the Great Crested Newt Mitigation Guidelines should also be provided.

The majority of the comments provided on 26/11/18 in relation to the original application for four houses remain valid, as do the recommended conditions. In addition to the management of the retained grassland on site for biodiversity, the Landscape and Ecological Management Plan should include the long term management of retained scrub and woodland, and the road bank. In light of reports from neighbours of active badger setts close to the western boundary of the site, and given the highly mobile nature of badgers, it is also recommended that a pre-construction badger survey is carried out to assess use of the site by badgers at that time and to inform appropriate mitigation, compensation and enhancement.

The EclA recommends the provision of chalk grassland roofs in compensation for the loss of chalk grassland within the Local Wildlife Site. This is an essential component of the scheme. However, the Design and Access Statement refers to sedum roofs. Sedum roofs would not be acceptable.

- 5.9. **County Landscape Architect:** Comment based upon the original proposal of four houses:

Potential impacts and mitigation

The wooded character of land between the Vale and the edge of the Wanderdown development is characteristic of this part of the valley. The area of open meadow within the development site and on the crest of the ridge is also a feature which contributes to the character of the area. The loss of this elevated open area would have an adverse impact on local landscape character. The open meadow of the application site is a fragile gap between the existing housing developments which helps to give them separate identity and avoid the perception of coalescence. The sensitivity of this open character was highlighted by the previous refusal of the application BH/2015/04273 and the subsequent unsuccessful appeal (APP/Q1445/W/16/3147419).

The key conclusions of the Inspector that are relevant to this application were as follows:

'The LVIA identifies moderate or substantial negative effects as a result of the development as seen from Mount Pleasant. These effects would be greater when trees are not in leaf. At least the first four or five houses would be visible from Mount Pleasant. Even with the housing cut into the ridgeline the houses would be a dominant feature from this position and also at distance from views within The Bostle area to the north east.'

'I conclude that there would be a significant adverse effect on the landscape character and the proposal would be harmful to the setting of the SDNP. There would also be a negative effect in terms of the immediate visual impact relating to the access road.'

The proposed detailed design for the individual units in this proposal would address some of the concerns raised by the previous application. The houses would be cut into the slope to form terraces and the flat green roofs would be less intrusive than pitched tiled roofs. However the northern house would be visible from the key viewpoint at Mount Pleasant and would present a built façade which would intrude into the open character of the gap between the settlements. The most significant views into the application site from the SDNP are from the bridleway and open access land between Mount Pleasant and Ovingdean Road. The LVIA does acknowledge that the proposed development would have a negative effect on these views with a major to moderate degree of significance. It is acknowledged that the proposed design and selection of materials to be used for the development would help to mitigate the potential impacts on local views. Whilst the development would not break the wooded skyline from this viewpoint the most northern house façade would be prominent and the access road would cut across the open green field in front of this house. The roofs and chimneys of the other houses would also be seen beyond the first house.

Tree and shrub planting at the north end of the development would help to mitigate the visual impact in views from the wider downland to the north. However, planting would conflict with the ecological sensitivities on the site. Any proposed tree planting within the meadow area would conflict with the ecological priority to conserve chalk grassland.

If the northern unit was omitted a belt of native tree and understorey planting could be used to mitigate housing located deeper into the site. This planting would be located on the existing ménage and therefore would not conflict with the chalk grassland habitat.

The proposed access road would impact on open downland character of the northern part of the site as it would cut across this area, which is also sensitive as chalk grassland habitat. An access road which hugs the eastern boundary of the site aligned with the existing site access track would be less intrusive and would have less of an impact on the open character which was considered to be sensitive by the Inspector. The access road would also require the removal of some small trees which provide an existing screen to the southern part of the site.

The access onto Ovingdean Road would also have an adverse impact on local character as with the previous application.

Conclusion

The application is not supported due to the adverse impact on local landscape character and views.

Updated comment based upon the amended proposal of three houses:

The detailed design for the individual units in this proposal would address some of the concerns raised by the previous application. The houses would be cut into the slope to form terraces and the flat green roofs would be less intrusive than pitched tiled roofs. The most significant views into the application site from the SDNP are from the bridleway and open access land between Mount Pleasant and Ovingdean Road. The LVIA does acknowledge that the proposed development would have a negative effect on these views with a major to moderate degree of significance. It is acknowledged that the proposed design and selection of materials to be used for the development would help to mitigate the potential impacts on local views. The roofs and chimneys of the proposed houses would be seen in views from the north.

Tree and shrub planting at the north end of the development would help to mitigate the visual impact in views from the wider downland to the north. However tree planting within the meadow area would conflict with the ecological priority to conserve chalk grassland.

The revised layout omits the most northerly unit and reduces the number of houses to three. This would allow for a belt of native tree and understorey planting which would mitigate the impact of the development. This planting

would be located on the existing ménage and therefore should not conflict with the chalk grassland habitat. The planting would need to be of locally characteristic downland species with some holly and yew to provide evergreen cover.

The omission of the northern house would allow the access road to swing to the west further into the site. This would help to reduce the impact of the road in views from the north. This would also allow for the retention of the group if existing trees on the north side of this road.

The access onto Ovingdean Road would have potential to have an adverse impact on local character and the streetscape. A sketch perspective, drawing PL017, has been provided to indicate that there would be little change to the entrance from the existing situation. The detailed design for the access road would need to ensure that it would have a minimum impact on the character of the area.

If the Local Planning Authority is minded to approve the development it would need to be supported by a comprehensive and detailed planting scheme to ensure that it can be fully integrated into the local landscape.

It is recommended that the proposed development can be supported subject to the implementation of a detailed landscape mitigation strategy as outlined above.

5.10. Transport: Comment based upon the original proposal of four houses:

No objections subject to full details of the access road and an updated Road Safety Audit (RSA) being secured by condition, and the following requirements to be secured by s106 Agreement / condition:

A contribution of £6,000 is requested that will be allocated towards:

- Bus stop improvements (to include accessible kerbs and/or shelters and/or real time passenger information) at the 'Wanderdown Road' north and southbound bus stops on Ovingdean Road and/or
- Crossing improvements (dropped kerbs and tactile paving) to the northbound Wanderdown Road bus stop on Ovingdean Road.
- A scheme of highway/landscaping works including full details of all proposed vegetation clearance and regrading of the bank either side of the access from Ovingdean Road that is required to achieve visibility splays;
- Implementation of cycle parking provision;
- Construction Environmental Management Plan (CEMP).

Updated comment based upon the amended proposal of three houses:

Again no objection is raised subject to the above conditions and s106 requirements.

5.11. **Sustainable Drainage:** Comment

Prior to any construction the applicant should supply the following information:

- The SuDS Maintenance Plan submitted with this application should be expanded upon as it does not demonstrate that maintenance can be carried out for the lifetime of the development. It does not, for example, depict exactly what maintenance or regularity for the SuDS specific to the proposed site.
- Since the soakaways appear to be situated within Source Protection Zone 3, the applicant must ensure measures are in place to prevent pollution of the underlying aquifer. Adequate treatment to surface water runoff prior to infiltration is required.
- The applicant should provide their MicroDrainage calculations that accompany their runoff values for checking.

5.12. **Heritage:** No comment:

In view of the Inspector's conclusion re the appeal scheme and that it would not cause harm to the setting of the Ovingdean Conservation Area; no comment.

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

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

7. **POLICIES**

The National Planning Policy Framework (NPPF)

Brighton and Hove City Plan Part One (2016) (BHCPP1)

SS1 Presumption in Favour of Sustainable Development

SA4 Urban Fringe

SA5 The South Downs

CP1 Housing Delivery

CP8 Sustainable Buildings
CP9 Sustainable Transport
CP10 Biodiversity
CP11 Flood Risk
CP12 Urban Design
CP14 Housing Density
CP15 Heritage
CP16 Open Space
CP18 Healthy City
CP19 Housing Mix
CP20 Affordable Housing

City Plan Background Studies

Urban Fringe Assessment 2015
Urban Fringe Assessment 2014

Brighton and Hove Local Plan (2005) (BHLP) Retained Policies

TR7 Safe development
TR14 Cycle access and parking
TR19 Parking standards
SU5 Surface water and foul sewage disposal infrastructure
QD15 Landscape design
QD16 Trees and hedgerows
QD18 Species Protection
QD27 Protection of Amenity
HO5 Provision of private amenity space in housing schemes
NC4 Sites of Nature Conservation Importance (SNCl)s and Regionally Important Geological Sites (RIGS)
HE6 Development within or affecting the setting of conservation areas

Supplementary Planning Documents

SPD06 Trees and Development Sites
SPD11 Nature Conservation and Development

Supplementary Planning Guidance

SPGBH4 Parking Standards

8. CONSIDERATIONS and ASSESSMENT

8.1. The main considerations in the determination of this application relate to the principle of development, landscape impacts, ecology, transport and highway safety, neighbouring amenity, standard of accommodation, flooding and sustainability.

8.2. Background

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

minimum housing requirement that the City's five year housing land supply position is assessed annually.

- 8.3. The Council's most recent land supply position was published in the 2017 SHLAA Update (February 2018) which showed a marginal surplus (5.0 years supply). However, the inspector for the recent planning appeal on Land south of Ovingdean Road (APP/Q1445/W/17/3177606) considered that the Council's delivery timescales for two sites were over-optimistic and concluded that there would be a five year supply shortfall of at least 200 dwellings. The Council's five year housing land supply figures are currently being updated as part of the annual monitoring process and an updated five year housing position will be published in due course. In the interim, when considering the planning balance in the determination of planning applications, increased weight should be given to housing delivery in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).
- 8.4. The Council's housing delivery identifies that an estimated 1180 new dwellings could be delivered on urban fringe sites across the city. Policy SA4 of the BHCPP1 states that:

“Where appropriate, the council will promote and support the careful use and management of land within the urban fringe to achieve the following objectives:

1. *The protection and enhancement of the wider landscape role of land within the urban fringe, the setting of the South Downs National Park and the protection of strategic views into and out of the city.*
2. *Securing better management of the urban fringe, environmental improvements and safe public access to the countryside through sustainable means.*
3. *The promotion of urban fringe land as part of the city's green network and, where appropriate, encouraging opportunities for multi-functional uses such as, appropriate recreation and cultural experience, new allotments and local food production and biodiversity conservation and enhancements (see CP10 Biodiversity).*
4. *The protection of sensitive groundwater source protection zones from pollution and encouraging land management practices that reduce rapid surface water runoff and soil erosion.*
5. *The creation of 'gateway' facilities and interpretative facilities in connection with the South Downs National Park to support sustainable tourism.*

Development within the urban fringe will not be permitted except where:

- a) *a site has been allocated for development in a development plan document; or*
- b) *a countryside location can be justified; and where it can be clearly demonstrated that:*

- c) *the proposal has had regard to the downland landscape setting of the city;*
- d) *any adverse impacts of development are minimised and appropriately mitigated and/or compensated for; and*
- e) *where appropriate, the proposal helps to achieve the policy objectives set out above.*

8.5. The application site is a challenging one as it is designated as a Site of Nature Conservation Importance (SNCI) / Local Wildlife Site (LWS), and furthermore the site forms the ridge of a hill which is highly prominent in immediate and more distant strategic views, including views from the South Downs National Park to the north of the site, Ovingdean Conservation Area to the west of the site, and Falmer Road to the east of the site.

8.6. In this context, the acceptability or otherwise of any residential development on the site is dependant primarily on an assessment of the impact of the development on the biodiversity and ecology of the SNCI, and an assessment of the landscape / visual impact of the proposed development. Developments which would cause harm in either respect are unlikely to be supported.

8.7. The Council commissioned two Urban Fringe Assessment (UFA) studies, one in 2014 and one in 2015. These are high level studies which have the objective of identifying the development potential of a number of urban fringe sites. The studies are not definitive and do not constitute site allocations. In the case of the application site, referred to as Site 41, the 2014 study concluded:

“The site is considered suitable for a small amount of low density residential development at the northern tip of the site. The site occupies the crest of a ridge which runs down from Mount Pleasant, separating the built area of northern Ovingdean into two. The northern end is largely open greenspace and the remainder is wooded. Both areas are prominent in SDNP views descending from Mount Pleasant, in which the village appears as houses surrounding a wooded ridge and development on the hill top would be uncharacteristic, detracting from the historic valley settlement form. However, a few new houses within the pony paddocks at the northern end of the site would retain the woodland on the hill top and have the least adverse impact on landscape character. Any impacts on archaeology and heritage would need to be satisfactorily addressed. 95% of the site is recognised as a Site of Nature Conservation Importance. Although the value of the site has been challenged by the landowner, the 2013 Review of SNCIs concluded that the designation should remain pending further independent survey work to verify objections from the landowner.”

8.8. The 2015 study provides a more detailed assessment, particularly of potential landscape and ecological impacts. This study recommends that the potential developable area to the northern end of the site be reduced and the potential yield of 5 dwellings also be reduced:

“In conclusion, it is considered that development across the potential development area identified in the 2014 UFA would be likely to result in

significant adverse landscape and ecological effects. There is, however, some potential to deliver development within Study Area L15/E12 without significant impacts on landscape and ecology, on the assumption that:

- The yield and density of development are reduced, and restricted to the lower, northern fringe of the Study Area, with a slight reduction in the potential development area indicated on the below figure.”*
- Planting is located on the northern boundary, to filter/reduce views from the SDNP.*
- Incorporation of robust mitigation measures to address any impacts on protected species.*
- Long-term enhancement of adjacent habitats within the SNCI is provided, in particular retention and management of calcareous grassland (including avoidance of screening planting in these areas).”*

- 8.9. The study concluded that the principle of some residential development on the site may be acceptable, subject to detailed assessments of impacts and appropriate mitigation, provided that development is restricted to the northern tip of the site.
- 8.10. Following this study the draft City Plan Part 2 has been published, the site has not been included as a potential site allocation in the draft CPP2 because the development potential falls below 10 dwellings (which was the site threshold used for proposed site allocations in CPP2), in this context the UFA studies should still be treated as a material consideration.
- 8.11. In assessing the potential of the site to accommodate residential development it is of key importance to consider the findings of the Inspector in determining Appeal ref. BH2015/04273. This was an outline scheme of nine dwellings, the appeal was dismissed and the Inspector reached the following conclusions:
- The Council could demonstrate a 5 year housing supply (N.B. This is no longer the case.)
 - A contribution towards affordable housing was required (N.B. the current scheme is below the threshold above which such contributions are required).
 - The proposed vehicular access would not result in an increased highway safety risk.
 - The ecological impacts of the proposed development could be appropriately mitigated.
 - The development would not harm the setting of the Ovingdean Conservation Area.
 - A contribution towards sustainable transport infrastructure was required.
 - The proposed development would cause harm to the landscape character of the surrounding area and setting of the South Downs National Park, and the proposed access to the site would result in a significant change in the street scene and it would have a more suburban appearance in contrast to the rural quality of this particular part of Ovingdean Road. This harm warranted the refusal of planning permission.

- 8.12. Having regard to this appeal decision, whilst the Inspector did not rule out the principle of residential development on the site, for a proposed scheme to be considered acceptable it will need to overcome the concerns sets out by the Inspector in regard to landscape / visual impact. These matters are considered below.
- 8.13. Landscape / Visual Impact:**
The previous Outline application (dismissed at appeal) proposed nine houses; an indicative layout showed the dwellings arranged along the ridge of the site. At pre-application stage prior to the current application, five large dwellings were proposed. The application as originally submitted proposed four houses. The County Landscape Architect considered that this scheme did not overcome the concerns raised by the Appeal Inspector and that the scheme would still have a harmful impact upon the character of the area.
- 8.14. Following negotiations with the Applicant the scheme was amended as follows:
- The northernmost dwelling has been omitted; the scheme has been reduced to three dwellings.
 - Additional tree planting is now proposed to the north of the northernmost house now proposed to screen the appearance of the proposed dwellings.
 - The proposed access road runs further down the western side of the site before sweeping over to the eastern side of the proposed houses.
- 8.15. These amendments have reduced the visual impact of the scheme; the houses would be set further back into the site than previously proposed. The existing manege (which causes visual harm) and stables would be demolished and tree planting is proposed in the location of the manege. The access road would be less prominent running further down the western boundary of the site before cutting across the site. The proposed dwellings, set back into the site with green roofs would have a significantly reduced impact in comparison to the nine houses previously proposed.
- 8.16. The dwelling designs proposed are of a contemporary nature with green flat roof forms and a staggered arrangement between the ground and first floors of the dwellings which are partially set into the slope of the site. Terraced garden areas are proposed. These dwelling designs would contrast with the traditional dwelling designs and forms in the surrounding area, they are however considered to be appropriate for this site and the Council's design policies do in general support contemporary / innovative design.
- 8.17. The Appeal Inspector raised concern that the proposed vehicular access would alter the rural character of this section of Ovingdean Road. These concerns are noted; it is however considered that an appropriate appearance in terms of landscaping and any boundary treatment / gates can be secured through the application of appropriate planning conditions.
- 8.18. Overall, subject to appropriate details and landscaping being secured by planning conditions, it is considered that the proposed development would result in an acceptable visual impact and the concerns raised by the Appeal Inspector

have been overcome. The County Landscape Architect does not object to the amended scheme.

8.19. Ecology

The site is designated as a Site of Nature Conservation Importance (SNCI) / Local Wildlife Site (LWS), there is a 1990 Tree Preservation Order (TPO) protecting a number of trees on the site and there is a Woodland TPO (2015) covering a large area of the site. This Woodland TPO was adopted following a large scale site clearance which was carried out at the end of 2014.

8.20. At the time of the previous appeal, the Appeal Inspector concluded that the harm which would have been caused by the nine dwelling scheme could have been appropriately mitigated through the application of planning conditions.

8.21. The current application as originally submitted lacked a number of essential ecological surveys. During the course of the application an updated Ecological Report was submitted with the results from the necessary surveys included. The County Ecologist has commented on the amended scheme and considers that, in light of the Appeal Inspector's comments; the harm which the scheme would cause could be appropriately mitigated provided that conditions are applied to secure:

- Badger protection measures
- Lighting strategy
- Ecology Design Strategy
- Landscape and Ecological Management Plan

Subject to these conditions it is considered that the proposed development would result in an acceptable ecological impact.

8.22. Trees:

The trees on the site are of particular concern as many of the trees are covered by protection orders. The comments of the Council's Arboriculturalist set out that the development would have an acceptable impact subject to a number of other requirements which could be secured by planning condition:

- A full landscaping scheme including replacement tree planting;
- A Tree Protection Plan and an Arboricultural Method Statement;
- Supervision of tree protection measures;
- Details of any required tree pruning.

Subject to these conditions it is considered that the proposed development would result in an acceptable impact upon trees, appropriate new planting would be secured, and the protection afforded by the existing TPOs on the site would remain.

8.23. Transport:

As at the time of the previous application / appeal, many of the representations received raised concerns regarding the proposed vehicular access as it is sited at the top of a hill on a bend in the road with access to a layby opposite. There

is vehicular and pedestrian activity on the road and riding school in close proximity.

- 8.24. At the time of the appeal the proposed access was considered to have been demonstrated as acceptable and that a highway safety risk would not result. In response to the current application as originally submitted the Transport Officer raised a number of queries and sought further details of the pedestrian access way along the side of the access road. Further details have been provided and the Transport Officer considers that the scheme is acceptable subject to securing a contribution towards sustainable transport Infrastructure in the vicinity of the site, and conditions to secure:
- A scheme of highway/landscaping works including full details of all proposed vegetation clearance and regrading of the bank either side of the access from Ovingdean Road that is required to achieve visibility splays;
 - Implementation of cycle parking provision;
 - Construction Environmental Management Plan (CEMP).
- 8.25. The Transport Officer has indicated that street lighting may be sought along the access road; this would however conflict with the South Downs National Park Authority's objectives regarding dark skies and could impact upon wildlife. It is therefore recommended that any proposals for external lighting, including any street lighting, be secured by condition and the County Ecologist be consulted at this stage to ensure that harm would not result.
- 8.26. The proposed dwellings**
The proposed dwellings comprise two four-bedroom houses and one three-bedroom house. All of the dwellings would provide a good standard of internal accommodation and outdoor space. Planning Policy requires that a mix of housing types and sizes be delivered across the city; however as a small scheme of only three houses it is not necessary for smaller units to be delivered. Many smaller units are delivered across the city, for example in the flatted developments commonly proposed in the city centre. The proposed dwellings are considered to be acceptable. It is recommended that Optional Access Standards be secured by condition.
- 8.27. Neighbouring amenity:**
The Appeal proposal of nine dwellings was considered to have an acceptable impact upon neighbouring amenity. The current amended scheme of three dwellings would have a reduced impact in comparison to the Appeal scheme. The potential impacts of the proposed development are as follows:
- 8.28. The proposed vehicular access would cause some noise and disturbance however use of such an access would be intermittent and the rear gardens of the properties on Wanderdown Road would provide a division between the access and the dwellings on Wanderdown Road. The trees along the boundary would also to some extent mitigate noise impact.

- 8.29. Activity associated with the occupation of the proposed dwellings and gardens would create some noise, this level of noise would not be beyond a level expected in a residential area.
- 8.30. Overlooking of neighbouring dwellings is unlikely to cause harm as on the western side of the dwellings they would appear as single storey in nature and there is substantial screening along the western boundary of the site. To the eastern side of the site there is significant screening in place and the land slopes down steeply with neighbouring dwellings on The Vale set further down the slope.
- 8.31. Some additional light pollution would be caused by the proposed development as light would emit from the proposed dwellings this would not however be of a magnitude which would cause significant harm. It is recommended that details of appropriate external lighting be secured by condition.
- 8.32. Overall, it is considered that subject to appropriate details and conditions, the proposed development would have an acceptable level of impact upon neighbouring amenity.

8.33. Flood Risk / Ground Water Source Protection:

Neighbouring occupiers have objected to the application on the ground that the application site is prone to surface water flooding and landslips and flood run offs have impacted upon neighbouring properties in the past. The Council's Flood Risk Management Officer has considered the proposed development and has advised that such concerns can be addressed through an appropriate drainage scheme which can be secured by planning condition. This scheme should include full details of drainage and soakaways to prevent pollution of controlled waters.

8.34. Sustainability:

It is recommended that optional energy and water usage standards be secured by planning condition.

8.35. Archaeology:

Trial trenches were dug at the time of the Appeal scheme and the results were passed to the County Archaeologist. The County Archaeologist has no objection to the proposed development subject to a programme of archaeological works being secured by planning condition.

8.36. Other matters:

Objections received from neighbouring occupiers raise concerns regarding the capacity of local infrastructure in the form of road, sewers, school, doctors and dentists. Neighbouring occupiers feel that any additional dwellings in the area will worsen the existing situation where such infrastructure is perceived to be already overstretched. The potential additional burden of three dwellings and households in this regard is not considered to be of a magnitude which would warrant the refusal of planning permission. It is considered that local infrastructure does have the potential to accommodate a development of this scale without significant harm being caused.

- 8.37. Objections received from neighbouring occupiers raise concerns that the proposed development will worsen air quality in the Rottingdean Air Quality Management Area (AQMA). Having regard to the size and scale of the development proposed (i.e. three dwellings) it is considered that the contribution of vehicles associated with the proposed development would be very small compared to existing traffic levels in the surrounding area. Therefore it is considered that the impact on the AQMA in Rottingdean would be negligible.

9. CONCLUSION

- 9.1. The proposed development would provide three dwellings suitable for family occupation. The grounds for the dismissal of the previous appeal related to landscape / visual impact and it is considered that these concerns have been overcome. The residential development of a greenfield site will cause harm to ecology / biodiversity however the County Ecologist, having regard to the comments of the Appeal Inspector, considers that the harm which would be caused can be appropriately mitigated and conditions are recommended in this regard. The proposed vehicular access is considered acceptable; the Transport Officer considers that an increased highway safety risk would not result as did the Appeal Inspector previously. All other matters are considered acceptable subject to securing a contribution towards sustainable transport infrastructure and the application of conditions as set out in Section 1 and 10 of this report. Approval is therefore recommended.

10. EQUALITIES

- 10.1. It is recommended that the dwellings be required to comply with optional access standards by condition.

11. DEVELOPER CONTRIBUTIONS

S.106 Agreement

The contributions required would be allocated and spent as follows:

Public transport improvements to include:

- Bus stop improvements (to include accessible kerbs and/or shelters and/or real time passenger information) at the 'Wanderdown Road' north and southbound bus stops on Ovingdean Road and/or
- Crossing improvements (dropped kerbs and tactile paving) to the northbound Wanderdown Road bus stop on Ovingdean Road.

In the event that the draft S106 agreement has not been signed by all parties, the application shall be refused for the following reasons:

1. The proposed development fails to provide necessary sustainable transport

infrastructure improvements in the vicinity of the site and therefore fails to address the requirements of Policies CP7 and CP9 of the Brighton and Hove City Plan Part One.

Cllr Mary Mears

BH2018/01336 - Land At Rear Of 1-45 Wanderdown Road

25 July 2018

As a ward councillor for Rottingdean Coastal, I have objected to building on this site in the past, In 2016 the planning Inspector refused a planning application on appeal.

I wish to object to above planning application on the following reasons:

Although with reduced housing numbers in this application I still believe this proposal will have a detrimental impact on the surrounding area, The inspector in the Appeal Decision 2016 made it clear in her summing up, giving visibility from the National Park as a reason for refusal.

In my opinion this planning application is an over development of the site, which is located on the edge of Ovingdean village and part of the Longhill Ridge, it is within the setting of the South Downs National, as stated by the inspector in the Appeal Decision 2016. She clearly makes reference about developing this site and the impact on Ecology and biodiversity, the site is part of a gateway corridor for wildlife. There is also a Tree Preservation Order on site; concerns were raised in the past that even with the order the site was being cleared of trees and vegetation.

My understanding In the City plan part 1 this site (41), although an Urban Fringe site has now been removed from the SHLAA, so does not qualify under (a) of policy SA4 "a site has been allocated for development in a development plan" leaving (b) "a countryside location" can be justified;. I do not believe this planning application addresses this for many reasons including the entrance to this development from Ovingdean Road in my view would be very dangerous, This is a steep road with poor visibility adding another blind access on the bend increases the risk to pedestrians, cyclist and horse riders, who use the road often on a daily basis with many car users in excess of the speed limit.

The planning inspector also observed the alterations to the access would result in significant change to the street scene and it would have a more suburban appearance in contrast to the rural quality of this particular part of Ovingdean Road.

Should the decision be taken to grant this planning application under delegated powers. I wish this planning application to go to the planning committee for decision and reserve my right to speak.

17 January 2019:

As a ward councillor for Rottingdean Coastal I wish to object to the above planning application for the following reasons:

The planning Inspector turn down an appeal on this site in January 2017. The decision included a refusal for the access drive, The inspector stated the alterations to the access would result in significant changes in the street scene and would have a more suburban appearance in contrast to the rural quality of this particular part of Ovingdean.

This part of Ovingdean road is on a steep bend, and in my view even with the reduced number of properties, the concerns raised by the inspector and local residents has not been addresses in the planning application.

There are also concerns with regards to the adverse effect on the landscape character also commented on by the inspector.

In my opinion the new houses and infrastructure could increase water runoff and potential for flooding to properties in the Vale.

Should the decision be taken to approve the planning application under delegated powers, I wish this planning application to go to the planning committee for decision and reserve my right to speak.

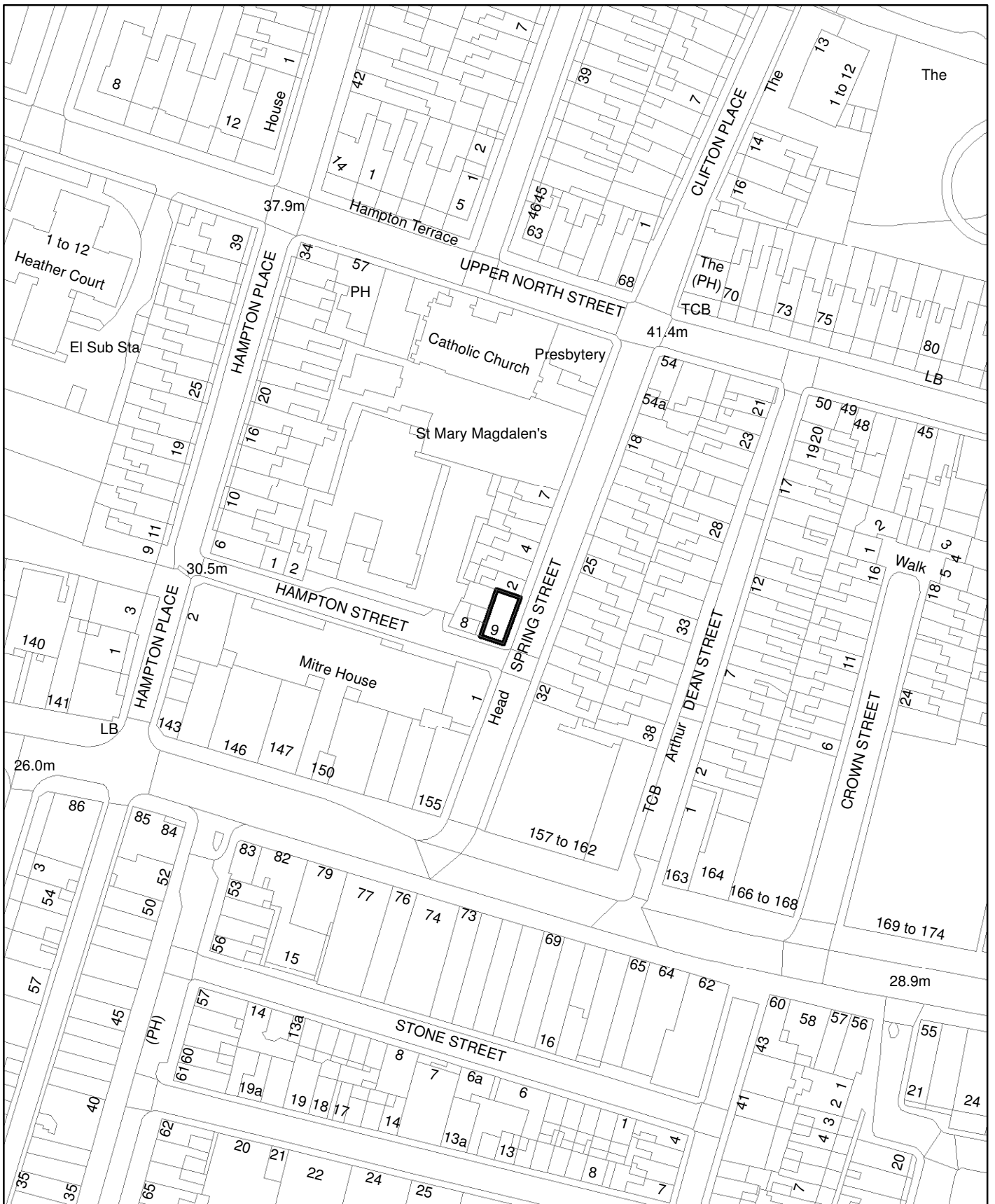
ITEM D

9 Hampton Street Brighton

**BH2018/02052
Full Planning**

DATE OF COMMITTEE: 6 February 2019

BH2018/02052 9 Hampton Street, Brighton



Scale: 1:1,250

<u>No:</u>	BH2018/02052	<u>Ward:</u>	Regency Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	9 Hampton Street Brighton BN1 3DB		
<u>Proposal:</u>	Erection of an additional storey at second floor level & creation of new single dwelling house (C3) with access from Spring Street and revised fenestration.		
<u>Officer:</u>	Michael Tucker, 292359	tel: <u>Valid Date:</u>	08.08.2018
<u>Con Area:</u>		<u>Expiry Date:</u>	03.10.2018
<u>Listed Building Grade:</u>		<u>EOT:</u>	
<u>Agent:</u>	Lewis And Co Planning SE Ltd Road Brighton BN1 5PD	Lewis & Co Planning	2 Port Hall Road
<u>Applicant:</u>	Lara White Brighton BN1 5PD	C/O Lewis & Co Planning SE Limited	2 Port Hall Road

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.

Plan Type	Reference	Version	Date Received
Location and block plan	PR04	-	6 December 2018
Proposed Drawing	PR05	-	6 December 2018
Proposed Drawing	PR06	-	6 December 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. No development shall take place until full details of all new sliding sash window(s) and their reveals and cills including 1:20 scale elevational drawings and sections and 1:1 scale joinery sections have been submitted to and approved in writing by the Local Planning Authority. The windows shall be painted timber double hung vertical sliding sashes with hidden trickle vents. The works shall be carried out and completed fully in accordance with the approved details and shall be retained as such thereafter.

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

4. No works shall take place until full details of the proposed external door/s including 1:20 scale sample elevations and 1:1 scale joinery profiles have been submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in strict accordance with the agreed details and maintained as such thereafter.

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

5. All new and replacement rainwater goods, soil and other waste pipes shall be in cast iron and shall be painted black and retained as such thereafter.

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

Informatives:

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

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The application relates to a two-storey building located on the corner of Hampton Street and Spring Street. Planning permission is sought to erect an additional storey on the northernmost part of the building and to subdivide the building into two dwellings, with revised fenestration.

3. RELEVANT HISTORY

BH2018/03244 - Conversion of existing single dwelling (C3) to create 1no one bedroom flat (C3) and 1no two bedroom flat (C3). Approved 30/11/2018

BH2000/01497/FP - Change of use from hairdressers (Class A1) on ground floor and self-contained flat on first floor, together with external alterations, all to form single dwelling house. Approved 18/09/2000

4. REPRESENTATIONS

- 4.1. Eight (8) letters have been received, objecting to the proposal for the following reasons:
 - Detrimental effect on property value
 - Overshadowing
 - Too close to boundary
 - Additional traffic

- Noise
- Residential amenity
- Inappropriate height of development
- Overdevelopment
- Adversely affects conservation area

Only four of these letters were received within the consultation period.

5. CONSULTATIONS

- 5.1. **Heritage:** Initial comments received 7/09/2018: Seek modifications
The proposal fails to respect the scale, roofline or streetscape of this section of the conservation area and as such will be a visibly dominant and awkward development.

An amended scheme was suggested that could overcome these concerns.

- 5.2. **Heritage:** Amended comments received 28/12/2018: No objection
Recommended approval subject to conditions. The proposal has been amended as requested and now preserves the character and appearance of the conservation area.

- 5.3. **Conservation Advisory Group:** Objection
Recommended refusal, with a request for the application to be put to the planning committee. The proposal would not enhance the existing building and does not improve this part of the conservation area. The view from Western Road to the spire of St Mary Magdalen church would be marred.

- 5.4. **Housing:** No comment received

- 5.5. **Private Sector Housing:** No comment

- 5.6. **Sustainable Transport:** No objection
Recommended approval subject to conditions.

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
- CP8 Sustainable buildings
- CP9 Sustainable transport
- CP12 Urban design
- CP13 Public streets and spaces
- CP14 Housing density
- CP15 Heritage

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

- TR4 Travel plans
- 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
- HO9 Residential conversions and the retention of smaller dwellings
- HO13 Accessible housing and lifetime homes
- HE6 Development within or affecting the setting of conservation areas

Supplementary Planning Documents:

- SPD03 Construction & Demolition Waste
- SPD09 Architectural Features
- SPD14 Parking Standards

8. CONSIDERATIONS & ASSESSMENT

- 8.1. The main considerations in the determination of this application relate to the principle of the subdivision of the existing dwelling, the design and appearance of the proposal in the context of the Montpelier and Clifton Hill Conservation Area and the impact of the proposal on neighbouring amenity. The standard of accommodation that the proposed units would provide and sustainable transport are also material considerations.
- 8.2. The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually.

8.3. The Council's most recent land supply position was published in the 2017 SHLAA Update (February 2018) which showed a marginal surplus (5.0 years supply). However, the inspector for the recent planning appeal on Land south of Ovingdean Road (APP/Q1445/W/17/3177606) considered that the Council's delivery timescales for two sites were over-optimistic and concluded that there would be a five year supply shortfall of at least 200 dwellings. The Council's five year housing land supply figures are currently being updated as part of the annual monitoring process and an updated five year housing position will be published in due course. In the interim, when considering the planning balance in the determination of planning applications, increased weight should be given to housing delivery in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).

8.4. Principle of Development:

The residential use of the property was established in 2000 (BH2000/01497/FP) and following the recent granting of permission BH2018/03244, the subdivision of the property has been established as being accepted.

8.5. With regard to the subdivision of the property into two units, Policy HO9 of the Brighton and Hove Local Plan sets out seven criteria by which the acceptability of the subdivision of a property is judged. These are:

- a. The original floor area is greater than 115sqm or has more than 3 bedrooms as originally built;
- b. at least one unit of accommodation is provided which is suitable for family occupation and has a minimum of two bedrooms;
- c. the proposal is not detrimental to adjoining properties, including those within the same building, in terms of noise and nuisance and there is adequate provision for the storage of refuse;
- d. secure, covered cycle parking is provided (if off-street cycle parking is not available and provision cannot be made on-street, then a contribution may be sought towards cycle parking nearby);
- e. the proposal will not result in an unacceptable level of on-street car parking; and
- f. if the building is listed, the proposal preserves the character of the listed building.
- g. if the building is in a conservation area, the proposal preserves or enhances the character of the conservation area.

8.6. In this case, the only criterion that is not achieved is for secure and covered cycle parking to be provided as part of the proposal. Due to the constraints of the site and the availability of public cycle parking facilities in close proximity, it is considered that on balance the harm caused by the absence of cycle parking facilities is not considered to prejudice the principle of the subdivision of the property.

8.7. Design and Appearance:

The initial scheme would have resulted in an additional storey being added to the entirety of the existing building. This would have resulted in the eaves level of the application site and the opposite side to the south being mismatched. By

not retaining the two-storey height along Hampton Street the initial scheme was considered to fail to respect the scale, roofline and streetscape of this section of the Montpelier and Clifton Hill Conservation Area.

- 8.8. Following amendments, an additional storey is now only being added to the northern part of the existing building, representing an extension of the existing pattern of terraces on Spring Street. The corner element has been retained as two-storey and this is considered to better relate to the neighbouring buildings to the south and west. The two-storey height along Hampton Street would be maintained and the corner and eave levels with the building to the south would be appropriately addressed.
- 8.9. As such, the amended scheme is considered to preserve the character and appearance of the Montpelier and Clifton Hill Conservation Area by reflecting the scale, roof line and building patterns and forms prevalent throughout the area. No details of fenestration or materials have been provided and so appropriately worded conditions will be attached to secure these.
- 8.10. The Conservation Advisory Group have discussed both the initial and amended schemes, and have raised concerns that the proposal would impair the view of the spire of St Mary Magdalen church from Western Road and upset the balance of the terraces on Spring Street. These concerns are noted, however the proposal as amended would not significantly break the existing lines of sight from Western Road, and would represent a southwards extension of the terraces on Spring Street which are largely symmetrical.
- 8.11. Impact on Amenity:**
It is noted that the site is located in a busy area of the city and so the creation of an additional residential unit in the building was not previously considered likely to have a significant detrimental effect on neighbouring amenity due to increased noise disturbance. The current proposal would similarly be acceptable in this regard.
- 8.12. The proposal as amended would not result in a significant increase in overlooking or overshadowing of neighbouring properties.
- 8.13. Standard of Accommodation:**
No private amenity space has been proposed for either unit as part of this application. Although other properties on Spring Street do have small rear gardens, the application site is located on a corner plot and so does not have access to such a space. Furthermore, the previous application BH2018/03244 (subdivision into two residential units) did not propose any private amenity space and was considered acceptable.
- 8.14. Following amendments, the scheme would result in the submission of a one-bedroom two-storey property with a floorspace of approx. 59sqm and a two-bedroom three-storey property with a floorspace of approx. 90sqm. Both dwellings exceed the minimum standards set out in the Government's National Technical Space Standards. Although not adopted policy, these standards do provide a useful indication as to the suitability of a proposed dwelling. All

bedrooms exceed the minimum areas in the Space Standards and would benefit from natural light and outlook.

8.15. Overall, the proposed dwellings are considered to provide a satisfactory standard of accommodation.

8.16. Sustainable Transport:

The creation of an additional residential unit has the potential to result in a small uplift in trip generation, however this is unlikely to result in a severe impact on the highway and surrounding transport network.

8.17. No car parking is proposed as part of the development, which is in line with the requirements of SPD14.

8.18. No cycle parking is included as part of the proposal. Although SPD14 requires two cycle parking spaces, as noted previously in this report it is considered that the constraints of the site and close proximity of public cycle parking facilities mean that this does not warrant refusal of the development.

9. EQUALITIES

9.1. None identified.

ITEM E

37 Clarke Avenue, Hove

**BH2018/03174
Full Planning**

DATE OF COMMITTEE: 6 February 2019



Scale: 1:1,250

<u>No:</u>	BH2018/03174	<u>Ward:</u>	Hangleton And Knoll Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	37 Clarke Avenue Hove BN3 8GD		
<u>Proposal:</u>	Installation of disabled access ramp from pavement to front elevation of property. (Retrospective)		
<u>Officer:</u>	Jack Summers, tel: 296744	<u>Valid Date:</u>	12.11.2018
<u>Con Area:</u>		<u>Expiry Date:</u>	07.01.2019
<u>Listed Building Grade:</u>		<u>EOT:</u>	28.01.2019
<u>Agent:</u>	Applicant: Brighton & Hove City Council Hove Town Hall Norton Road Hove BN3 3BQ		

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.

Plan Type	Reference	Version	Date Received
Proposed Drawing	01/000	A	16 October 2018
Proposed Drawing	02/000	A	22 October 2018
Location Plan	-	-	12 November 2018
Block Plan	-	-	22 October 2018

2. The development hereby approved is of the benefit of Mrs Joyce May Ruff to provide improved accessibility to the property. When the property ceases to be occupied by Mrs Joyce May Ruff the railings and landscaping hereby approved shall be removed and the site shall be returned to its previous condition.
Reason: As the railings and works carried out do have some harmful visual impact however the circumstances of the applicant have been given material weight in this case.

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 is a two-storey semi-detached dwellinghouse on the south side of Clarke Avenue. Retrospective planning permission is sought for the erection of an access ramp leading from the public highway to the front door of the application site, with an associated hand-rail.

3. RELEVANT HISTORY

None

4. REPRESENTATIONS

Five (5) letters have been received objecting to the proposal on the following grounds:

- The ramp is over and above what is necessary to access No.37
- The ramp causes harm to the streetscene and appears as an incongruous, alien feature
- There has been no balancing exercise by the Council to assess the needs of the resident of No.37 against the rights of neighbouring residents
- Loss of green space
- Contrary to council policies
- The ramp causes a loss of light and overshadowing
- Previous attempts to purchase the green space (in order to create a hardstanding) has been rejected by the Council
- The application for planning permission has only been submitted as the result of an enforcement complaint
- The ramp was installed without notifying neighbouring residents
- The application is lacking in detail
- A condition should be attached (in the event of permission being granted) tying the presence of the development to the presence of the current occupant.

One letter has also been received from **Councillor Barnett**, objecting to the proposal. A copy of the letter is attached.

5. CONSULTATIONS

None

6. MATERIAL CONSIDERATIONS

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

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

7. RELEVANT POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

CP12 Urban design

Brighton & Hove Local Plan (retained policies March 2016)

TR7 Safe Development

QD14 Extensions and alterations

QD27 Protection of amenity

8. CONSIDERATIONS & ASSESSMENT

- 8.1. The main considerations in the determination of this application relate to the impact of the proposal on the character and appearance of the host building and wider streetscene, as well as the potential impact on the amenities of local residents. Also of consideration will be the improved access afforded by the ramp for those with mobility-related disabilities and the potential impact on archaeological remains.

8.2. Design and Appearance:

The natural ground level slopes gently downwards from the public highway to where it meets the principle elevation of the application site and its neighbouring properties. This helps to reduce the visual impact of the ramp itself as it does not project more than a single brick height above the public highway to which part of it is adjacent, with the exception of the metal handrails. These handrails are highly visible from the public highway but they are fairly lightweight in appearance and it was noted on a site visit that other handrails of this design (though not on this scale) are evident within the wider streetscene. The ramp sits alongside an existing pathway and although a preferred design would have been to modify the original path to accommodate the ramp, this design has limited the disruption to the front garden layout and subsequent loss of green-space as far as possible.

- 8.3. As a result, although there is recognised harm to the wider streetscene due to the scale of the handrail and modest loss of green-space, it is not considered severe enough to warrant outright refusal and the suggestion of a condition

tying the presence of the ramp to the presence of the current occupant of No.37 is supported, successfully mitigating the harm to an acceptable level.

8.4. Impact on Amenity:

Given the low height of the ramp and low visual impact of the handrails it is not considered that the works have had any significant impact on the amenities of local residents. The reported loss of light and overshadowing caused to ground floor windows of neighbouring properties has not been supported by what was seen on site.

8.5. Other Considerations:

Given that the works have already been carried out it has not been possible to fully assess the potential impact they may have had on archaeological remains. This is considered acceptable given the modest area of land developed and the fact that the design would not require any deep excavation works.

8.6. Concerns have been reported that works were carried out without consulting local residents. Consultation was carried out as part of this planning application and the fact that the applicant has sought retrospective planning permission has not been weighed against them as part of this assessment. The fact that this application has only come in due to a complaint being lodged to the Local Planning Authority will also not be weighed against the applicant.

8.7. Concerns have also been reported that previous attempts to purchase areas of the green space to convert to a hardstanding have been rejected by the Council. This application has been weighed on its own merits but it is considered that the proposal has far less of a visual impact than would a hardstanding in front of a similar property in the streetscene.

8.8. The application has been criticised for lacking in detail and that alternative designs have not been explored, however it is considered that adequate information has been submitted in order to come to a decision.

9. EQUALITIES

9.1. The works as built offer improved level access for the current occupant. This benefit is considered to outweigh the moderate harm to the character of the streetscene and, due to the aforementioned condition limiting the presence of the ramp, the works are considered to be acceptable.

Cllr. Dawn Barnett

BH2018/03174 - 37 Clarke Avenue

I am writing on behalf of several residents in my Ward to object to the above retrospective planning application – ‘Installation of disabled access ramp from pavement to front elevation of property (retrospective).’

I would like to stress that I am fully supportive of measures to help those with disabilities however believe the design of the access ramp in question to be much too excessive for what is required to access the property.

The application lacks clarification as to why this design and size of ramp is considered necessary in this case. The ramp was also affixed to the property without any notification or consultation with the adjoining landowners. I support therefore the request from my Ward residents that the planning authority seeks a full assessment and justification from the housing authority so that they and we can understand why this development is necessary for the occupant of Number 37. This should include an assessment of the alternatives, and a visual impact assessment.

I am aware that planning applications must be determined in accordance with planning policy. I would therefore seek clarification as to how this development is in accordance with Local Plan QD 14 and QD27 which seek to protect amenity and City Plan Part 1 CP13 which seeks to secure high quality design and spaces. I would also argue that the ramp is unsympathetic to local character and therefore not in accordance with National Planning Policy.

The ramp’s size, depth, width and massing has an unacceptable adverse impact on the amenity of the area by its visual impact and harms the street scene. An example of an appropriate access ramp can be found at the neighbouring property Number 41. The ramp at Number 41 has been in use for many years with no difficulty.

I would ask, on behalf of neighbouring residents that you reject this retrospective application, however if the planning authority is minded to grant permission to please ensure that it this is on the basis of the needs of the current occupant of Number 37 and apply a planning condition to tie the development to her occupation and secure its removal if she ceases to live there.

Information on Pre-application Presentations and Requests 2018/19

Date	Address	Ward	Proposal	Update
06/03/18	29-31 New Church Road, Hove	Westbourne	Mixed use development.	Application BH2018/02126 under consideration.
06/03/18 & 03/04/18	Toad's Hole Valley, Hove	Hangleton & Knoll	Mixed use development comprising residential, neighbourhood centre, secondary school, B1 floorspace, SNCl enhancements, accesses from highway, landscaping and parking.	Application BH2018/03633 under consideration.
08/05/18	Longley Industrial Estate, New England Street, Brighton	St Peter's & North Laine	Mixed use scheme, 3000sqm B1 with 200-250 'build-to-rent' residential units above, 1000sqm communal space, disabled car parking, public realm improvements.	Application BH2018/02598 under consideration.
08/05/18	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.	Application BH2018/02699 under consideration.
08/05/18	Rear of Lyon Close, Hove	Goldsmid	Mixed use scheme 160 units (C3) and 1000sqm office (B1) floorspace.	Application BH2018/01738 under consideration.
05/06/18	Former Peter Pan amusements, Madeira Drive, Brighton	Queen's Park and East Brighton	Mixed use leisure/commercial including outdoor pool (temporary 5yrs).	Application BH2018/01973 refused 6 December 2018.
17/07/18	Enterprise Point,	Hanover & Elm	Purpose Built Student Housing	Application BH2018/02751 under

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.

	Melbourne Street, Brighton	Grove	(350 bedspaces), with some employment space at ground floor and affordable housing block	consideration.
14/08/18	KAP, Newtown Road, Hove	Hove Park	Mixed Use residential / B1 scheme. Approx. 150 units	Application BH2018/03353 under consideration.
14/08/18	21 – 24 Melbourne Street, Brighton	Hanover & Elm Grove	Co-living (100 units) C3 / B1	
11/09/18	Sackville Trading Estate, Sackville Road, Hove	Hove Park	Mixed residential and commercial development.	Application BH2018/03697 under consideration.
03/10/18	Urban Fringe at Coldean Lane, NW of Varley Halls, Brighton	Hollingdean & Stanmer	Residential development.	Application BH2018/03541 under consideration.
03/10/18	Urban Fringe Site at The Whitehawk Estate, Brighton	East Brighton	Residential redevelopment.	Member and officer pre-app and Design review undertaken.
09/10/18	Land at former Belgrave Nursery, Clarendon Place, Portslade	South Portslade	Residential redevelopment.	Member and officer pre-app and Design review undertaken.
06/11/18 & 04/12/18	Outer Harbour Development, West Quay, Brighton Marina	Rottingdean Coastal	Mixed Use Residential-led development – significant changes to later phases of Outer Harbour Development	Pre-app discussions in progress and PPA agreed. 1st Design Review 03/10/18. Public consultation event end of October. 2 nd Design Review 27/11/18.
04/12/18 Requested	Vantage Point and Circus Parade, New England St/New	St Peters and North Laine	Mixed use office-led redevelopment, incl residential, retail, dance studio, student flats,	Presented at Design Review Panel 04/7/18, amended and then re-presented on 30/10/18. LPA

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.

	England Rd/Elder Place, Brighton		car park, public realm improvements.	provided written feedback 04/10/18 and discussions on-going.
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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.

NEW APPEALS RECEIVED

WARD

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

BRUNSWICK AND ADELAIDE

BH2018/00859

53A Western Road Hove BN3 1JD

Alterations to main entrance (retrospective).

APPEAL IN PROGRESS

08/01/2019

Delegated

WARD

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

CENTRAL HOVE

BH2018/01777

18 Clarendon Villas Hove BN3 3RB

Roof alterations & conversion of loft space to form 1 no. studio flat (C3) incorporating two rear dormers & two front roof lights. Erection of a rear extension at second floor level.

APPEAL IN PROGRESS

08/01/2019

Delegated

WARD

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

GOLDSMID

BH2017/03255

Rear Of 60 Wilbury Road Hove BN3 3PA

Demolition of existing outbuilding and erection of 2no two bedroom dwellings (C3).

APPEAL IN PROGRESS

08/01/2019

Delegated

WARD

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

GOLDSMID

BH2018/01005

31A Davigdor Road Hove BN3 1QB

Remodelling and enlargement of existing dormers and installation of rooflights to the west and south elevations (Retrospective).

APPEAL IN PROGRESS

09/01/2019

Delegated

WARD

APPEALAPPNUMBER

HANGLETON AND KNOLL

BH2018/02421

ADDRESS 226 Hangleton Road Hove BN3 7LP
DEVELOPMENT DESCRIPTION Roof alterations to increase the first floor level with
dormer to front and rear.
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 19/12/2018
APPLICATION DECISION LEVEL Delegated

WARD **HANOVER AND ELM GROVE**

APPEALAPPNUMBER
ADDRESS 39 Newmarket Road Brighton BN2 3QG
DEVELOPMENT DESCRIPTION Appeal against
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 17/12/2018
APPLICATION DECISION LEVEL Not Assigned

WARD **HANOVER AND ELM GROVE**

APPEALAPPNUMBER
ADDRESS 55 Hartington Road Brighton BN2 3LJ
DEVELOPMENT DESCRIPTION Appeal against
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 10/12/2018
APPLICATION DECISION LEVEL Not Assigned

WARD **HANOVER AND ELM GROVE**

APPEALAPPNUMBER
ADDRESS 84 Brading Road Brighton BN2 3PD
DEVELOPMENT DESCRIPTION Appeal against
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 10/12/2018
APPLICATION DECISION LEVEL Not Assigned

WARD **HOLLINGDEAN AND STANMER**

APPEALAPPNUMBER BH2017/00453
ADDRESS 28 Roedale Road Brighton BN1 7GB
DEVELOPMENT DESCRIPTION Change of use from five bedroom small house in
multiple occupation (C4) to seven bedroom house
in multiple occupation (Sui Generis)
(Retrospective).
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 17/12/2018
APPLICATION DECISION LEVEL Delegated

WARD **HOLLINGDEAN AND STANMER**

APPEALAPPNUMBER BH2018/01711
ADDRESS 7 Park Close Brighton BN1 9AJ

DEVELOPMENT DESCRIPTION Change of Use from residential dwelling (C3) to 6no bedroom small house in multiple occupation. (C4) (Retrospective)
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 09/01/2019
APPLICATION DECISION LEVEL Delegated

WARD **HOLLINGDEAN AND STANMER**
APPEALAPPNUMBER BH2018/02039
ADDRESS 31 Park Road Brighton BN1 9AA
DEVELOPMENT DESCRIPTION Change of use from three bedroom dwelling (C3) to six-bedroom small house in multiple occupation (C4). (Retrospective).
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 17/12/2018
APPLICATION DECISION LEVEL Delegated

WARD **HOLLINGDEAN AND STANMER**
APPEALAPPNUMBER
ADDRESS 27 Coldean Lane Brighton BN1 9GD
DEVELOPMENT DESCRIPTION Appeal against
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 10/12/2018
APPLICATION DECISION LEVEL Not Assigned

WARD **HOLLINGDEAN AND STANMER**
APPEALAPPNUMBER
ADDRESS 31 Park Road Brighton BN1 9AA
DEVELOPMENT DESCRIPTION Appeal against
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 17/12/2018
APPLICATION DECISION LEVEL Not Assigned

WARD **HOLLINGDEAN AND STANMER**
APPEALAPPNUMBER
ADDRESS 63 Park Road Brighton BN1 9AA
DEVELOPMENT DESCRIPTION Appeal against
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 20/12/2018
APPLICATION DECISION LEVEL Not Assigned

WARD **HOLLINGDEAN AND STANMER**
APPEALAPPNUMBER
ADDRESS 9 Isfield Road Brighton BN1 7FE
DEVELOPMENT DESCRIPTION Appeal against

APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 10/12/2018
APPLICATION DECISION LEVEL Not Assigned

WARD **MOULSECOOMB AND BEVENDEAN**
APPEALAPPNUMBER BH2018/00387
ADDRESS 135 Milner Road Brighton BN2 4BR
DEVELOPMENT DESCRIPTION Conversion of single dwelling house to form 2no two bedroom maisonettes.
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 17/12/2018
APPLICATION DECISION LEVEL Delegated

WARD **PATCHAM**
APPEALAPPNUMBER BH2017/03579
ADDRESS 23 Eskbank Avenue Brighton BN1 8SL
DEVELOPMENT DESCRIPTION Demolition of existing garage and erection of 2 storey detached dwelling house (C3)
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 08/01/2019
APPLICATION DECISION LEVEL Delegated

WARD **ROTTINGDEAN COASTAL**
APPEALAPPNUMBER BH2018/02638
ADDRESS 4 The Park Rottingdean Brighton BN2 7GQ
DEVELOPMENT DESCRIPTION Remodelling of existing property incorporating a single storey side extension and creation of a first floor.
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 14/12/2018
APPLICATION DECISION LEVEL Planning (Applications) Committee

WARD **ROTTINGDEAN COASTAL**
APPEALAPPNUMBER BH2018/02738
ADDRESS 126 Lustrells Vale Saltdean Brighton BN2 8FB
DEVELOPMENT DESCRIPTION Conversion of first floor flat to 2no 2 bed flats with common access and new ground floor commercial unit.
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 09/01/2019
APPLICATION DECISION LEVEL Delegated

WARD **ROTTINGDEAN COASTAL**
APPEALAPPNUMBER
ADDRESS 8 Roedean Terrace Brighton BN2 5RN

DEVELOPMENT DESCRIPTION Appeal against
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 17/12/2018
APPLICATION DECISION LEVEL Not Assigned

WARD **ST. PETER'S AND NORTH LAINE**
APPEALAPPNUMBER BH2018/02828
ADDRESS 23 Robert Street Brighton BN1 4AH
DEVELOPMENT DESCRIPTION Roof alterations to form mansard roof with front
rooflights and balcony to front and rear.
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 04/01/2019
APPLICATION DECISION LEVEL Delegated

WARD **WESTBOURNE**
APPEALAPPNUMBER BH2017/02725
ADDRESS 18 Princes Crescent Hove BN3 4GS
DEVELOPMENT DESCRIPTION Demolition of existing single garage and erection
of 1no two storey house (C3) on land to rear.
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 17/12/2018
APPLICATION DECISION LEVEL Delegated

WARD **WESTBOURNE**
APPEALAPPNUMBER BH2018/01862
ADDRESS Land To Rear Of 158 Westbourne Street Hove
BN3 5FB
DEVELOPMENT DESCRIPTION Demolition of existing garage and erection of 1no
one bedroom dwelling (C3).
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 17/12/2018
APPLICATION DECISION LEVEL Delegated

WARD **WOODINGDEAN**
APPEALAPPNUMBER BH2018/01188
ADDRESS 6 Warren Road Woodingdean Brighton BN2 6BA
DEVELOPMENT DESCRIPTION Demolition of existing bungalow and erection of
2no two storey two bedroom houses (C3).
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 08/01/2019
APPLICATION DECISION LEVEL Not Assigned

PLANNING COMMITTEE: 6th February 2019

Agenda Item 104

Brighton & Hove City Council



**Brighton & Hove
City Council**

INFORMATION ON HEARINGS / PUBLIC INQUIRIES

This is a note of the current position regarding Planning Inquiries and Hearings

Planning Application no:	BH2016/02663
Description:	Demolition of existing commercial units (B8) and erection of buildings ranging from four storeys to seventeen storeys in height comprising a mixed use development of no.186 residential apartments (C3), 1,988 sqm of offices (B1) and 226sqm of retail (A1) with car parking at basement level.
Decision:	
Type of Appeal	Informal Hearing against refusal
Date:	Awaiting Decision
Site Location:	Unit 1-3 Ellen Street Hove

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Appeal against Enforcement Notice, material change of the property from small house in multiple occupation (C4) to a large house in multiple occupation (Sui Generis). **NOTICE VARIED** (to extend the period for compliance subject to that variation the appeal fails)

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Appeal against Enforcement Notice , erection of unauthorised timber Structure at the rear elevation of the dwelling extended from first Floor level and unauthorised raised garden terrace. **APPEAL SUCCEEDS** (planning permission granted)



Appeal Decision

Site visit made on 11 December 2018

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA FRICS

an Inspector appointed by the Secretary of State

Decision date: 10 January 2019

Appeal Ref: APP/Q1445/X/18/3196462
92 Newick Road, Brighton BN1 9JH

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by R Birtwell against the decision of Brighton & Hove City Council.
 - The application Ref BH2017/03118, dated 4 October 2017, was refused by notice dated 18 January 2018.
 - The application was made under section 191(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is converted loft space including dormer to the rear roof slope and roof lights to the front roof slope.
-

Procedural Matters

1. The Council's refusal notice notes the development as existing loft conversion including rear dormer and 4no roof lights to the front elevation. While the wording is different from the application form, the development is effectively the same.
2. The date for consideration of whether the development is lawful is the date of the application (4 October 2017).

Reasons

3. The main issues are:-
 - Whether the works were part and parcel with an unauthorised change of use to a large house in multiple occupation.
 - Whether the works accord with permitted development limits as defined in the [GPDO].

Permitted Development Limits

4. There is little in the GPDO directly related to the interpretation of the term 'roof plane'. The principle that a notional extension of a surface can occur beyond a surface's physical limits is present in relation to extensions going beyond the front of a principle elevation, with the technical guidance demonstrating that extensions to the side of the principle elevation, but in front of the line of the principle elevation would not be permitted development.
5. Class B relates to additions to a roof and provides permitted development rights for the enlargement of a house consisting of an addition or alteration to

its roof. Under Class B there are some limitations preventing such alterations, including (c) that any part of the dwellinghouse would, as a result of the works, extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway.

6. To my mind a roof plane is a notional two dimensional form parallel with and on the same level as the surface of the roof. The appellant argues that the extent of the roof plane is that of the surface of the roof stopping at the perimeter, and the Council says that the plane continues beyond the perimeter of the roof. As noted there is little direct help with the interpretation. However, it is clear to me that there must be a distinction between a 'roof plane', roof slope and roof surface. Distinction occurs in Class C as well as in Class B. In Class C (b) it is noted that the alteration would protrude more than 0.15 metres beyond the plane of the slope of the original roof when measured from the perpendicular with the external surface of the original roof. To my mind if roof surface were effectively the same as roof plane, there would have been little reason to make this distinction or the distinction with roof slope.
7. I therefore conclude that a roof plane does run parallel with and at the same level of a roof surface or slope and that it is at the same height and slope as that surface, but the plane also continues beyond that surface. There is logic to this as the clear intention of the permitted development limitations as set out in the technical guidance is to limit development in relation to the principle elevation. It notes under Class B that 'the effect of this is that dormer windows as part of a loft conversion, or any other enlargement of the roof space, are not permitted development on a principal elevation that fronts a highway and will therefore require an application for planning permission'.
8. In this case, while the dormer extension is behind the actual roof surface, it is extremely prominent, and it would seem to me to be a clear example of why a roof plane was necessary and to be distinguished from the roof slope or surface.

Part and Parcel of a House in Multiple Occupation

9. At the time the works were undertaken the house was used lawfully for multiple occupation (C4 HMO) and the appellant notes that this was the case at the time of the application, when the loft conversion works had been completed.
10. The time scale of applications show the appellant converted the loft with building regulation approval applied for in July 2015 and completion certificate in September 2015. An application for a 9 person HMO licence was also submitted in July 2015. While the work was completed at the time of lawful use as a C4 HMO, the timing of the application for building regulation approval and the 9 person HMO licence makes it most likely that the intended conversion was part and parcel of development to provide a 9 person HMO. A temporary change is identified by the appellant to a 'sui generis HMO in the interim, but at the time of the application accorded with C4 use. To my mind, on the balance of probability, the operational development was most likely part and parcel of the change to use by 9 persons.
11. However, overall, even if it were not the case and the development was initially associated with the lawful C4 HMO, the development would still not be lawful,

because it does not accord with the limitations of permitted development as identified above.

12. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of converted loft space including dormer to the rear roof slope and roof lights to front roof slope was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Graham Dudley

Inspector



Appeal Decision

Site visit made on 28 November 2018

by **N A Holdsworth MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 04 January 2019

Appeal Ref: APP/Q1445/W/18/3201580

2 Ballards Mill Close, Brighton, BN1 8WG

- 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 Alan Maysey of Ballards Mill Development against the decision of Brighton & Hove City Council.
 - The application Ref BH2017/01288, dated 8 November 2016, was refused by notice dated 3 November 2017.
 - The development proposed is conversion of garage and external store into 2 bed studio apartment.
-

Decision

1. The appeal is allowed and planning permission is granted for conversion of garage and external store into 2 bed studio apartment at 2 Ballards Mill Close, Brighton, BN1 8WG in accordance with the terms of the application, Ref BH2017/01288, dated 8 November 2016, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plan: Drawing number 1206 2.16 A.
 - 2) The development hereby permitted shall not be occupied until details of car and secure cycle parking facilities for the occupants of the development have been submitted to and approved in writing by the Local Planning Authority. The approved car and cycle parking 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 for their intended purpose.

Preliminary Matters

2. The address is taken from the planning application form. However, it is clear that the appeal site is now separate from the building known as 2 Ballards Mill Close. I note that the building that is the subject of this appeal is now known as 2a Ballards Mill Close, as reflected on the appeal forms.
3. Amended plans have been submitted. However, these materially change the appearance of the proposal. The appeal process should not be used to evolve a scheme. I will therefore consider the appeal on the basis of the plans that were refused by the Council.
4. The Council advise that the two storey building on the site in its current form is not authorised. The proposal seeks to retain this building, which appeared to be unoccupied at the time of my site visit, subject to internal and external

alterations. I have therefore dealt with the appeal on the basis the development is partially retrospective.

Main Issues

5. The main issues are:

- i) the effect of the development on the character and appearance of the area; and
- ii) whether or not a satisfactory quality of living accommodation would be provided for future occupants, with particular regard to the internal layout, levels of natural light and the extent of external amenity space provided.

Reasons

Character and appearance

- 6. This proposal relates to a small detached building which appears to have been originally designed as a garage. It is set amongst a small cluster of detached residential properties, which face on to a large, shared hardstanding. This development is known as Ballards Mill Close, and is accessed from Overhill Drive. This appeared to be a well contained, private development.
- 7. The building is set away from the other buildings along Ballards Mill Close. As a detached building, it reflects the form of the other buildings within this development. Whilst it is smaller and occupies a substantial part of its plot, it has a similar architectural form to a converted coach house. It has a well-defined curtilage, with a reasonable amount of space around the building, providing a patio garden area.
- 8. The structure is built in to the falling ground, and the lower ground floor is partially subterranean. Consequently, the building appears as a single storey structure in relation to the shared hardstanding and the residential properties that face on to it. The modest height and width of the building means that it appears visually subservient to these other residential properties.
- 9. I observed that other residential buildings in the wider surrounding area are generally larger. However, there is limited uniformity in the design of these buildings, and the shape of the plots that they occupy. In this case, the proposal relates well to its immediate surroundings. Whilst it reflects a greater intensity of development, it does not detract from the prevailing suburban character and appearance of the area.
- 10. I therefore conclude that the development does not appear unduly cramped, and there is no harm to the character and appearance of the area. There is no conflict with policy CP12 of the Brighton and Hove City Plan Part One (2016) ("City Plan") which seeks to, amongst other things, ensure new development respects the diverse character and urban grain of the city's neighbourhoods.

Living conditions

- 11. The proposed development would provide living accommodation over 2 floors. On the ground floor there would be a large living area with kitchen facilities and a bathroom area. This would be well lit by windows and rooflights. Consequently, it would receive a good amount of natural light and outlook.

Even taking account of the internal partitioning around the door, there would be a well sized, open plan living area with a good amount of circulation space.

12. At lower ground floor level there would be two bedrooms and a further shower area. The proposed bedrooms would be served by windows which face on to an enclosed patio area around the side of the building. The outlook and natural light received by these rooms would be acceptable, given their intended use. These habitable rooms would clearly be wide enough to provide functional living space. Sufficient circulation space would be provided.
13. The patio garden would infill the space between the building and the edge of the plot. Whilst it would be smaller than many of the surrounding residential gardens, there would be sufficient space within this area to provide useable amenity space. It could be effectively used for activities such as sitting and eating out or drying clothes. I consider that the internal and external spaces would provide acceptable living conditions, in the event that the unit is occupied by a family in the future. The lack of a bespoke area for children's play would not comprise the living accommodation to such an extent that the refusal of planning permission would be justified.
14. Overall the internal layout is appropriate, and the amount of external amenity space and natural light being provided is acceptable. The proposed development would provide satisfactory living conditions for future occupants, and there is no conflict with policies HO5 or QD27 of the Brighton and Hove Local Plan 2005 which seeks to, amongst other things, ensure that new development provides private useable amenity space and does not cause loss of amenity to proposed residents.

Other Matters

15. The proposal has a very specific townscape context, being set within a well contained residential development. I do not agree that the approval of this proposal would set a precedent for similar development across the city. Future proposals would be considered on their planning merits.
16. The rules regarding parking on the shared hardstanding at Ballards Mill Close are a private matter between the relevant ownership interests. I am satisfied on the evidence before me that the proposed development would not lead to any unacceptable risk of harm to highway users or their safety. On the evidence before me there would be no harm to the living conditions of existing residents, as a consequence of this proposal.

Conditions

17. Conditions are necessary in the interests of certainty [1], and to ensure that car and cycle parking facilities are provided in the interests of highway safety and the promotion of sustainable transport [2]. As the proposal is partially retrospective, it is not necessary to impose a time limit condition.
18. I have found that the building has an acceptable appearance in relation to its surroundings and the further external alterations proposed are modest. Consequently, having regard to the National Planning Policy Framework (2018) ("the Framework") further details of materials, ground levels, landscaping, or boundary treatments are not on this occasion necessary to make the development acceptable in planning terms. Additional landscaping around the building is likely to be installed in line with the preferences of its future

occupants. There is sufficient space around the building for waste storage and it is not necessary to stipulate that the specific location proposed for bin storage is retained for the lifetime of the development.

19. Planning Practice Guidance¹ is clear that conditions that restrict the future use of permitted development rights should only be used in exceptional circumstances. In this case the building is set a reasonable distance away from other residential properties in a well contained development. I am not persuaded on the evidence before me that exceptional circumstances exist that would justify the blanket removal of permitted development rights, as suggested by the Council.

Conclusion

20. The proposal complies with the development plan. For the reasons given above and having had regard to all other matters raised, I conclude that the appeal should succeed.

Neil Holdsworth

INSPECTOR

¹ Paragraph: 017 Reference ID: 21a-017-20140306



Appeal Decision

Site visit made on 23 October 2018

by **P Wookey BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7th January 2019

Appeal Ref: APP/Q1445/W/18/3199643

75 Lyndhurst Road, Hove BN3 6FD

- 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 Luisa Morelli against the decision of Brighton & Hove City Council.
 - The application Ref BH2017/02900, dated 25 August 2017, was refused by notice dated 21 February 2018.
 - The development proposed is the construction of a one bedroom single storey dwelling house as a replacement for the consented two bedroom.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the proposed development differs between the application form and the Councils decision notice. The Council has referred to the proposal as the demolition of an existing garage and erection of 1no. one bedroom single storey dwelling (C3), which more accurately describes the proposed development and it is on that basis that I have determined the appeal.
3. I have been advised that there has been a previous appeal on the site for which no substantive evidence has been provided to me. I have considered only the merits of the appeal proposal before me and I have not been bound by the Inspector's decision on the previous appeal.
4. Since the appeal was lodged the National Planning Policy Framework (the Framework) has been revised. The new version was published and came into effect on 24 July 2018. In light of this I have sought the views of both parties in writing and taken any subsequent responses into account in reaching my decision.

Main Issues

5. The main issues of this appeal are:
 - The living conditions of future occupiers with particular regard to space, outlook and light; and

- The effect of the proposed development on the character and appearance of the area.

Reasons

6. The proposal is for a single storey one bedroom dwelling to be developed on part of the rear garden of No75 and on the site of the existing garage. It would broadly follow the building lines and footprints of development to the north east of the appeal site and would be accessed from Silverdale Avenue.

Living Conditions

7. Whilst the design is intended to be sustainable, its layout, position of fenestration and very close proximity to boundary walls would result in a poor outlook from the proposed dwelling. The cramped form of development within the site would also result in a distinct lack of significant outdoor space. This would create a sense of enclosure and a cramped form of accommodation to the detriment of the living conditions of future occupiers of the proposed dwelling.
8. Further, whilst I note that the Council does not have an adopted policy on minimum room sizes, my attention has been drawn to the Government's 'Technical housing standards – nationally described space standard' (THS). The total floor space of the proposed dwelling is stated by the Council to be 39m² with the illustrated double bedroom to be 7.3m², and I note that these figures are not contested by the appellant. The proposed floor space falls significantly below the level of acceptable space standards set out in the THS, which states that a single storey, one bedroom property providing two bed spaces should have a total floorspace of at least 50m² above 1.5m head height and the double bed space area should have a minimum floor space of 11.5m². Therefore, the standard of accommodation proposed would not meet THS standards and would result in unacceptable living conditions for the future occupiers of the proposed dwelling
9. I therefore conclude that the proposed dwelling would result in a cramped form of development and unacceptable living conditions for the future occupiers. Therefore, the proposal would be contrary to Policy QD27 of the Brighton and Hove Local Plan 2016 (Local Plan) which seeks to safeguard the amenity of future occupiers. It would also be contrary to the Framework, which promotes health and well-being, with a high standard of amenity for existing and future users and which makes reference to the use of technical standards to justify the need for an internal space standard.

Character and Appearance

10. The properties along Lyndhurst Avenue and Silverdale Avenue are of mixed character which includes three storey pitched roof dwellings to the north and a single pitched roof bungalow adjoining No75 on Silverdale Avenue. Properties have gardens of varying sizes to the front and rear.
11. The appeal proposals would result in a compact form of development, with a roof height slightly lower than its immediate neighbour on Silverdale Avenue and its front elevations with front door and window would be largely obscured by the front boundary wall. The side elevations, which would have no

fenestration, would be largely obscured by boundary walls to neighbouring properties and therefore would not be visually intrusive.

12. Therefore, in my opinion, the proposed dwelling would not result in a harmful effect to the character and appearance of the area and whilst of a more contemporary design, it would not be incongruous in a street scene which has a mix of architectural styles. On this main issue it would not be contrary to Policy CP12 of the Brighton and Hove City Plan 2016 (the City Plan) in respect of urban design. It would also comply with the Framework with regards to achieving well designed places.

Other Matters

13. I have had regard to the matters raised by the appellant in relation to the benefits of the proposed dwelling including its sustainability, design in relation to the geometry of the site and its ability to provide an affordable style of living. However, as the appeal is being dismissed on the main issues these benefits do not outweigh the harm that has been identified.

Conclusions

14. I have therefore concluded that whilst the proposals would not cause harm to the character and appearance of the area, it would be harmful to the living conditions of future occupiers of the proposed dwelling and be contrary to the development plan as a whole and the Framework which seek to secure a high standard of accommodation. The appeal is therefore dismissed.

Paul Wookey

INSPECTOR



Appeal Decision

Site visit made on 4 December 2018

by **Paul T Hocking BA MSc MCMi MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 January 2019

Appeal Ref: APP/Q1445/W/18/3203914

First Floor Flat 19 Glendale Road, Hove BN3 6ES

- 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 Andrew Harrold against the decision of Brighton & Hove City Council.
 - The application Ref BH2018/00045, dated 5 January 2018, was refused by notice dated 20 March 2018.
 - The development proposed is for roof alterations incorporating rear dormer and insertion of front rooflights.
-

Decision

1. The appeal is allowed and planning permission is granted for roof alterations incorporating rear dormer and insertion of front rooflights at First Floor Flat 19 Glendale Road, Hove BN3 6ES in accordance with the terms of the application, Ref BH2018/00045, dated 5 January 2018, 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: PBP0890/01; PBP0890/02; PBP0890/03.
 - 3) The external finishes used in the development hereby permitted shall match in material, colour, style, bonding and texture those used on the existing building.

Main Issue

2. The main issue is the effect of the development on the character and appearance of the area.

Procedural Matters

3. The proposed development is described as a loft conversion in the submitted application form. However, the description on the appeal form and Council's decision notice more precisely describes the development works applied for and I have determined the appeal accordingly.

Reasons

4. The appeal property is a first-floor flat within a row of attractive two-storey terraced houses with front bay-windows addressing Glendale Road. It is proposed to create a second-floor for a bedroom and en-suite within the roof

- space. This would introduce three roof lights in the front roof slope and a dormer window in the rear. Other properties in the immediate area have been the subject of similar conversions.
5. The appeal property and those adjoining it have large two-storey flat roof outriggers to the rear. These dominate the properties but also have the effect of setting the pitched roof slopes back from the rear of the houses, reducing their visibility from the surrounding area.
 6. As a consequence the width and size of the proposed dormer window, which is neither for the full width nor full height of the roof, would not appear as an overly dominant roof addition or one that relates poorly to the rear elevation. It could only be glimpsed in views from Avondale Road which runs parallel to the rear of the appeal site. It would therefore not give the appearance of an additional storey on top of the building.
 7. The dormer would have two windows. These would be of a smaller overall size than the windows below. This would respect the hierarchy of window sizes and I therefore find this would not disrupt the general appearance of the building.
 8. The roof lights on the front roof-slope total three in number. As they would be of modest size and positioned appropriately, in my view the roof would not appear as overly cluttered.
 9. The Council has referred to Supplementary Planning Document 12 – Design Guide for Extensions and Alterations (the SPD) which gives guidance about the size, height and appearance of dormer windows as well as fenestration. I have however found the appeal proposal would not result in a dormer window or fenestration that conflicts with the SPD.
 10. Whilst similar roof alterations in the area have been undertaken, albeit using permitted development rights, I find the appeal proposal takes the appropriate cues from these examples and so is not harmful to the character of the area.
 11. I therefore find the appeal proposal would not be harmful to the character and appearance of the area and would comply with the SPD and saved Policy QD14 of the Brighton and Hove Local Plan. This policy, amongst other things, requires that development should be well designed, sited and detailed in relation to the property to be extended and takes account of the character of the area.

Conclusion

12. In addition to the standard time condition it is necessary to specify the plans in the interests of certainty. A materials condition is also necessary to protect the character and appearance of the area.
13. Having regard to this and all other relevant matters raised, I conclude that the appeal should be allowed.

Paul T Hocking

INSPECTOR



Appeal Decision

Site visit made on 4 December 2018

by **Tim Crouch MSc DipUD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: Tuesday, 08 January 2019

Appeal Ref: APP/Q1445/D/18/3213728 **23 Park Street, Brighton, BN2 0BS**

- 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 Trevor and Sophie Morris against the decision of Brighton & Hove City Council.
 - The application Ref BH2018/01042, dated 3 April 2018, was refused by notice dated 24 August 2018.
 - The development proposed is a dormer to be added to rear elevation of property to loft/third floor level to create loft storage.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on the character and appearance of the host property and wider Conservation Area.

Reasons

3. No 23 Park Street is a mid-terrace 3 storey property located within Queens Park Conservation Area. In the exercising of planning functions the statutory test in relation to Conservation Areas is that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
4. The Conservation Area covers a mainly residential area predominantly consisting of early Victorian and Edwardian detached, semi-detached and terraced housing. The architecture of the houses reflects the era in which they were built and has resulted in a high quality built environment. The significance of the Conservation Area is therefore architectural and historical.
5. The proposed development is the erection of a rear dormer window. The proposed dormer window would be aligned with window openings on lower floors, set within the roof away from the eaves and side of the roof slope. However, the proposed size, scale and flat roof design close to the ridge would result in a dominant addition to the roof slope to the detriment of the character and appearance of the host property. The horizontal emphasis of the largest of the two dormer window glazing panels would also be out of keeping with the vertical emphasis of the windows below.

6. There are no such significant rear roof alterations within this area of the terrace. This contributes to a length of characterful, plain, uncluttered roof slopes along the buildings. There are limited public views of the rear roof slopes. However, they are visible in the circulation space and garden areas of Park Street and Tillstone Street. Although these are private views this would not diminish the harm that would occur. Due to the size, scale and design, the proposal would not preserve the character or appearance of the Conservation Area and so would fail the statutory test. Whilst the harm to the Conservation Area as a whole and its significance would be less than substantial, there would be no public benefits to outweigh that harm.
7. Consequently, the proposal is contrary to policies QD14 and HE6 of the Brighton and Hove Local Plan and contrary to the supplementary planning document 'design guide for extensions and alterations' (SPD). These policies and SPD seek to ensure, amongst other objectives, that roof extensions are well designed, sited and detailed in relation to the host property, and that they preserve or enhance the character or appearance of the area, including showing no harmful impact on its roofscape.
8. My attention has been drawn to other properties in the locality where rear dormers are present. I understand that these properties are also located within the Conservation Area. However, I saw that these are often grouped and seen in a different local context rather than representing a distinct feature of the wider Conservation Area in relation to the appeal. Also, I do not have full details that led to these proposals being accepted. In any case, I have determined the appeal on its own merits.

Conclusion

9. For the reasons given above and, having regard to all other matters raised, I conclude that the appeal should be dismissed.

Tim Crouch

INSPECTOR



Appeal Decision

Site visit made on 4 December 2018

by **Tim Crouch MSc DipUD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: Tuesday, 08 January 2019

Appeal Ref: **APP/Q1445/D/18/3213923** **20 Quebec Street, Brighton, BN2 9UZ**

- 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 Annette Mclachlan and Sebastian Michaelis against the decision of Brighton & Hove City Council.
 - The application Ref BH2018/00351, dated 4 February 2018, was refused by notice dated 5 September 2018.
 - The development proposed is a single storey rear and side extension at lower ground floor level.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of No 21 Quebec Street with particular regard to outlook.

Reasons

3. No 20 and No 21 Quebec Street are part of a terrace of townhouse properties which are partly characterised by the change in levels from front to back. The properties are fairly narrow with 3 to 4 storeys of living space. The front doors access the upper ground floor, a storey above the lower ground floor which is level with the rear gardens. The kitchens of the two properties are to the rear of the lower ground floor served by a rear window.
4. No 20 has a significant rear projection at lower ground floor level which is set back from No 21 allowing pedestrian access down the side to the garden. A smaller part width projection is mirrored on No 21. There is a lower boundary wall between the properties providing some openness to the kitchen windows.
5. The proposal seeks to remodel the rear projection and extend to almost the full width for a substantial length along the boundary. It is then angled into the plot of No 20 with a large element of glazing. Given the length, height and positioning on the boundary, the structure would have a significant overbearing and enclosing impact on the outlook from the rear lower ground floor of No 21. This is a sensitive location which includes the window to its kitchen and eating area. The inclusion of the proposed glazing, although angled with a degree of obscure finish to prevent problems with overlooking, would also accentuate the overall dominance of the proposal given its scale and level of actual, and perceived, intervisibility.

6. It is noted that the proposal has been carefully considered architecturally and would remodel the existing rear projection to reduce some of its length into the garden and windows facing No 21. However, the harm identified is principally related to the proposed positioning and length on the boundary.
7. Consequently, the proposed development is contrary to policies QD14 and QD27 of the Brighton & Hove Local Plan which, amongst other objectives, seek to ensure extensions would not result in significant loss of outlook or amenity.
8. The appellants state in their Design and Access Statement that the outrigger is an original structure. As a result, in their view a single storey rear extension could be erected off it without the need for planning permission. With a height of up to 4m an extension built under permitted development rights has the potential to have a significantly greater impact on outlook than the appeal proposal. The appellants though refer to such an extension as hypothetical and on the basis of the information provided I am not persuaded that it is likely one would be built. As a result, I attach little weight to this consideration in favour of the appeal.

Conclusion

9. For the reasons given above and, having regard to all other matters raised, I conclude that the appeal should be dismissed.

Tim Crouch

INSPECTOR



Appeal Decision

Site visit made on 22 November 2018

by **John Felgate BA(Hons) MA MRTPI**

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

Decision date: 15th January 2019

Appeal Ref: APP/Q1445/D/18/3214209

105 Shirley Drive, Hove BN3 6UE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs A Pollard against the decision of Brighton & Hove City Council.
 - The application Ref BH2018/00440, dated 9 February 2018, was refused by notice dated 26 July 2018.
 - The development proposed is: "*erection of a part single and part two-storey rear extension, incorporating rooflights to south and east elevations, enlargement of existing garage and associated works*".
-

Decision

1. The appeal is allowed and planning permission is granted, for the erection of a part single and part two-storey rear extension, incorporating rooflights to the south and east elevations, with the enlargement of the existing garage and associated works, at 105 Shirley Drive, Hove BN3 6UE, in accordance with the application Ref BH2018/00440, dated 9 February 2018, subject to the following conditions:
 - 1) The development shall begin not later than 3 years from the date of this decision.
 - 2) The development shall be carried out in accordance with the following approved plans: ADC988/LP, ADC988/08, ADC988/09, ADC988/10, and ADC988/11.
 - 3) The materials to be used on the external surfaces shall match those used on the existing building.

Main Issues

2. The Council's objections relate only to the proposed rear extension. The issues arising from the refusal reasons relate to the effects of this on the character and appearance of the area, and on the outlook from neighbouring properties.

Reasons for Decision

Character and appearance

3. No 105 Shirley Drive is a substantial detached house, set on a wide plot, forming part of a row of houses of varying types and designs. The proposed rear extension would extend directly back from the house, maintaining the existing gaps between the building and its side boundaries. The extension

would be recessed into the rising ground, at the same floor level as the existing dwelling. The hipped roof would match the shape and pitch of the existing roof structure, and its ridge would step down below the main apex. Views from the street are obscured by the topography, vegetation and neighbouring buildings, and little if anything of the proposed extension would be seen from the public realm. In all these respects, this part of the proposed development, at the rear of the house, would appear as a discreet and well-mannered addition, subservient to the original dwelling.

4. The depth of the extension would exceed that of the existing building by slightly more than half. But the local Design Guide¹ acknowledges that larger extensions of this nature may be acceptable on substantial detached properties. Furthermore, the Guide also makes it clear that this advice relating to depth is primarily concerned with matters of neighbours' amenity rather than visual appearance. The development would also include a small area of flat 'crown' roof, at ridge level, but this would be insignificant in size, and would have no material visual impact. In all material respects therefore, the proposed extension would comply with the relevant advice in the Design Guide.
5. The Council suggests that the extension would obscure the building's original form and size, but the building is not listed, nor does it lie within a conservation area. There is therefore no valid reason why these characteristics should not be allowed to change. Similarly, I can see no basis for the Council's assertion that the development would simply be too large. There is no apparent policy support for a refusal reason based on size alone.
6. I therefore conclude that the appeal scheme would cause no harm to the character or appearance of the area. In this respect it would satisfy Policy QD 14 of the City Plan².

Effects on neighbouring properties

7. In relation to No 107 Shirley Drive, the ground floor of the proposed extension, containing the new kitchen, would project beyond the rear of this adjoining property by up to about 5m. However, this part of the development would be only single storey, and would be set in from the boundary. At first floor level, the side and rear faces of this part of the extension, containing the new bedroom 4 and the ensuite to the extended bedroom 1, would be set well in, and well back, from the outer walls below. The submitted plans indicate that the '45-degree rule', as set out in the Design Guide, would be met, both horizontally and vertically. This information does not appear to be disputed.
8. No 103 Shirley Drive is set further back than Nos 107 and 105. On this side, the appeal property is closer to the boundary, and the extension would have two full storeys. However, due to the difference in the rear building lines of the properties, the development would project beyond No 103's rear wall only by a small amount. Again there is no apparent dispute that the Guide's 45-degree rule would be met here.
9. Both side boundaries are well screened, and the whole of the extension would be cut into the slope. On my visit I saw that the submitted plans do not necessarily show accurately the differences in ground levels between the

¹ Design Guide for Extensions and Alterations (supplementary planning document), adopted June 2013

² Brighton & Hove City Plan Part One, adopted March 2016

properties, but I was able to observe these, and I have taken account of this in coming to my conclusions.

10. Taking all of these matters into account, I find that the proposed development would not have an unduly overbearing effect on the outlook from either of the adjoining properties. The living conditions of neighbouring occupiers would thus be adequately safeguarded, in accordance with the relevant provisions of the Design Guide and of City Plan Policies QD14 and QD27.

Conclusions and Conditions

11. For the reasons explained above, I have found that the proposed development would not adversely affect the area's character and appearance, or the living conditions of neighbouring occupiers, and in this respect it would accord with the development plan.
12. In granting planning permission, I have imposed the conditions set out at paragraph 1 of this decision. Of these, Condition 2 is necessary to give certainty, and Condition 3 is needed to ensure a satisfactory appearance. Subject to these conditions, I allow the appeal.

J Felgate

INSPECTOR

Appeal Decisions

Site Inspection on 7 December 2018

by Graham Self MA MSc FRTPI

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

Decision date: 11 January 2019

Appeal Reference: APP/C/18/3201190

Site at: 249 Queens Park Road, Brighton BN2 9XJ

- The appeal is made by Mr Trevor Stacey under section 174 of the Town and Country Planning Act 1990 as amended, against an enforcement notice issued by Brighton and Hove City Council.
- The council's reference is ENF2017/00422.
- The notice is dated 15 March 2018.
- The breach of planning control alleged in the notice is: "Without planning permission the material change of use of the property from a small House in Multiple Occupation (C4) to a large House in Multiple Occupation (Sui Generis)".
- The requirements of the notice are: "Cease the use of the property as a House in Multiple Occupation (Sui Generis)".
- The period for compliance is three months.
- The appeal was originally made on grounds (a) and (g) as set out in Section 174(2) of the 1990 Act; but ground (a) was "barred" for legal reasons relating to the timing of a planning application for similar development.

Summary of Decision: The enforcement notice is varied to extend the period for compliance. Subject to that variation the appeal fails.

Appeal Reference: APP/W/18/3205130

Site at: 249 Queens Park Road, Brighton BN2 9XJ

- The appeal is made by Mr Trevor Stacey under section 78 of the Town and Country Planning Act 1990 as amended, against the failure by Brighton and Hove City Council to decide an application for planning permission within the statutory period.
- The application is dated 1 March 2018. The development was described in the application as: "Change of use from five bedroom small house in multiple occupation (C4) to large house in multiple occupation (Sui Generis) with alterations to fenestration".
- The council's reference is BH2018/00666.

Summary of Decision: The appeal fails.

Legal and Historical Matters

1. References are made below to the terms "small HMO" and "large or *sui generis* HMO". These descriptions refer to houses in multiple occupation and arise from the Town and Country Planning (Use Classes) Order 1987 as amended by later legislation (abbreviated below to "UCO"). For the purposes of planning law the UCO differentiates between a house in multiple occupation for not more than six people (a "small HMO" within Class C4 of the UCO) and a house in multiple occupation occupied by a larger number of people (a "large HMO" which is not

within any class of the UCO and is therefore a use of its own type, a description often labelled by planning lawyers as *sui generis*).

2. The appeal property is in a part of Brighton where a Direction under Article 4 of the Town and Country Planning (General Permitted Development) Order has evidently been in force since April 2013. This Order takes away normal "permitted development" rights allowing changes of use from Class C3 of the UCO (dwellinghouses) to Class C4 (small HMOs). The Direction was apparently made because of the impact of concentrations of HMOs on parts of Brighton including this neighbourhood.
3. An application was made in March 2017 for what was described as "retrospective planning for a "licensed 8 bed HMO" together with various changes to the internal layout. Permission was refused and a later appeal against the refusal was dismissed in February 2018. The appeal decision records that when the inspector saw the site in January 2018 it was occupied as an HMO with eight bedrooms.
4. As noted above, the enforcement notice was issued in March 2018, about two weeks after the date of the application now subject to the Section 78 appeal, which in turn was made about ten days after the February appeal decision. In summary, the inspector who determined the previous appeal held that the development was providing unacceptable living conditions for occupiers (particularly lack of natural light and outlook for the basement accommodation), contrary to local policies; he also held that the change of use had not adversely affected the residential character of the area and that although there was conflict with City Plan policy in this respect, this conflict did not in itself justify refusing planning permission.

Section 78 Appeal

5. The application now subject to the Section 78 appeal was expressed as seeking retrospective planning permission for a *sui generis* large HMO, and the appellant's statement dated April 2018 mentions that the site "currently [which I interpret as referring to the date of the statement] accommodates eight occupants". However, the basis of the application is that the property would be occupied by seven people, and that two windows would be installed in the side wall of the basement facing Carlyle Street.
6. Two main issues are raised by this appeal: first, the impact of the development on the character and general environment of the neighbourhood; second, the standard of accommodation for occupiers and the practicality of improving it. Both of these issues have to be considered having regard to relevant planning policies.
7. The City Council are understandably concerned about the effects which can result from concentrations of HMOs in established residential areas such as the area around the appeal site. Such developments can cumulatively harm the residential character and amenity of an area in various ways, partly because HMOs tend to house a more transient population than other types of residential use and HMO occupiers tend to have lifestyles which can clash with those of family-type or other occupiers.
8. The council refer in particular to policies CP19, CP21 and QD27 of the Brighton and Hove Local Plan. One of the purposes of policies CP19 and CP21 is evidently to support "mixed and balanced communities". This policy provides that planning permission will not be permitted for changes of use to *sui generis* HMOs where more than ten 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. Policy QD27 provides that development will not be permitted where (among other things) material nuisance and loss of amenity would be caused to adjacent residents.

9. The council do not make out a case against the proposal on grounds relating to noise, disturbance or other such effects on the area. In the light of the previous inspector's decision, the council state that they do not object to the application on grounds of the direct and cumulative impact of the change of use. Other properties in the neighbourhood may be HMOs, but this is difficult to discern from outside inspection and no evidence has been put forward about the proportion of nearby properties in such use. The council accept that the use of the property as a seven-person HMO would not harm the character or amenity of the area.
10. In those circumstances it seems to me that the conflict with local plan policy is more theoretical than real, and the council's policy-based case is weak. It cannot be sustainably argued, for example, that there is a conflict with policy QD27 about nuisance or loss of amenity for neighbours whilst accepting that no material nuisance or adverse amenity impact would be caused. Indeed, given the apparent need for student accommodation in this area, allowing this development, in a location where the local planning authority itself considers that no harm would be caused, could help to prevent more harmful development elsewhere.
11. As regards the standard of accommodation, the application drawings show what is labelled as a communal living room with lounge furniture on the ground floor with a kitchen-diner for shared use in the basement floor - this is the room which has limited natural light and no outlook except for a small light-well. The council accept that the combination of fewer occupants and increased amount of communal space "would now appear to represent a reasonable compromise". This statement was obviously made on the assumption that the largest of the ground floor rooms would be available for use as a communal lounge or living room as labelled on the application plan.
12. I have reservations about the practicality and likely effect of what is proposed. The seven current¹ occupiers of the property appear to have decided amongst themselves to use the smallest of the first floor rooms ("Bed 6" on the plans, which is only about 7.1 square metres in area) as a shared laundry room, and to use the large front ground floor room as one of the bed-sits. This leaves the basement as the communal living room and kitchen. The arrangement may well be acceptable to the current occupiers, but that is not a decisive point since there is a legitimate public interest in trying to maintain a reasonably good standard of residential environment in dwellings in Brighton, in line with Policy QD 27 of the Brighton and Hove Local Plan.² The inspector who decided the appeal in February 2018 stated when referring to the basement that "the living room and kitchen provide an oppressive environment....[which]....provides unacceptable living conditions for the occupiers of the HMO". I agree with that assessment.
13. The outside of the flank wall where two new windows are shown on the application drawings directly abuts the pavement along Carlyle Street. The proposed windows would be approximately at pavement level, with no space for a light-well, and they would be at a high level above the floor of the basement room. To provide reasonable privacy, they would have to be obscure-glazed or otherwise screened (for example with blinds or curtains). Some form of security and safety screening, such as an external metal grille, would probably also be

¹ "Current" here refers to what I saw on the date of my inspection.

² This is evidently a "retained" policy from the 2005 Local Plan.

necessary. Either way, I consider that the result would be unsatisfactory: the amount of natural light reaching the basement might be improved, but the resulting outlook and/or privacy would not provide a satisfactory environment, particularly for a room which, with seven occupiers of the house, is likely to be frequently used as a kitchen-dining room even assuming the availability for communal use of what is labelled as the living room on the first floor.

14. I also doubt the practical feasibility of installing these pavement-level windows. No details have been supplied showing how they would meet non-planning regulations and I think it likely that a condition requiring their installation would turn out to be unenforceable, even setting aside the legal difficulties of imposing a condition requiring future action on a permission which would be retrospective, despite the seven-person occupancy being expressed as prospective.
15. In reaching my decision I have had regard to all the other issues raised on which I have not specifically commented, including the submissions for the appellant about the timing of the enforcement action and what the appellant perceives as the council's failure to withdraw the enforcement notice. I consider that conditions could not make the development acceptable. In particular, I have considered the possibility of a conditional permission limiting occupancy of the property to less than seven persons; but this would not be the "large HMO" sought by the application and would not reflect the current level of occupancy. Conditions attempting to specify the exact use of individual rooms would also be so difficult to enforce in practice as to be invalid.
16. I conclude that although there are weaknesses in the council's case, there is good reason to refuse planning permission, as the living environment for occupiers is not and would not be satisfactory, contrary to Policy QD27 of the Local Plan. Therefore the appeal under Section 78 does not succeed.

Section 174 Appeal, Ground (g)

17. This ground of appeal relates to the period allowed for compliance with the enforcement notice. The appellant contends that the three month period would not provide reasonable time for arrangements to be made for the current tenants to be re-housed. A period of six months from the date of my decision is sought.
18. The main statement of case was submitted for the appellant in August 2018; the final comments are dated 3 September 2018. Full details of current tenancy arrangements have not been supplied, but there is evidence that earlier in 2018 the occupants were university students who could have conveniently moved out of the property during the summer of 2018. One of the then tenants complained to the council in May about "persistent evasion and silence" by the lettings agency.
19. The three-month compliance period specified by the council would apparently have extended beyond the end of the tenancies which were current when the notice was issued. It seems that new tenancies have been entered into, presumably in the hope that the enforcement notice would be quashed. I sympathise with the current occupiers, who may not be aware of the situation. On the other hand, from the information made available to me the appellant has not made out a compelling case for extending the compliance period. In an attempt to strike a reasonable and proportionate balance, I have decided to extend the compliance period to five months. (I have also had university term dates in mind here.) The appeal on ground (g) succeeds to that limited extent.

Formal Decisions

Section 78 Appeal (Reference APP/W/18/3205130)

20. I dismiss the appeal.

Section 174 Appeal (Reference APP/C/18/3201190)

21. I direct that the enforcement notice be varied by deleting the text in Section 6 under the heading "Time for Compliance" and substituting "Five months".
Subject to that variation, I dismiss the appeal and uphold the enforcement notice as varied.

G F Self

Inspector

Appeal Decision

Site Inspection on 7 December 2018

by Graham Self MA MSc FRTPI

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

Decision date: 11 January 2019

Appeal Reference: APP/Q1445/C/17/3190937

Site at: 1 Abbotsbury Close, Saltdean, Brighton BN2 8SR

- The appeal is made by Mr J Edwards under section 174 of the Town and Country Planning Act 1990 against an enforcement notice issued by Brighton and Hove City Council.
- The council's reference is 2014/0578.
- The notice is dated 19 October 2017.
- The breach of planning control alleged in the notice is: "Without planning permission the construction of (i) an unauthorised timber structure at the rear elevation of the dwelling extending from first floor level and (ii) an unauthorised raised garden terrace".
- The requirements of the notice are:
 1. Remove the timber structure that extends out from the rear elevation of the dwelling at first floor level and adjoins an area of raised garden at the rear.
 2. Return the rear garden ground levels to those prior to the unauthorised engineering works as shown on drawing 10161-12a, date stamped 13/01/2016, submitted as part of application BH2016/00164.
- The period for compliance is three months.
- The appeal was made on ground (a) as set out in Section 174(2) of the 1990 Act. An application for planning permission is deemed to have been made under Section 177(5) of the Act.

Summary of Decision: The appeal succeeds and planning permission is granted for the development enforced against.

Background History

1. As noted above, the enforcement notice was issued in October 2017. This followed the refusal of an application for planning permission in September 2017. The development was evidently described in the application as "works to rear garden"; but the council's refusal referred to "the creation of a terrace at first floor level to rear garden with steps from ground floor and associated alterations".
2. An appeal was lodged against that refusal. The appeal was decided in February 2018. In her decision, the inspector adopted the council's description of the development and stated that this was more accurate than the description in the application. The inspector also recorded that at the time of the site inspection, "the terrace and hardstanding had been installed", although the details did not entirely tally with the details in the application plan. From what I saw, it appears

that the main differences were the use of gravel instead of permeable block paving for surfacing part of the garden terrace as shown on Drawing Number 10059-2b (the application plan considered by the previous inspector as mentioned above), and the existence of a concrete-surfaced slope where concrete steps are labelled on the drawing. The inspector allowed the appeal and granted planning permission.

3. In 2015 an inspector dismissed an appeal seeking planning permission for the conversion of the house into a flat and maisonette. That proposal also included a raised terrace: I have no evidence about the dimensions of the structure then proposed, but the 2015 inspector apparently judged that it would provide a much more usable space than others along Abbotsbury Close, and therefore be likely to cause loss of privacy through overlooking. The 2018 inspector judged that the terrace and patio she was considering - which as explained above appears to be the same as now exists apart from some surfacing material - "would not provide a much more usable space than the majority of other gardens".

The Appeal on Ground (a) and Deemed Application

4. This appeal raises two main issues: the effect of the development on the appearance of the area; and the effect on the privacy or other amenity of neighbouring residents. These issues have to be considered in the light of relevant planning policies, and having regard to the planning history mentioned above.
5. On the first issue, the council refer to the "overly dominant" appearance of the terrace and the change in ground levels. During my inspection I saw that most of the houses in this terrace have some form of raised terrace or walkway at the rear, where the ground level slopes down from the road to the lower ground floor level of the houses. Some of these are larger or more prominent than that at the appeal site. There are also various changes in land levels along the terrace. Taking these factors into account, I judge that the development is not overly prominent in the street scene and has not materially harmed the appearance or character of the area. I note that policy QD14 of the Brighton and Hove Local Plan aims to ensure that new development is well designed in relation to its setting. I consider that the development does not conflict with that policy.
6. As for the neighbours' privacy and amenity, I saw a table on the timber structure and some folding chairs nearby. The structure is wide enough to use for sitting-out as well as for access to the house, so the council's concern about loss of privacy and possible disturbance is understandable. However, as was noted by the previous inspector in 2018, there is considerable mutual overlooking at the rear of these dwellings and the rear plots are overlooked from the adjacent road. The 2018 inspector found that the development would not lead to a significant increase in the perception of being overlooked for the occupiers of the adjacent property at No 2 and would provide some privacy for the occupiers of No 1A. I see no reason to disagree with that assessment. There are no objections by neighbouring occupiers.
7. I conclude that the development would not materially harm the privacy of neighbouring residents or lead to significant disturbance through noise. Thus the development does not conflict with Local Plan policies for safeguarding the amenities of adjacent occupiers.

Other Matters

8. I have referred to the previous inspector's decision because it is a material consideration. Indeed, if I were to dismiss the appeal and uphold the enforcement notice, it would be of no, or very limited, effect because of the February 2018 planning permission.¹ Taking into account the small areas involved, the differences between what was permitted on appeal and what is subject to the enforcement notice as described in paragraph 2 above are not so significant as to be "material" for planning purposes. Thus what has happened here is that after the enforcement notice was issued, planning permission has been granted for development virtually the same as that enforced against. The council has not withdrawn the enforcement notice; the appellant has not withdrawn the appeal against it.
9. In the last paragraph of their statement, the council refer to "the cessation of the unauthorised use". This appears to be a mistake, since the enforcement notice is directed at operational development (works of construction), not a change of use. (A "leisure-type" activity such as sitting-out in the garden or plot of a dwelling would normally be incidental to the residential use of the planning unit, not a use in its own right, and there is no suggestion that the residential use of the property should cease.) Nevertheless I have considered the possibility of granting planning permission subject to a condition to prevent the use of the timber structure for any purposes other than a means of access - the aim being to prevent its use for activities which could cause disturbance for neighbours. But such a condition would be unenforceable, since the appellant or any other owner could claim to have implemented the February 2018 permission, which did not have any restrictive use conditions.

Conclusion

10. In summary, I do not see sound or clear-cut reasons for refusing planning permission. Therefore I am allowing the appeal on ground (a). Neither the council nor the appellant's agent appears to have considered the issue of possible conditions and have not suggested any. I shall attach a condition aimed at clarifying what is being permitted.

Formal Decision

11. The appeal is allowed; the enforcement notice is quashed and planning permission is granted in response to the application made under Section 177(5) of the 1990 Act as amended, for the construction of a timber structure at the rear elevation of the dwelling extending from first floor level and a raised garden terrace at 1 Abbotsbury Close, Saltdean, Brighton BN2 8SR, subject to the following condition:

This permission relates to the development shown on Drawing No 10059-2b (titled "Proposed Alterations to Garden") except for the substitution of gravel surfacing and a concrete-surfaced slope in place of, respectively, the tegule permeable block paving and concrete steps shown on the drawing.

G F Self

Inspector

¹ This refers to Section 180 of the 1990 Act, under which where planning permission is granted after an enforcement notice is issued, the notice shall cease to have effect insofar as inconsistent with that permission. It is also relevant to note that in the case of *London Borough of Havering v Secretary of State for the Environment* [1983] JPL 240, the High Court ruled that a planning permission would be effective under Section 180 to override an enforcement notice notwithstanding that the permission did not precisely match the matters covered by the enforcement notice.

