




Brighton & Hove
City Council

Planning Committee

Title:	Planning Committee
Date:	3 April 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, Cobb, Hyde, Inkpin-Leissner, Littman, Miller, Moonan and O'Quinn Co-opted Members: Conservation Advisory Group Representative
Contact:	Penny Jennings Democratic Services Officer 01273 291065 penny.jennings@brighton-hove.gov.uk

	The Town Hall has facilities for wheelchair users, including lifts and toilets
	Infra-red hearing aids are available for use during the meeting. If you require any further information or assistance, please contact the receptionist on arrival.
	FIRE / EMERGENCY EVACUATION PROCEDURE If the fire alarm sounds continuously, or if you are instructed to do so, you must leave the building by the nearest available exit. You will be directed to the nearest exit by council staff. It is vital that you follow their instructions: <ul style="list-style-type: none">• You should proceed calmly; do not run and do not use the lifts;• Do not stop to collect personal belongings;• Once you are outside, please do not wait immediately next to the building, but move some distance away and await further instructions; and• Do not re-enter the building until told that it is safe to do so.

AGENDA

129 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.

130 MINUTES OF THE PREVIOUS MEETING

Minutes of the meeting held on 6 March (to be circulated separately)

131 CHAIR'S COMMUNICATIONS

132 PUBLIC QUESTIONS

PLANNING COMMITTEE

Written Questions: to receive any questions submitted by the due date of 12 noon on 28 March 2019.

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

134 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 BH2018/02751-Enterprise Point & 16-18 Melbourne Street, Brighton -Full Planning 1 - 66

Demolition of all existing buildings and electrical substation and erection of building of between 5 to 8 storeys comprising office floor space (B1), student accommodation including 330no student bedrooms (Sui Generis), 24no residential flats (C3), ancillary residents' amenity space, associated plant and electrical substation, landscaping, access, cycle spaces, parking and associated works.

RECOMMENDATION – REFUSE

Ward Affected :Hanover & Elm Grove

B BH2019/00293 - Former Peter Pan Playground Site, Madeira Drive, Brighton -Full Planning 67 - 122

Erection of outdoor swimming pool (25m x 12.5m) and changing/plant rooms (D2 use), flexible events space (D2 use) and 1-2 storey relocatable modular buildings with first floor deck to provide mixed leisure/retail/food/drink/office uses (D2/A1/A3/A4/A5/B1 uses) with associated cycle parking, refuse storage, landscaping, boundary treatment and retractable beach mat. Temporary (meanwhile use) for 5 years.

RECOMMENDATION – MINDED TO GRANT

Ward Affected: East Brighton

C BH2018/03600 -Buckley Close, Hove -Full Planning 123 - 166

Demolition of existing garages (B1) and erection of 3no two storey residential blocks providing 12no flats in total (C3) with gardens. Creation of 11no car parking spaces and cycle storage, with landscaping and other associated works.

RECOMMENDATION - MINDED TO GRANT

Ward Affected: Hangleton & Knoll

MINOR APPLICATIONS

PLANNING COMMITTEE

- D BH2018/00312 -93 Lustrells Crescent, Saltdean, Brighton - Outline Application** **167 - 184**
- Outline application with all matters reserved for the demolition of existing dwelling and erection of 2.no dwellings (C3).
RECOMMENDATION – GRANT
Ward Affected: Rottingdean Coastal
- E BH2017/01795 -17 Shenfield Way, Brighton -Full Planning** **185 - 196**
- Change of use from residential dwelling (C3) to three bedroom small house in multiple occupation. (C4) (Retrospective).
RECOMMENDATION - GRANT
Ward Affected: Hollingdean and Stanmer
- F BH2018/03896-Hove Central Library, 186 Church Road, Hove- Listed Building Consent** **197 - 204**
- Alterations to entrance lobby to install access control system including exit button and associated works.
RECOMMENDATION – GRANT
Ward Affected: Central Hove
- G BH2018/01965- 99 Dyke Road, Brighton- Full Planning** **205 - 218**
- Change of use from two bedroom flat (C3) to yoga studio with therapy treatment rooms (D2) with opening hours of 10am - 6pm Monday to Friday.
RECOMMENDATION – REFUSE
Ward Affected:Regency

135 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

- 136 INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS** **219 - 222**
- (copy attached).
- 137 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE** **223 - 226**
- (copy attached).
- 138 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES** **227 - 228**
- (copy attached).

(copy attached).

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

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

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

Agendas and minutes are published on the council's website www.brighton-hove.gov.uk. Agendas are available to view five working days prior to the meeting date.

Electronic agendas can also be accessed through our meetings app available through www.moderngov.co.uk

Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested.

WEBCASTING NOTICE

This meeting may be filmed for live or subsequent broadcast via the Council's website. At the start of the meeting the Chairman will confirm if all or part of the meeting is being filmed.

You should be aware that the Council is a Data Controller under the Data Protection Act 1998. Data collected during this web cast will be retained in accordance with the Council's published policy (Guidance for Employees' on the BHCC website).

Therefore by entering the meeting room and using the seats around the meeting tables you are deemed to be consenting to being filmed and to the possible use of those images and sound recordings for the purpose of web casting and/or Member training. If members of the public do not wish to have their image captured they should sit in the public gallery area.

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

FURTHER INFORMATION

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

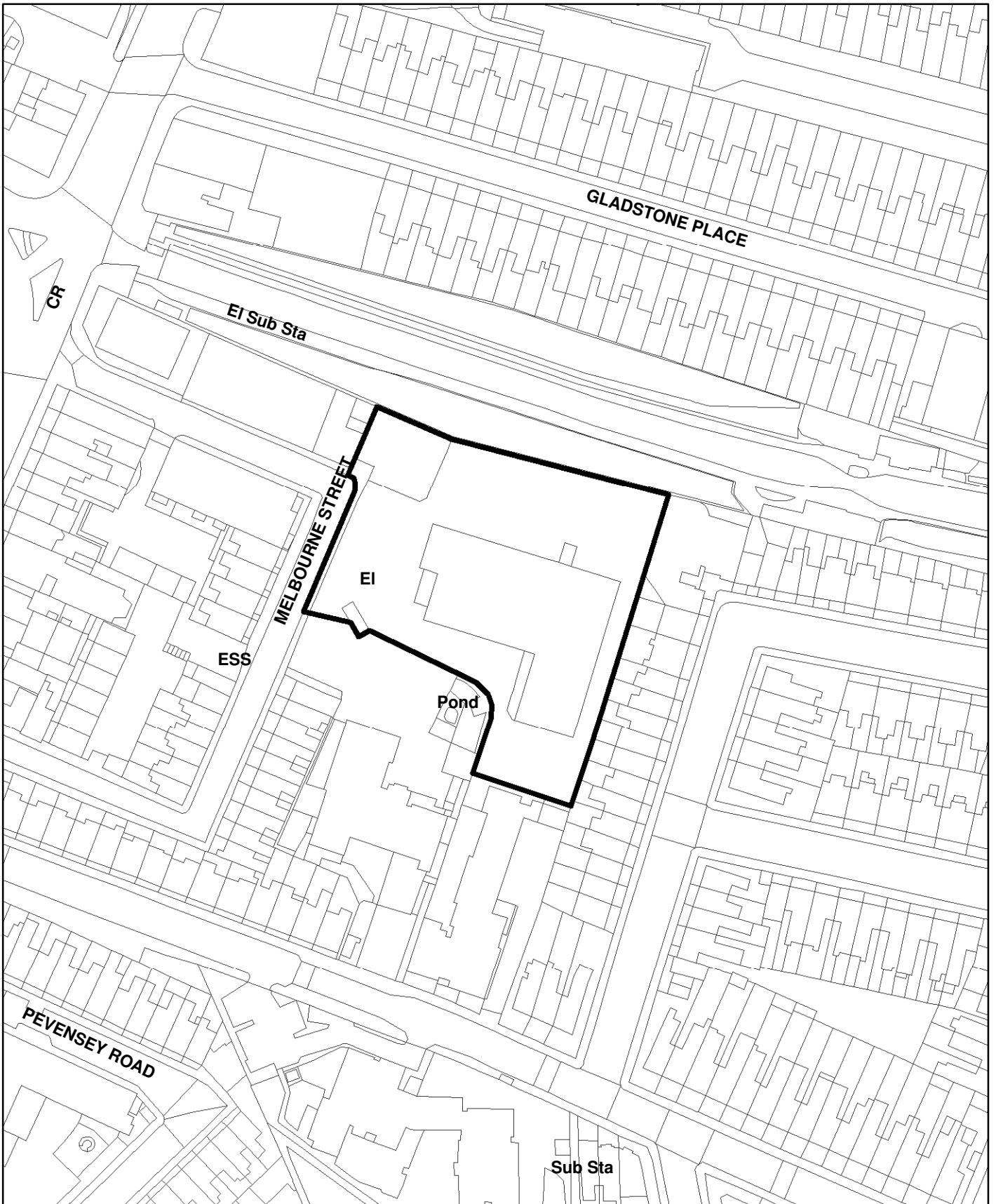
Date of Publication - Tuesday, 26 March 2019

ITEM A

**Enterprise Point & 16-18 Melbourne Street
BH2018/02751
Full Planning**

DATE OF COMMITTEE: 3 April 2019

BH2018_02751 Enterprise Point & 16-18 Melbourne Street



Scale: 1:1,250

<u>No:</u>	BH2018/02751	<u>Ward</u>	Hanover And Elm Grove
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Enterprise Point & 16-18 Melbourne Street, Brighton, BN2 3LH		
<u>Proposal:</u>	Demolition of all existing buildings and electrical substation and erection of building of between 5 to 8 storeys comprising office floor space (B1), student accommodation including 330no student bedrooms (Sui Generis), 24no residential flats (C3), ancillary residents' amenity space, associated plant and electrical substation, landscaping, access, cycle spaces, parking and associated works.		
<u>Officer:</u>	Mick Anson Tel: 292354	<u>Valid Date:</u>	21.09/2018
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	21.12.2018
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	08.03.2019
<u>Applicant:</u>	Vita Brighton 1 Ltd And Cross Stone Securities Ltd		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **REFUSE** planning permission for the following reasons:
 1. The proposed development would occupy a site which is allocated for housing and employment mixed use development under City Plan Part One Policy CP3. The small amount of housing proposed on an allocated site for housing would therefore compromise the Council's ability to meet its housing needs and would set an unwelcome precedent for the approval of student accommodation on other housing sites across the City in the future. For this reason the proposed development is contrary to Policies CP1, CP3 and CP21 of the Brighton & Hove City Plan Part One.
 2. The proposed development would result in an unacceptable impact on the amenity of neighbouring residential properties in Shanklin Road due to its overbearing nature resulting in a loss of outlook and daylight to its occupiers as well as a loss of daylighting to adjoining residential properties in Viaduct Lofts, Melbourne Street contrary to policy QD27 of the Brighton and Hove Local Plan.

3. The proposed student and residential accommodation would not be acceptable as it would provide poor amenity due to unacceptable daylighting levels to future occupants of the development thus contrary to policy QD27 of the Brighton and Hove Local Plan.

Informatives:

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

2. SITE LOCATION DESCRIPTION

- 2.1. The site comprises two buildings, the main one being Enterprise Point which is a part 5, part 6 storey L-shaped 1950's style industrial building with roof plant above. The front of the building is set back 18.5 – 20m from the Melbourne Street boundary but with the 5 storey south wing set back up the hill. The site slopes down to the front (west) by over 7 metres and so due to the topography the two wings of the current building have the same flat roof at the same height. The second building on the site is 16-18 Melbourne Street, a two storey industrial unit in the north west corner of the application site.
- 2.2. The site is flanked on the east boundary by the rear of a terrace of residential properties on Shanklin Road. To the south is a primary school and on the north boundary the access road to Woodvale Crematorium. The north boundary is heavily screened by a large belt of mature deciduous trees on the crematorium land owned by the city council. On the north east boundary of the site is a four storey former industrial building converted to 20 flats which has its west elevation on the boundary of the application site with windows facing (west) directly onto the current car park of Enterprise Point.
- 2.3. Opposite the site on Melbourne Street is a 7 storey block of flats known as Viaduct Lofts. To the south are small terraces of two storey houses also on Melbourne Street. West of the site on Melbourne Street are a row of low rise industrial buildings in use as workshops and vehicle repairs.
- 2.4. The Round Hill Conservation Area is prominently located to the west of the site on the western side of Upper Lewes Road. The Valley Gardens Conservation Area lies further to the south west of the site, approximately 450m away. The adjoining Woodvale Crematorium to the northern boundary is designated as an historic listed Park and Garden and also contains listed buildings and structures. There are further listed buildings in the Locally Listed City Cemetery to the north of the site.
- 2.5. The adjoining Woodvale Crematorium is also designated as a Site of Nature Conservation Interest (SNCI).

3. RELEVANT PLANNING HISTORY

- 3.1. **BH2013/01575** - Outline application for the demolition of 16-18 Melbourne Street and the construction of a new 5 storey building comprising 15 no. residential units (including 3 no. affordable). Demolition of the south wing of Enterprise Point, provision of an additional storey on the remaining block and 7 storey extension to the West (front) elevation to provide 1030 sq m of upgraded Class B1 offices on the lower ground and ground floors together with 58 no. residential units. Construction of a new 4 storey building in the South East corner of the site comprising 65 sq m. of community space on part ground floor and 15 no. affordable residential units - **Granted** - 15 August 2014. (Expired consent).
- 3.2. **BH2009/00655** – (Viaduct Lofts, Melbourne St) Demolition of existing yard buildings and erection of 3 storey terrace along eastern boundary of site, and 4 and 7 storey apartment building along northern boundary of the site, providing a total of 39 residential units, cycle and car parking to rear - Refused - 8th July 2009. Appeal allowed 18th August 2010

Pre-application

Design Panel Review 1st August 2018

- 3.3. The application was presented to the Design Panel on 1st August 2018. The scheme proposed a 9 storey development of 350 student rooms; 19 affordable housing units and 1020 sqm. employment space. The following summary comments were made by the panel:
- The proposal would be better if taken back a stage to address some of the more fundamental concerns and further analysis/research carried out to inform a more contextual approach
 - The scale of the scheme in relation to the surrounding area, the level of overshadowing to immediate neighbours, and the compromised nature of proposed public spaces suggests that too much accommodation is being shown for the site
 - Key issues to address are the lack of daylight to the employment space and some of the student rooms, the risk of damage to mature trees leading to the cemetery and how best to address Melbourne Street. The creation of public and private amenity space with a clearer purpose avoiding ambiguous and underused areas should also be considered.

Pre-app Members consultation (July 2018)

- 3.4. Summary of comments made in writing (August 2018):
- The principle of a comprehensive redevelopment of the site is welcomed.
 - It was noted that the proposed purpose built student accommodation was in conflict with policies CP3 and CP21 of City Plan Part One which

was considered a significant concern. The approach of providing a limited number of C3 units (as affordable) was insufficient to overcome this policy conflict.

- The type of flexible office space to be provided was welcomed but concerns raised about overall reduction of employment floorspace on site.
- The overall design approach in regards to form and materials (brick) was considered something that could work on the site, members were generally all in agreement that the building was too tall for the site and recommended a reduction in height be considered.
- It was noted that the site is not within a tall building node,
- Concerns regarding the scale / density of development noting it would be out of character with the wider residential area which is generally at a smaller scale,
- The building was too tall for the site and recommended that a reduction in height be considered.
- Concerns raised about the principle of 350 additional students on the proposed site due to amenity impact of the students (movements, noise and disturbance) and the wider unbalancing effect on the wider community by introducing more students into an area.
- Concern was raised as to how the proposal would impact on neighbouring properties by way of daylight, outlook, overbearing impact etc.
- Whilst this was predominantly a student development and not standard housing (C3) units the studios would still be required to provide a good level of accommodation in terms of living conditions of future occupiers in respect of daylight, outlook, size of rooms etc.
- Concerns raised over the lack of car parking and the potential for overspill into other areas of the city outside of controlled parking zones
- It was strongly recommended that information is provided demonstrating that registered providers would take on the affordable units.

Officer pre-application advice (23/08/2018)

3.5. Written advice summary

- The site is allocated for housing and employment in City Plan Part 1 policy CP3. Policy CP21 clearly sets out that schemes for Purpose Built Student Accommodation will not be permitted on allocated housing sites. Not considered that the proposal provides a convincing argument to accept an exception to policy
- Proposal appears over-scaled in respect to height and massing on a fairly constrained site to the detriment of the visual amenity of the streetscene and the wider area. The overall design approach should be revisited.
- Proposal would harm the residential amenity enjoyed by adjoining properties in regards to loss of light, privacy, outlook and an overbearing impact. Properties abutting the north /east corner of Shanklin Road

appear to be worst affected. Revisions to footprint/massing should be considered.

- Standard of some of the accommodation provided appears inadequate with limited light, privacy and outlook to some of the residential / student units and also poor lighting to the office.
- Concerns that the quantum of B1 office proposed would represent a significant loss of employment floorspace over existing. Justification needed.
- Highway Authority have concerns relating to access, layout and cycle / vehicle parking.

4. THE APPLICATION

- 4.1. The application proposes the demolition of all the existing buildings and relocation of an electrical substation on the site and the erection of a new building of between 4 to 8 storeys comprising 1,048 sqm. of business floor space (B1), 330 no. student bedrooms (Sui Generis) with a student hub space of 348 sqm., 24 no. residential flats (C3), residents' and student amenity space, associated plant and electrical substation, landscaping, access, cycle spaces, parking and associated works.
- 4.2. The proposals initially submitted proposed a development up to 9 storeys in height but has been amended during the course of consideration of the application by reducing the height of the north block by a storey from 9 to 8 storeys and the west block by a storey from 7 to 6 storeys. As a result the number of student rooms has been reduced from 350 to 330 rooms. The number of affordable housing units has also increased from 20 to 24 units with. The housing units proposed have been increased by altering the mix of units to a 50:50 mix from a 40:60 mix of 1 and 2 bed units.
- 4.3. The development would be up to 8 storeys in height with its tallest element on the north part of the site backing onto Woodvale cemetery. This part of the development would provide the student accommodation and the business space ('Vita Work') would have 2 lower (7 storey) blocks to the south on the east and west sides of the site to form a courtyard in the middle. Within the courtyard would be an L-shaped single storey element with a roof terrace on top. The west facing front of the building onto Melbourne Street also features a single storey element providing the entrance to the student and business space.
- 4.4. The proposed housing units would be in a 5 storey block physically linked to the east student block but with their own communal entrance at ground floor level. As the residential block is set back 50m from the site frontage, significant excavation would be required to overcome the change in site levels and provide an accessible entrance to the building. The building would have an east-west orientation sited opposite the Shanklin Road terraced dwellings.
- 4.5. The business space would occupy the ground floor of the main block arranged around the courtyard whilst this floor would also include cycle and refuse

stores and plant space under the north block and a small gym (98 sqm.) by the main entrance at the front. At first floor level a student hub providing all of the communal space would be in the west block with student accommodation in the north and east blocks. All of the student accommodation proposed would be studio accommodation each with their own cooking facilities.

- 4.6. The remaining upper floors of the student block provide student rooms on the north, west and east blocks. The studios are arranged off a central corridor so that they either have an outlook over the courtyard or face north, west and east.
- 4.7. There are 3 disabled parking spaces for student occupiers proposed in the north-west corner of the site. A 4th disabled parking space is proposed for the residential block. 220 student cycle spaces and 24 residential cycle spaces are proposed (an uplift of 45 and 4 spaces respectively since submission) would be provided. 10 cycle spaces for the employment space are also proposed.

5. PUBLICITY AND CONSULTATIONS

External

INITIAL REPRESENTATIONS

- 5.1. 38 representations have been received from residents objecting or commenting on the proposed development, on the following grounds:
- 5.2. Land Use/Principle of Development
- The existing building does not need upgrading and should be retained and converted.
 - The development proposes an excessive number of students for the site/area which will impact on local highways and infrastructure.
 - There is an oversupply of student housing in the area including at Vogue Gyratory, Hollingdean Lane and Lewes Road. There is no need for more student housing in this area. New student housing should be directed to other areas which don't already have a high concentration of student housing,
 - 5 of the 17 houses on Melbourne Street are let to students
 - The development does not have the right split between student rooms at 350 and affordable flats at 20. It is extremely difficult to find affordable housing in this area for a non-student renter or buyer.
 - The development would serve the needs of a transitory population over the resident population which is wrong.
 - Students are a transient population and are unlikely to stay long term. The area needs more good quality affordable housing for local families/permanent residents.
 - Student housing does not free up family housing as local universities are constantly taking more students.

- The development would result in the loss of property guardians' housing in current building.
- Loss of existing sports and community uses on the site.

5.3. Design/Visual Amenities/Landscape Impacts

- The development would have an inappropriate height at 9 storeys. The height of the development needs to be reduced/more considerate and no taller than the existing building.
- The building would dominate the skyline and impact on local views.
- The adjacent Viaducts Loft development is already a high 7 storey building and this is a narrow street.
- The development should be reduced to the same height as Viaduct Lofts and should be set back further from Melbourne Street and stepped back in height.
- The development would be an overdevelopment of the site.
- The development should contain additional open space, trees and landscaping.

5.4. Amenity Issues

- Overshadowing and loss of light to the properties on Shanklin Road to the rear.
- Loss of outlook to the rear of properties on Shanklin Road.
- Loss of privacy to the rear of properties on Shanklin Road and Viaduct Lofts to the front. An earlier plan for this site had angled windows.
- No tree screening is proposed on the western side of the site which would reduce potential overlooking of properties at Viaduct Lofts.
- Deliveries to the student flats would cause noise and disturbance.
- Additional students will cause noise and anti-social behaviour problems in the area, including late night activity, drunkenness, smoking and litter. This would also increase vermin in the local area.
- The student housing should have a 24 hour concierge.
- Overlooking of the adjacent school playground, which raises privacy and safety concerns regarding the school children.
- Noise, dust and air pollution during construction works.
- The flats should not be let out as residential flats outside term time.

5.5. Transport/Highway/Access Issues

- Additional traffic impact, increased congestion and highway/pedestrian safety issues - This is already a congested area and cannot accommodate additional traffic.
- Children being dropped off and picked up at the adjacent school causes local traffic congestion.
- Melbourne Street is a one way road and there are already issues with people driving the wrong way, parking on the double yellows and on bends.
- There is double parking on Melbourne Street which would make it difficult for construction/service lorries to access the site.

- The Melbourne Street/ Lewes Road exit is a dangerous junction with a bus stop to the right, a pedestrian crossing to the left and buses blocking views, and a cycle lane. The additional traffic from the development may cause accidents.
- The development will place additional strain on local refuse and recycling collection.
- This development and the nearby development on the garage should not be constructed at the same time.
- Refuse lorries already find it difficult to access Melbourne Street. The residents of the nearby Connaught Mews have been told that Melbourne Street is too narrow for bin lorries.
- Access for emergency vehicles needs to be considered.
- The construction transport impact plan will need to take into account the width of the street, traffic, current residents, working hours etc. There should be a named contact and telephone number so that any issues can be addressed.
- The development would be car free with access to local parking permits; however disabled users would still be entitled to local car parking permits. In addition students will park their cars nearby in areas without parking restrictions.
- Increase in informal parking within the grounds of the adjacent Woodvale Crematorium and Coroners Court which will impact on the day to day operation of that site.
- The number of delivery bays would not be sufficient for 350 students.
- There may be insufficient local bus capacity to transport these students to the University.

5.6. Other Issues

- The development would impact on trees in the grounds of adjacent properties.
- Local doctors will be under pressure from such a large amount of extra people living in such a small area.
- Additional student housing will make the area feel more transient.
- The demolition of the existing building is a waste of resources. The building is structurally sound so should be renovated and refurbished.
- Structural impact on retaining walls to properties on Shanklin Road.
- The rooftop telecommunications mast should be relocated elsewhere.
- Impact on property values.

5.7. 2 representations have been received from residents supporting to the proposed development, on the following grounds:

5.8. Land Use/Principal of Development

- Housing is needed and this will free up local family housing.

5.9. Transport

- The road has good transport links and is a good location for students.

5.10. Design/Visual Amenities/Landscape Impacts

- The design of the scheme looks ideal for this area.
- 5.11. Amenity
- The forecourt of Enterprise Point is presently used informally by the adjacent garage for car repairs. The development would stop this noisy activity.
- 5.12. Amended Scheme
- 26 representations have been received from residents objecting or commenting on the revised proposals, on the following grounds:
- 5.13. Transport
- Additional traffic
 - Inadequate street lighting will become worse for pedestrians
 - Poor visibility for entering and exiting Melbourne Street onto Lewes Road will be made worse by additional traffic
 - On-street parking cannot be managed.
 - Melbourne Street cannot cope with more servicing and deliveries
 - Would limit access to local businesses and residents
- 5.14. Scale/Massing/Heights
- Inappropriate height (8 storeys) in distant views. Should be 6 storeys.
 - Overdevelopment. Inappropriate for the space available.
 - Out of keeping with Melbourne Street
 - Too close to boundary (Shanklin Road)
 - Too close to the street (Melbourne Street).
- 5.15. Density
- Reduction of scheme student numbers is small (5%)
 - Excessive density of rooms
- 5.16. Mix of uses
- Area over concentrated with students. More students would result in less people wanting to live here and perpetuate the imbalance in the community.
 - Scheme will not reduce student HMO's as developers claim.
 - Not enough (affordable) housing proposed
 - Would welcome a housing and employment development.
 - Newsletter sent to residents stating that 23,000 students will not have accommodation is not credible.
 - Reduction in student numbers is insignificant. Should be 200 maximum.
- 5.17. Amenity/Noise/Privacy/Daylight
- Noise echoes around rear of current site on Shanklin Road due to drop in ground levels creating a canyon effect. Noise would become worse.
 - Would cause overshadowing
 - Overlooking (Shanklin Road and Viaduct Lofts)
 - Loss of daylight (Shanklin Road) especially to basement flat already below standard.

- Loss of amenity with increased footfall.
- Concern about summer lets to non-students
- Construction noise
- Loss of privacy despite removal of balconies and addition of angled windows 6 metres from garden.
- Would cause pollution.

5.18. Infrastructure

- Massively out of proportion with local infrastructure e.g. buses, GP surgeries, dentists etc
- Be mindful of another proposal for Melbourne Street garages coming forward for HMO living
- Support no car scheme but concern about transport infrastructure
- Scheme needs to be seen in conjunction with all student schemes in the pipeline

5.19. Landscaping

- Damage to trees in gardens
- Amenity space between development and Shanklin Road houses will become like a wasteland
- Concern about nesting birds in existing trees

5.20. Other issues

- Residents of 29 Shanklin Road have a rear exit which allows access onto the existing site car park. Applicants not responded to resident queries about the use of this access.
- Not taken account of local resident's objections
- Object to how developer is making concessions to the school to bolster their plans.

5.21. 2 comments of Support

- Good design
- Support if improvement of existing student behaviour in Melbourne Street can be built in.

5.22. St Martins Primary and Nursery School:

Areas of support-

- We accept that the site needs to change and be developed.
- We appreciate that the project has a long term vision and is education based with opportunities for us to work together for the benefit of the children and the community.
- We have had many meetings and held a consultation with our community and Vita has listened to suggestions and feedback.
- Vita has offered to support the school with developing the playground into a better space for the children.
- They have given clear priority to the boundary line and on suggestions from the school community and have agreed larger trees on their side and a green wall to enrich the environment.

- We would anticipate this design element forms part of any planning permission as a pre occupation planning condition.
- We appreciate the fact that this will be a managed property at all times.

5.23. Areas of concern-

- We would like them to consider the west side block with potential to step this back from the school so it would not be so over bearing.
- We would like to be consulted regularly on the construction management plan.
- Construction needs to take account of the proximity and disturbance to the school particularly during teaching hours.
- We would suggest that jointly we form an action group with school travel team/highways to consider the development of pedestrian routes in Melbourne Street. We would suggest any section 106 funding from a planning approval on this site be directed to improve pedestrian access to the school along Melbourne Street.
- We would need the stringent Health and Safety measures to control dust, noise and delivery traffic etc. to be continually monitored, assessed and revised in order to ensure the school continues to be a safe and comfortable environment.

5.24. **Councillor Dick Page (Hanover & Elm Grove Ward):** Objects to the development. Comments attached.

5.25. **Councillor Emma Daniel (Hanover & Elm Grove Ward):** Objects to the development. Comments attached.

5.26. **Councillor David Gibson (Hanover & Elm Grove Ward):** Objects to the development. Comments attached

6. CONSULTATIONS

External:

6.1. **East Sussex County Archaeologist:** No Objections. There are no significant archaeological remains that are likely to be affected by these proposals.

6.2. **Environment Agency:** No response received

6.3. **RSPB:** Comment. If the Council intends to grant permission for the above planning application, a planning condition should be added requiring 4-6 swift nest bricks (located in the north wall/east wall). Installing integral swift bricks would contribute to these objectives and demonstrate the commitment of the Council to protecting and enhancing biodiversity. and would comply with Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 and Section 170(d) of the revised National Planning Policy Framework (NPPF).

6.4. **Sussex Police:** Comment on the development on the following grounds:

- 6.5. The NPPF demonstrates the government's aim to achieve healthy, inclusive and safe places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. With the level of crime and anti-social behaviour in Brighton district being above average when compared with the rest of Sussex, I have no major concerns with the proposals, however, additional measures to mitigate against any identified local crime trends should be considered.
- 6.6. The student internal cycle storage will need to be separated into independent & secure areas with access control. A maximum of 30 cycles each, to reduce payoff to a potential offender and to reduce the chances of theft of parts or theft of the cycles. The store must be fitted with movement activated lighting and secure cycle storage racks.
- 6.7. External lighting throughout the development will be an important consideration and should conform to the recommendations within BS5489:2013. Energy efficient, dusk to dawn switched LED, vandal resistant lighting should be used where possible. Lighting must be commensurate with any considered CCTV equipment.
- 6.8. Southern Water: Comment** on the development on the following grounds
- 6.9. Foul sewage disposal can be provided to service the proposed development. A formal application to us is required for a connection to the public sewer.
- 6.10. Planning Conditions should ensure that appropriate means of surface water disposal are proposed for each development. It is important that discharge to sewer occurs only where this is necessary and where adequate capacity exists to serve the development.
- 6.11. The planning application form makes reference to drainage using Sustainable Urban Drainage Systems (SUDS). SUDS rely upon facilities which are not adoptable by sewerage undertakers. Therefore, the applicant will need to ensure that arrangements exist for the long term maintenance of the SUDS facilities to avoid flooding and inundation of the foul sewerage system. A management and maintenance plan for the lifetime of the development should be required.
- 6.12. UK Power Networks: Objects** to the development on the following grounds:
- 6.13. The applicant has not served notice in accordance with the Party Wall Act. The applicant should provide details of the proposed works and liaise with us to ensure that appropriate protective measures and mitigation solutions are agreed.
- 6.14. East Sussex County Ecologist:** Can be supported from an ecological perspective provided that the recommended mitigation measures are implemented. The proposed development is unlikely to have a detrimental impact on biodiversity.

6.15. Potential impacts on biodiversity:

- Woodvale, Extra-mural and Downs Cemeteries Local Wildlife Site (LWS or Site of Nature Conservation Importance) lies adjacent to the northern boundary of the site. Vegetation along the northern boundary should be retained and protected where possible and a sensitive lighting scheme should be developed to prevent light spill onto the LWS.
- The site is predominantly buildings and hard standing, with some scattered trees on the boundaries, and is of relatively low biodiversity interest.
- One mature elm tree on the northern boundary is ivy clad and as such, offers some potential for roosting bats.
- The site has the potential to support breeding birds.
- The site is unlikely to support any other protected species
- Mitigation Measures and Enhancement:
- The site offers opportunities for enhancement that will help the Council address its duties and responsibilities under the NERC Act and NPPF. Opportunities include, but are not limited to, the provision of green walls and/or roofs, the provision of bird, bat and/or insect boxes and the use of native species and species of known wildlife value within the landscaping scheme.
- Although the sustainability checklist does not include a green wall, it is noted from the Design and Access Statement that green roofs will be provided. A brown or biodiverse roof would be most beneficial to wildlife, and the use of chalk grassland species would help meet Biosphere targets.
- If the Council is minded to approve the application, it is recommended that a condition is applied requiring an ecological design strategy.

Internal:

6.16. **Arboriculturalist Initial comments:** Recommend refusal

6.17. The immediate street scene on Melbourne Street is harsh but benefits greatly from the wooded backdrop afforded by the trees in the cemetery.

6.18. The proposed redevelopment, following demolition involves the construction of a substantial modern block. This block has a footprint considerably larger than that of the existing building leaving minimal space for meaningful soft landscaping and tree planting. The new building pushes up towards the northern boundary where it impinges on the canopy and root system of neighbouring trees. It also comes close to the southern boundary where space for only token planting adjacent the primary school is offered. Along the eastern boundary, an opportunity is missed to bring some improvement to this aspect for residential properties in Shanklin Road. The proposed green roof design is welcomed, but should be seen as a baseline for building projects of this magnitude.

6.19. The construction process will have a direct impact on the adjacent trees in Woodvale cemetery. There are a small number of removals (5) and these will

cause minimal impact which is not disputed. The main area of concern is around the degree of cutting back required to facilitate construction and the likely impact of level changes between the new building and the northern boundary. More space between the building and the trees is required and minimal change in levels can be tolerated in the rooting zone. With the likely need to scaffold the building and the existing gradients requiring some alteration, an arboricultural method statement is needed before any consent could be granted.

- 6.20. It is acknowledged that the existing site has no merit in terms of soft landscaping. However, in view of the scale of the redevelopment proposed and minimal soft landscaping being offered, the Arboricultural Team are of the view that consent should not be granted. The redevelopment should be seen as an opportunity to secure landscape improvement and this is especially important where the site adjoins the neighbouring school. A more substantial green buffer should be formed between the two buildings than that provided by little more than a single line of lime trees. A building with smaller footprint may be viewed as a better option especially if this brings additional planting on site.
- 6.21. Revised comments: Object
- 6.22. The latest revision detail brings some clarity regarding changes in levels and surfaces which gives some assurance as to the limit of root damage likely to occur. Provided the site is carefully supervised it would appear that the level of root damage should be only minor, due to the trees position upon an embankment, and will not excessively affect the trees.
- 6.23. The building comes close to the southern boundary where space for only token planting adjacent the primary school is offered. This has been weakened further by the removal of planting, initially proposed so as to provide further car parking. It is our view that around a minimum 4m width of contiguous soft landscaping between the school and the building within the site should be afforded to a scheme of this size and impact.
- 6.24. Along the eastern boundary, an opportunity is missed to bring some improvement to this aspect for residential properties in Shanklin Road. The intention to form a wild grassland meadow in this area is very optimistic due to very low light levels and will never be able to produce flowering meadow of the type implied on the plan.
- 6.25. The terraced area has landscaping proposed some of this include 4m high trees to help with wind mitigation. At this level any vegetation would be within planters with limited space for rooting volume, and their long term retention will not be sustainable due to the risk of them being pot-bound and other risks associated with enclosed planting such as irrigation.
- 6.26. Large 8m high evergreen trees are proposed for wind mitigation along the southern boundary. Whilst large trees will give instant impact, they will require a lot of care in order to reach successful establishment and a long term management plan will be required. Evergreen trees retain their full crown

throughout the year and may form a hedge once their tree crowns mature and close canopy with the adjacent trees. Deciduous trees even without leaves will still manage to soften the adjacent buildings around them.

- 6.27. The proposed green roof design is welcomed, but should be seen as a baseline for building projects of this magnitude. The road frontage has a limited scope for some soft landscaping to be provided with at best 1 or 2 trees.
- 6.28. Final comments: No objection
- 6.29. The council has been sent new information in response to the arboricultural team's comments about trees and proposed landscaping at the site. It is acknowledged that the existing site has no merit in terms of soft landscaping, however, the proposed soft landscaping submitted was inadequate at the time when balanced against the scale of the redevelopment.
- 6.30. A widened four metre landscape strip has been proposed upon the southern boundary adjacent to the school and this is welcomed by the arboricultural team, as it will provide a greater buffer between the existing school to the south and the proposed development. Overall the new information submitted by the applicant has taken note of our concerns and is an improvement to the previous plans. Broadleaf trees are still preferred and concerns may arise due to growth of trees in proximity to the south elevation. The high hedge proposed on the southern boundary could cause sunlight deprivation to planting at lower level. Further details will need to be submitted at a later date but these could be part of a landscaping condition.
- 6.31. Children and Young People's Trust:**
- 6.32. Initial comment: The level of contribution towards education infrastructure that would be expected if this development was to proceed is below.
- 6.33. The application form includes student accommodation and 20 x 1 or 2 bed units. In calculating the contribution I would be seeking I have only included the residential units since the pupil yield from student accommodation would be negligible.
- 6.34. In this instance we will not be seeking a contribution in respect of primary education places as there are sufficient primary places in this part of the city and the city overall. The calculation of the developer contribution shows that we would be seeking a contribution of £13,772.80 towards the cost of secondary provision if this development was to proceed.
- 6.35. With regard to the secondary provision, the development is in the current catchment area for Dorothy Stringer and Varndean schools. At the present time there is no surplus capacity in this catchment area and secondary pupil numbers in the city are currently rising. Any funding secured for secondary education in the city will be spent at either Dorothy Stringer or Varndean schools.

Contribution for Nursery Education	£0.00
Contribution for Primary Education	£0.00
Contribution for Secondary Education	£13,772.80
Contribution for Sixth Form Education	£0.00
<u>Grand Total</u>	<u>£13,772.80</u>

Revised comments

- 6.36. The application form includes student accommodation and 24 x 1 and 2 bedroom units. In calculating the contribution I would be seeking I have included just the dwellings.
- 6.37. The calculation of the developer contribution shows that we will be seeking a contribution of £15,024.00 towards the cost of secondary provision if this development was to proceed.
- 6.38. Economic Development: Initial comments Support on the following grounds:**
- 6.39. City Regeneration notes that the building in its current form is dated and in a poor condition and is not best suited for modern business requirements. City Regeneration understands the majority of the site has been vacant for several years and thereby does not contribute to the local economy. The applicant states that the building is currently less than 30% let on short leases with tenants holding over, pending development of the building. Large areas of the building have been vacant for many years as they have proved un-lettable and require significant refurbishment.
- 6.40. A workspace (Class B1) of approximately 1,043m² (NIA) is proposed at ground floor with frontage onto Melbourne Street for use by VITA work users and will be operated by Vita Work. The Vita Work space will provide ad hoc or short to medium term office leases which are generally required by small and start-up enterprises who are struggling to find suitable and affordable workspace in Brighton & Hove. It is also noted that it is envisaged the space will encourage entrepreneurship of graduates through the provision of this business start-up space which is integrated with student accommodation and we welcome this concept.
- 6.41. City Regeneration regrets the significant loss of 2,919 sqm of B1(a) office floorspace within Brighton & Hove, however, this will be partly redressed by the provision of workspace (Class B1) of c.1,043 sqm on this site. Based on guidance from the Homes and Communities Agency, the planning statement says the Vita Work unit is estimated to generate 104 jobs and the applicants estimate management of the Vita Student and Vita Work spaces will create c.15 jobs. However, the application form estimates job creation at 124 FTE. The OffPAT Employment Densities Guidance indicates for B1(a) Office space the site could provide 90 FTE jobs based on 1,043 sqm. Even with the additional 15 FTE jobs to manage the Vita Student and Vita Work spaces, the applicant's estimates exceed the OffPAT estimates. We also note that the construction phase is estimated to create 186 jobs over an approximate 2 year

period. City Regeneration welcomes the jobs creation proposed which will bring this derelict site back into use and contributing to the local economy.

6.42. Should this application be approved, as a major development, it would be subject to developer contributions as specified in the planning authority's Technical Guidance for Developer Contributions.

6.43. The breakdown of the developer contributions would be as follows:

Studios / Bedsits	350 x £100	£35,000
1 / 2 Bed dwellings	20 x £300	£6,000
TOTAL:		<u>£41,000</u>

6.44. In respect of non-residential floor space, as there is an actual loss of 2919 sqm of employment floorspace, developer contributions would not be applicable.

6.45. In addition to the developer contributions, should this application be approved, there would be a requirement for an Employment & Training Strategy demonstrating how the developer or their contractors will provide opportunities for employment and training for local people to be secured by a S106 Agreement.

Revised comments

6.46. City Regeneration supports this application. Please refer to fuller details in the Main Comments and suggested conditions.

6.47. Should this application be approved, it would be subject to developer contributions as specified in the Planning Authority's Technical Guidance for Developer Contributions.

6.48. The developer contribution requested would be **£40,200**.

6.49. The breakdown of the developer contributions is as follows:

Category	No of Units		Contribution for unit	Total
Studios / Bedsits	330	x	£100	£33,000
1 / 2 Bed dwellings	24	x	£300	£ 7,200
	TOTAL -----			TOTAL -----
	354			£40,200

6.50. In addition to the developer contributions, should this application be approved, there will be a requirement for an Employment & Training Strategy to be submitted at least one month prior to site commencement for approval and will be subject of a S106 Agreement.

6.51. **Environmental Health:** Recommend approval subject to conditions.

- 6.52. The proposal is for a U-shaped student accommodation block with roof space seating, amenity balconies and ground floor area, community hub and flats for long term general needs accommodation. A bin area, cycle stand, plant room and roof plant is included. The following aspects are of interest from an Environmental protection perspective:
1. CEMP would be required to minimise impact on neighbours during construction;
 2. Contaminated land full assessment needed (site sampling, remediation scheme discovery and verification outstanding (Waterman Ltd report);
 3. BS4142 report by an acoustician as residential being introduced next to existing commercial plant and also proposed plant serving the new blocks (Sustainable Acoustics report);
 4. Careful siting of rubbish stores/plant rooms, gym and social space in relation to residential;
 5. Sound insulation to go beyond Building Regulations Part E requirements (Sustainable Acoustics report) to provide a good internal acoustic standard and enhanced glazing and associated ventilation/temperature measures, as closed windows are to be relied on to keep noise out;
 6. Restrictions on delivery and operating times for community uses indoor and out;
 7. Noise management plan for indoor and outdoor roof and ground floor amenity spaces, gym, smoking areas, events to control neighbourhood nuisance (Sustainable Acoustics report 17.9.18);
 8. Lighting plan to reduce potential for light pollution complaints (Turkington report not available to view).
- 6.53. No café kitchen is shown, but if it were to be included odour control (including acoustic considerations) would be required, the aim is to avoid odour (and noise) nuisance to existing or proposed neighbours.
- 6.54. **Heritage Officer:** Initial comments. Object
- 6.55. The site is currently occupied by Enterprise Point, a substantial 1960s office building on an L-shaped plan and arranged over 6 storeys on a sloping site. The following heritage assets are considered to fall within the setting of the site.
- 6.56. To the immediate north-east of the site is the grade II registered park and garden of Woodvale Cemetery, which is a triangular is shaped burial ground laid out and consecrated in 1857 and set over c.8ha.
- 6.57. There are good views within the site and to the Extra Mural Cemetery to the north (which is a locally listed heritage asset). Woodvale Cemetery is a good example of an early High Victorian public cemetery for a provincial town. The cemetery layout and most structures survive intact and some of the monuments are grade II listed. The North Lodge in the entrance driveway is grade II listed and is a 2 storey Victorian lodge faced in flint, a short distance from Enterprise Point.

- 6.58. To the east of the site, on the other side of the valley across Lewes Road, is the Round Hill conservation area, which is a largely residential late-Victorian area notable for its long terraces of houses on rising ground, set amongst mature trees and greenery and with long views to the Downs to the east. Two of the groups of formal mid-Victorian terraces in Round Hill Crescent are grade II listed. The Round Hill Conservation Area Character Statement notes that *“it is in the long views of the conservation area that its greenness can be appreciated - a characteristic not evident from the streets within the area”*. The Character Statement also goes on to say that *“views of the conservation area can therefore be found from other parts of Brighton, particularly from Bear Road to the east and Race Hill to the south-east the curves and contours of streets like Round Hill Crescent are especially attractive”*. Indeed the curving terraces of Round Hill, following the topography of the downland, are a prominent and distinctive feature in a number of relevant views from the east side of the valley, e.g. from Hartington Road, Bembridge Street and Shanklin Road.

The Proposal and Potential Impacts

- 6.59. It is disappointing that the lengthy submitted Planning Statement makes very little reference to heritage assets or heritage policies and wrongly identifies Woodvale Cemetery as being a locally designated heritage asset only. There is a similar lack of reference to Heritage policy in the Design and Access Statement, although the relevant heritage assets are identified and assessed. Such references are further inadequate in the Townscape and Visual Assessment.
- 6.60. The proposal is for a tall building but, contrary to what is stated in the submitted Planning Statement, the site does not lie within tall building area as set out in policy CP12 and SPGBH15.
- 6.61. As the supporting text to CP12 makes clear, the Lewes Road tall building corridor is centred on the University of Brighton’s Moulsecoomb campus and the former Preston Barracks site. The Tall Building Study that informed the SPG states that this corridor extends southwards to the Lewes Road/Hollingdean Road junction. In addition this site has no frontage to Lewes Road and is set well back in small-scale residential streets.
- 6.62. Turning to the heritage assets, Woodvale cemetery has an enclosed and secluded character, without built development intruding, and this character is manifest from shortly after the point of entry on Lewes Road, through the tree-lined driveway and onto the upper ground. The current Enterprise Point building is below the height of the tree canopy and does not intrude on the way the cemetery is experienced, either visually or in terms of use/activity. The submitted Townscape and Visual Assessment has demonstrated that the proposed development would not be visible from within the cemetery above the tree line from the sensitive viewpoints. Given the proposed uses it is also considered that the development would not otherwise impact on the way that the cemetery is experienced. It is therefore considered that the proposal would

cause no harm to the setting of the registered park/garden or to the settings of the listed buildings within it.

- 6.63. With regard to the impact on the setting of the Round Hill conservation area, in unfolding views south-eastwards from Round Hill Crescent towards the site (from adjacent to the listed terrace of 101-113), there is a substantial backdrop of greenery and the horizon line is currently largely taken up with the tree canopy. This green back drop of the other side of the valley contributes positively to the setting of the conservation area. As proposed, the development would substantially and bulkily encroach onto this green backdrop and, from the single viewpoint provided (View 7), would be level with the top of the tree canopy and horizon line. Moving down the hill a little it would firmly break this line.
- 6.64. There is regrettably no submitted view from Bembridge Street/Whippingham Street, but the submitted view from Shanklin Road (View 5) shows how the scale and massing of the proposed development would greatly intrude upon and disrupt the very distinctive pattern of the area's development, which comprises horizontal bands of pale stucco curving terraces with intervening bands of trees, capped by a skyline of trees, following the curved of the Downland topography
- 6.65. This distinctive development pattern is specifically referred to in the Round Hill Conservation Area Character Statement. This view from Shanklin Road view includes some of the listed buildings on Roundhill Crescent, which is the set-piece development within the area (numbers 69-71 and 101-113). The height, bulky massing and long slab of the proposed development are alien and intrusive features in this view.
- 6.66. It is not considered that such a tall building has been justified on this site outside of a tall building area. Rather it is considered that the proposed development would cause demonstrable harm to the setting of the Round Hill conservation area and to the settings of the listed buildings. This harm would be less than substantial under the terms of the NPPF, in each case, but should nevertheless be given great weight in the decision-making process, as paragraph 193 of the NPPF makes clear. There are no heritage benefits to the proposal that may be weighed against that harm.

Revised comments – Approve with conditions

- 6.67. The revised plans, Design and Access Statement and Townscape and Visual Appraisal have satisfactorily demonstrated that the site can accommodate an eight storey building of the massing shown whilst visually fitting in with the immediate streetscape and without causing harm in longer views or to the settings of heritage assets.
- 6.68. The amended plans, which have reduced the height and bulk of the buildings, have satisfactorily addressed previous concerns about the impact of the height, bulk and roofline of the proposed development on views both from and towards the Round Hill conservation area, notably in Viewpoint 5 and

Viewpoint 7. In Viewpoint 5 from Shanklin Road the development would no longer interrupt the sweeping curves of the terraces of Round Hill and the change in cladding material and fenestration would make the development more sympathetic to the backdrop of the pale stucco terraces and their ordered fenestration. In these respects the development would also now preserve the setting of the listed buildings at numbers 69-71 and 101-113 Round Hill Crescent. In Viewpoint 7 the revised proposals would retain sufficient of the important green backdrop and would not encroach on the horizon line of the tree canopy. Again, the change in cladding material and fenestration have combined with the reduction in height and the simplification of massing to create a development that is visually sympathetic to its historic context.

- 6.69. Materials will need to be approved by condition to ensure that the indicated quality of finishes is achieved.
- 6.70. **Highway Authority:** Initial comments Recommend refusal unless the following alterations or additional information be submitted prior to determination:
- 6.71. The servicing bay currently proposed will require extensive vehicle crossovers and have a greater impact on the quality of the pedestrian route as well as the design of the site frontage. It is therefore recommended that the proposals for the servicing bay be reviewed. The applicant will also need to consider how the proposed servicing area and site forecourt will be managed so that it does not become a focus for indiscriminate parking. It is also recommended that any associated with works at the site accesses include for crossing improvements between the western side of Melbourne Street and the site on the eastern side.
- 6.72. Swept paths have not been provided for all the proposed parking bays and it is unclear from the vehicle tracking submitted whether all bays could be accessed or if vehicles can turn on site when other bays are occupied. The provision of sufficient space for cars to park off of the public highway also reduces the likelihood that these will overhang the footway as they do at present.
- 6.73. In this location, car free development is considered appropriate in principle, particularly for the student accommodation where good access is available by sustainable modes to university sites and the city centre. The site is also located within a Controlled Parking Zone (CPZ) meaning that the development can be made truly car free by restricting the ability of future residents to apply for a parking permit. The applicant has not submitted a parking survey; however, the council's own data suggests a high permit uptake and demand for parking in this location. The Highway Authority would therefore request that the car free condition be added to any planning consent.
- 6.74. The Highway Authority would consider the proposed trip rates to be reasonable. The TA forecast indicates that an increase of approximately 222 person trips can be expected compared to the existing office development if

fully occupied. The removal of the current 80 space car park would be expected to result in a reduction in vehicle trips with the majority of additional trips likely to be undertaken by sustainable modes.

- 6.75. The current application is forecast to result in an increase in person trips and therefore a S106 contribution is requested in order to provide for the increased demand.
- 6.76. The proposed cycle parking is significantly below the minimum required by SPD14. It is unclear how the required level of provision could be accommodated within the proposed layout and it is therefore requested that revised ground floor and site plans containing further details of cycle parking be submitted prior to determination. The Highway Authority will therefore request a proportion (25%+) of Sheffield stands within each store.
- 6.77. These issues should be satisfactorily addressed if a recommendation of refusal is to be avoided. In the event that planning consent is granted, the Highway Authority would request a S106 contribution and a number of conditions.

Revised comments: Recommend approval

- 6.78. The Highway Authority recommends that, subject to s106 agreement and a number of conditions, the application be approved.
- 6.79. The following further details will be required prior to approval of any s106 agreement:
- Developer contribution of £33,000 towards sustainable transport measures
 - Further details to be added to a Travel Plan including measures and targets, including the requirement for showers;
 - Construction & Environmental Management Plan; DEMP (Demolition)
 - S278 Highway Works design and detail of site access and pedestrian crossing point;
 - Delivery & Servicing Management Plan.
- 6.80. Whilst we recommend approval, the following concerns should be noted.
- The applicant is proposing 3 disabled parking spaces, with the option of a 4th. Policy requirements state that the minimum number required is 10 and we believe that the applicant can identify space for a further 4 spaces. As the application site is very close to Lewes Road, a key public transport corridor, we believe that the deficit of 2 spaces in this location is an acceptable compromise.
 - We recommend that Travel Plans are secured for the different components of the site including a move-in/out strategy.
 - The applicant is proposing that the student, office and residential components of the site are car free. We recommend that this is secured via a section 106 agreement.

- Owing to some remaining issues, we are recommending that details of a cycle parking scheme are secured through a condition.
 - We recommend that the applicant identifies likely delivery trip numbers for student and residential personal deliveries, as these are not currently presented.
- 6.81. Further, we recommend that the s278 Highway Works include the following measures:
- Removal of redundant vehicle accesses, adjustment to alignments of footways with associated pedestrian crossing;
 - Resurfacing of the footway on Melbourne St alongside the perimeter of the site;
 - Provision of a pedestrian crossing between the site and the western/southern footway of Melbourne St.
 - Relocation of street furniture and telecommunications equipment;
 - We also recommend the introduction of a 'no loading at any time' restriction on the eastern side of Melbourne Street
- 6.82. **Housing Strategy Not supported** - unless the following amendments are made:
- Development should conform to allocated use of the site
 - Affordable Rent Housing is included
 - Affordable Wheelchair Housing is included
- 6.83. The application is to provide 350 purpose built student units and 20 residential units, with the 20 residential units to be provided as Affordable Housing (Shared Ownership).
- 6.84. This site is allocated for housing within City Plan Part 1 (CPP1) and the council has a very pressing need to provide housing. The city-wide Housing Strategy adopted by Council in March 2015 has as Priority 1: Improving Housing Supply, with a commitment to prioritise support for new housing development that delivers housing mix the city needs with a particular emphasis on homes for Affordable Rent. The council has an Affordable Housing Brief based on evidenced housing needs in the city.
- 6.85. Policy CP20 currently requires mixed tenure to be provided, which is the most effective way of ensuring a balanced community is achieved. The Affordable Housing Brief sets out a broad tenure split of 55% as Affordable Rent and 45% as affordable home ownership i.e. Shared Ownership sale, as a citywide objective. On this basis the properties should be offered as 11 for Affordable Rent and 9 for Shared ownership.
- 6.86. The Council's wheelchair accessible standard requires that it meets national technical standards Part 4 M (3) at build completion (i.e. fully wheelchair accessible at time of first letting/ sale). There should be 10% wheelchair accessible homes provided within the affordable housing element. This

equates to 2 homes and Affordable Rent would be the preferred tenure for Affordable Wheelchair accessible homes.

- 6.87. Policy CP21 Student Housing states that permanent purpose built student housing will not be supported on sites allocated for housing. Therefore, while affordable housing would be welcomed with revised tenure this does not necessarily reflect the full potential for housing or affordable housing on this site.
- 6.88. Planning policy: Initial comments: Object to the development on the following grounds:**
- 6.89. City Plan policy CP21 supports the provision of Purpose Built Student Accommodation (PBSA) to help meet the accommodation needs of the city's students subject to seven criteria being met. As this site is allocated for mixed use housing and employment through policy CP3 and is also identified in the SHLAA as having potential for housing (C3) development, criteria 7 of this policy is not satisfied and PBSA development on this site cannot be supported.
- 6.90. Twenty residential units, including eight 1-bed apartments and twelve 2-bed apartments are proposed and it is welcomed that all units will be affordable. However, the design analysis indicates that the site is capable of accommodating a greater quantum of residential accommodation than the proposed 20 units and the expectation through policy CP3 is that this additional accommodation takes the form of class C3 dwelling houses.
- 6.91. For a standard housing scheme, a mix of flat sizes (1, 2 and 3 bed) would be expected, however the proposal is predominantly single occupancy PBSA units and therefore neither provides a satisfactory amount of class C3 housing nor a satisfactory mix of residential units on this allocated site in accordance with policies CP3 and CP19.
- 6.92. DA3 Lewes Road Area
The site is located within the Lewes Road Development Area, identified through policy DA3 of the City Plan which sets out the council's strategy for development in the defined Lewes Road Area. The strategy is to improve higher education provision in the area and to secure improved sustainable public transport infrastructure. In addition the wider employment role of the area in bringing forward employment floorspace is also acknowledged in the policy through a number of strategic allocations and through the protection of existing industrial estates within the area. Securing improvements to the townscape and public realm is another key objective and to deliver inter-connected green infrastructure and to improve air quality.
- 6.93. Employment
The site is identified as being within the 'Melbourne Street Industrial Area' under City Plan policy CP3. Sites identified in Policy CP3 are key to the overall employment strategy of the Plan, with the mixed-use sites seeking to achieve the twin benefits of high quality modern business floorspace and additional housing units through more effective and efficient use of the sites.

- 6.94. City Plan Part One is guided by a positive forecast job growth of over the plan period (requirements of 112,240m² of office (B1a, B1b) floorspace over the City Plan period). The city is ambitious in terms of its strategic growth objectives and commitment to ensure sufficient quantities of high-quality modern premises to meet economic output and jobs target (ELS 2012). Local companies are currently finding it difficult to find suitable move-on space and this lack of supply is a key barrier to growth in the city. Office rents, prices and yields have all risen as a result of supply shortages and excess demands across the city.
- 6.95. City Plan policy CP2 'Planning for Sustainable Economic Development' supports the bringing forward of a mix of employment floorspace including the provision of small and medium sized, flexible floorspace and start up business space to support the city's key employment sectors. The principle of flexible working space (with educational links to the student offer) on this mixed use site is therefore welcomed. Policy CP3 sets out that when considering new development on the site that this should be 'employment led' and with the starting point being that there should not be a net loss of employment floorspace. The proposed scheme includes 1,043m² of 'co-working' B1 office floorspace as the employment element of the scheme which represents a loss of 2,919m² from the existing level of employment floorspace on the site. This represents a significant reduction and is required to be fully justified in line with the tests in paragraph 4.36 of the supporting text to Policy CP3.
- 6.96. It was accepted during the consideration of the 2013 application that the current building on the site is dated and not ideally suited to ongoing commercial use. The District Valuer concluded in an assessment to support that application that given the age and quality of the building, the income generated means that refurbishment would not have been viable. The redundancy of this building is therefore accepted and regeneration of the site welcomed.
- 6.97. The applicant sets out detailed justification for the reduced floorspace in the Planning Statement by specifically addressing the tests in paragraph 4.36. Numerous points are made, including:
- the quality and type of the proposed office space is more suited to the modern needs of business occupiers.
 - the proposed use is likely to operate at a higher density than the existing mix of uses.
 - The existing building is dilapidated and detracts from the aesthetic and townscape of the area.
 - Home and Communities Agency Employment Density Guide 2015 estimates co-working space provides one job per 10-15m² – this results in an estimated job provision of 70 - 104 jobs.
- 6.98. The applicant has accepted that the theoretical total number of people that could be employed at the site would be reduced, however it is noted that the current building has been partly vacant for many years with clear difficulty in securing tenants to provide ongoing B class uses. With regard to viability, the

applicant has provided evidence from Oakley which considers two scenarios (redevelopment of the site for either solely industrial for office development with no residential element). It concludes that neither of these options would be viable, however the policy framework does not require the site to be redeveloped exclusively for employment use.

6.99. The Planning Policy team accepts that the proposed level of employment floorspace provision for a flexible co-working use is acceptable in this instance for the reasons stated by the applicant in the planning statement as summarised above.

6.100. Purpose Built Student Accommodation

City Plan Policy CP21 supports the provision of PBSA to help meet the housing needs of the city's students as long as seven criteria are met.

1. Proposals should demonstrate that there will be no unacceptable impact upon residential amenity in the surrounding area through issues such as increased noise and disturbance;

A management plan should be required by condition to address this criterion.

2. High density developments will be encouraged but only in locations where they are compatible with the existing townscape (see CP12 Urban Design);

3. Sites should be located along sustainable transport corridors where accommodation is easily accessible to the university campuses or other educational establishments by walking, cycling and existing or proposed bus routes;

The site is located within walking distance of the University of Brighton's Moulsecoomb campus and is well connected to the city centre and campuses at Falmer by several bus routes and trains from the nearby Moulsecoomb station.

4. Proposals should demonstrate that they would not lead to an unacceptable increase in on-street parking in the surrounding area;

Refer to comments by the Council's Transport Team.

5. Proposals should be designed to be safe and secure for their occupants whilst respecting the character and permeability of the surrounding area;

6. Schemes should demonstrate that they have entered into a formal agreement with one of the city's two Universities or other existing educational establishments within Brighton and Hove. The council will seek appropriate controls to ensure that approved schemes are occupied solely as student accommodation and managed effectively;

No evidence has been provided indicating a formal agreement has been agreed with an educational provider, or that any discussions are ongoing in this regard. This criteria is therefore not satisfied.

7. Permanent purpose built student accommodation will not be supported on sites allocated for housing or with either an extant planning permission for residential development or sites identified as potential housing sites.

6.101. As this site is allocated for mixed use housing and employment through Policy CP3 and is also identified in the SHLAA as having potential for housing development, this criterion is not satisfied. Whilst there is likely to be demand for additional PBSA within the city, the council's priority is the delivery of general housing (including affordable housing) particularly given that the planned housing requirement (13,200 new homes across the Plan period) This has been highlighted by a recent appeal decision (BH2016/05530 – Land South Of Ovingdean Road, Brighton June 2018) which determined that the city could not demonstrate a 5 year housing supply. As such it is even more critical that the council is able to maximise the delivery of residential (C3) accommodation on the sites specifically allocated for housing.

6.102. C3 Residential Use

Twenty affordable residential units, including eight 1-bed apartments and twelve 2- bed apartments are proposed. The principle of an element of housing on the site is supported by City Plan policy CP3.5 and would make a contribution to the city's overall housing target as set out in City Plan policy CP1. The site is also part of the Melbourne Street/Enterprise Point area which is included in the 2017 SHLAA update for an indicative number of 80 residential units.

6.103. As stated above, the provision of PBSA in lieu of C3 housing on the site is not supported. If design analysis indicates that the site is capable of accommodating a greater quantum of residential accommodation than the proposed 20 units, policy CP3 expects that accommodation to take the form of C3 housing.

6.104. Affordable Housing

Policy CP3 sets out that any housing accepted on employment sites should be in accordance with City Plan policy CP20 and the Affordable Housing Brief. Policy CP20 requires 40% of the units to be affordable on sites of 15 or more dwellings. It is welcomed that the C3 residential element of the proposed scheme would be 100% affordable. It should be noted that the PBSA element of scheme therefore make no contribution towards the city's affordable housing requirements.

6.105. Housing Mix

Regard should be had for City Plan policy CP19, the Affordable Housing Brief (December 2016) and the local characteristics of the area when designing the mix of unit sizes / bedrooms. For a standard housing scheme a mix of flat

sizes (1, 2 and 3 bed) would be expected, however the proposal is predominantly single occupancy PBSA units and does not provide a satisfactory mix of residential units in accordance with this policy.

- 6.106. Policy H3 in the draft City Plan Part 2 relates specifically to Purpose Built Student Accommodation) which was subject to public consultation from July – September 2018. This policy sets out that in PBSA the majority of the units should be arranged as cluster flats (rather than 100% studios as proposed). Whilst this policy currently has no weight it does show the council's direction of travel and preference for an appropriate mix of PBSA unit types to allow for more affordable options for potential residents.
- 6.107. Open Space
Policy CP16 Open Space, Part 2, requires new development to contribute to the provision of and improve the quality, quantity, variety and accessibility of public open space to meet the needs it generates, in line with the standards set out in the policy supporting text. Where this cannot be provided on site, the open space Ready Reckoner should be used to determine an appropriate off-site financial contribution.
- 6.108. Waste Management
Policy WMP3d of the Waste and Minerals Plan (WMP) requires development proposals to minimise and manage waste produced during construction demolition and excavation. 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.
- 6.109. 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. The location of recycling facilities is indicated on the submitted plans and no concerns are raised with regard to this policy.

Updated comments:

- 6.110. Recommend refusal due to conflict with City Plan Policies CP3 and CP21.
- 6.111. These comments should be read in conjunction with previous policy comments relating to this scheme dated 19 October 2019. These further comments are made in response to additional information submitted by the applicant in January 2019.
- 6.112. The applicant makes a number of points which will be addressed in turn:
- *The revised Planning Practice Guidance Note has elevated the status of PBSA in the calculation of housing completions, this has fundamentally changed the approach required to evaluate compliance under Policy CP21 when applying criterion 7 for SHLAA allocated sites.*

- 6.113. The city's current planned housing requirement as set out in the adopted City Plan Part One is for 13,200 additional new dwellings. This is set against an 'objectively assessed housing need' for around 30,000 new homes. The planned housing requirement is therefore considerably less than we are likely to need in overall terms over the period to 2030 – but given the city's constrained nature the 13,200 figure was accepted as a minimum to plan for.
- 6.114. These figures reflect the city's need for general needs housing and did not include any allowance for student accommodation or other types of 'institutional' accommodation which has always been considered separately. To date, therefore, the standard approach for assessing the city's housing land supply position (the demonstration of an annual five year housing land supply) has been not to include student accommodation on the supply side – because it has not been included on the demand side.
- 6.115. The Council's most recent housing land supply position is published in the SHLAA Update 2018 (February 2019). However, the figures presented in the SHLAA are subject to the results of the Government's Housing Delivery Test which has not yet been published. The SHLAA shows a marginal five year housing surplus (5.1 years supply) if a 5% buffer is applied. However, the NPPF indicates that if the Housing Delivery Test shows that delivery over the past three years (2015-2018) has been under 85% of the adjusted City Plan housing requirement, then a 20% buffer should be applied to the five year supply figures. This would result in a five year housing shortfall (4.5 years supply).
- 6.116. The council's own informal assessment is that housing delivery over the 2015-2018 period has been less than 80% of the required City Plan figure. Therefore, for planning policy purposes, it should be assumed that the council cannot demonstrate a five year housing land supply. In that situation, 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).
- 6.117. The applicant references current NPPG guidance which states that "All student accommodation... can be included towards the housing requirement, **based on the amount of accommodation it releases in the housing market.**" (Emphasis added). The thrust of this guidance is not new, and the NPPG has stated that for many years that student housing can be counted in overall housing figures in circumstances where it can be demonstrated that the provision of PBSA would lead to the release of existing housing into the wider, non-student, housing market. Indeed this issue was considered during the appeal into an earlier proposal for PBSA in the city in 2014, where a similar argument was made by the applicant for that scheme, but the inspector found that "there is no evidence or mechanism before me which indicates that the proposed development would result in the conversion of student HMOs to family housing".

- 6.118. The NPPG guidance has now evolved by specifying the calculations that should be undertaken to establish the effective contribution towards the housing supply if this scenario applies. Case law exists with regard to this issue, where it was found that the inclusion of PBSA in the housing supply considerations is not appropriate in all circumstances and should be determined by evidence on a case-by-case basis based upon clear evidence that accommodation in the private rented sector would be freed up.
- 6.119. No such evidence has been presented by the applicant to demonstrate that the proposed development would directly lead to the freeing up of accommodation in the private rented sector and it cannot be assumed that a release of accommodation currently accommodated by students into the wider housing market would occur.
- 6.120. The applicant also states that the site is not a strategic residential allocation, and only falls under criterion 7 because of its inclusion in the Council's Strategic Housing Land Availability Assessment (SHLAA). This is incorrect. The site is specifically allocated for residential and employment mixed use development through City Plan Policy CP3.
- *Need for Purpose Built Student Accommodation (PBSA) in Brighton & Hove*
- 6.121. The applicant states that the 'need' for PBSA within the city remains 'undiminished' and quotes paragraph 2.66 of the Draft City Plan Part 2 as evidence to support this. The applicant also quotes from a report that was submitted in support of the Preston Barracks development, and which states there is a "need for an additional circa 4000 bedspaces in PBSA in the city by 2020".
- 6.122. Paragraph 2.66 does not make assertions on a quantitative 'need' for PBSA, rather it states that the provision of PBSA in the city is less than the number of students requiring accommodation. This is a common situation throughout the country and it is not expected that there would ever be sufficient purpose built accommodation provided to accommodate all students in this way. Nor would it be expected that all students requiring accommodation would wish to live in dedicated student developments. Use of the word 'need' in this way should therefore be treated with caution. The existing student cohort is currently accommodated and can be expected to be self-replacing in that existing accommodation. There is not a 'need' for new accommodation for the existing cohort in a numerical sense (assuming that all those who currently require somewhere to live can find somewhere, be that in PBSA, HMO or other private sector housing), although there may be demand for additional PBSA due to student preferences. Student populations are expected to consolidate in forthcoming years and therefore demand for accommodation is unlikely to change.
- 6.123. The 'need' for PBSA predominantly stems from a desire to accommodate the existing student cohort differently, in effect shifting an existing population in the city into a different form of accommodation. It is not responding to an

increased demand for accommodation, for example in the manner of the objectively assessed need for C3 housing. There is no strategic target for the provision of PBSA bedspaces in either City Plan Part One, or the draft City Plan Part Two.

6.124. Notwithstanding this, it is a strategic objective of the Council to accommodate a greater number of students in PBSA with the aim of reducing pressure on the general housing stock. The planning policy framework is intended to achieve this through the provision of a criteria based policy and a number of site allocations which is intended to allow the stock of PBSA to increase in a sustainable way.

6.125. The applicant makes a further point asserting that Brighton & Hove is unusual in not seeing the proliferation of PBSA that other university cities have seen. This is most likely reflective of the very significant constraints facing the city which inhibit its ability to meet the full demand for many types of new development. It is not an issue solely facing the provision of PBSA, and it would not be in keeping with the aim of promoting sustainable, balanced communities (see City Plan Part One Policy SA6 and Policy CP19) to support the provision of PBSA to meet the full potential demand at the expense of other types of development for which there is a pressing need. A balance must be struck, and that is the intention of criterion 7 of Policy CP21.

- Enterprise Point – Site Specific Material Considerations

6.126. The applicant sets out how a sequential test process has been undertaken which led to the identification of the application site “*as the only site capable of delivering PBSA at scale (as part of a broader mixed-use scheme) in a sustainable and accessible location within the DA3 Lewes Road Academic Corridor.*”

6.127. It is not considered that the applicant’s preference for this site is sufficient justification for an exception to policy to be made. It should also be noted that the Falmer Retained Land site, which has support through City Plan Policy DA3 for a number of uses including PBSA was not considered in the process.

6.128. **Private Sector Housing:** Initial comments. No comments to be made.

6.129. Revised comments: It has been identified that the acoustic assessment suggests that windows will need to remain closed to meet recommended noise levels. Should this be necessary then it raises concerns about excessive heat should the air conditioning not accordance with the Housing Health and Safety Rating System under the Housing Act 2004.

6.130. **Public Art:** Initial Comment

6.131. To make sure that the requirements of City Plan Part 1 policies CP5, CP7 and CP13 are met at implementation stage, it is recommended that an Artistic Component schedule be included in a section 106 agreement.

6.132. It is suggested that the Artistic Component element for this application is to the value of £100,000 to be secured via a section 106 agreement with standard wording in the schedule.

Revised comments:

6.133. It is suggested that the Artistic Component element for this application is to the value of **£97,000**. As ever, the final contribution will be a matter for the case officer to test against requirements for s106 contributions for the whole development in relation to other identified contributions which may be necessary.

6.134. **Sustainability Team:** Comment

6.135. Due to the lack of information provided in the application, a condition should be applied requiring a BREEAM Design Stage certificate demonstrating BREEAM Excellent can be achieved. This is in addition to the standard Post Construction certification typically applied.

- Pre-app advice was provided however, there is no information at all on most of the BREEAM requirements – the applicants only appear to have looked at the Energy part
- Information that is provided in supplementary documents contradicts the planning statement (notably around green roofs and solar PV – two key areas of BREEAM).
- No mention is made of the primary heating mechanism for the building (e.g. gas fired boilers)

7. MATERIAL CONSIDERATIONS

7.1. 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

7.2. 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)

7.3. 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.

8. POLICIES

The National Planning Policy Framework (NPPF)

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

SS1	Presumption in Favour of Sustainable Development
DA3	Lewes Road Area
SA6	Sustainable Neighbourhoods
CP1	Housing delivery
CP2	Sustainable economic development
CP3	Employment Land
CP7	Infrastructure and developer contributions
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP11	Flood risk
CP12	Urban design
CP13	Public streets and spaces
CP14	Housing density
CP15	Heritage
CP18	Healthy city
CP19	Housing mix
CP20	Affordable Housing
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
TR18	Parking for people with a mobility related disability
SU9	Pollution and nuisance control
SU10	Noise Nuisance
QD5	Design - street frontages
QD15	Landscape design
QD16	Trees and hedgerows
QD18	Species protection
QD27	Protection of amenity
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes
HE3	Development affecting the setting of a listed building
HE6	Development within or affecting the setting of conservation areas
HE11	Historic parks and gardens

Supplementary Planning Documents:

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

Supplementary Planning Guidance:

- SPGBH 9 A guide to residential developers on the provision of recreational space
SPGBH15 Tall Buildings

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the principle of the proposed development, the impacts of the proposed development on the visual amenities of the site and surrounding area. The proposed access arrangements and related traffic implications, air quality, impacts upon amenity of neighbouring properties, standard of accommodation, ecology, and sustainability impacts must also be assessed.

Principle of Development:

- 9.2. 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.
- 9.3. The Council's most recent housing land supply position is published in the SHLAA Update 2018 (February 2019). The figures presented in the SHLAA reflect the results of the Government's 2018 Housing Delivery Test which was published in February 2019. The Housing Delivery Test shows that housing delivery in Brighton & Hove over the past three years (2015-2018) has totalled only 77% of the City Plan annualised housing target. Since housing delivery has been below 85%, the NPPF requires that a 20% buffer is applied to the five year housing supply figures. This results in a five year housing shortfall of 576 net dwellings (4.5 years supply). In this situation, 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).
- 9.4. 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.

Planning Policy

- 9.5. The site is within the Lewes Road Development Area under policy DA3 and has been specifically identified as part of a protected employment site under City Plan policy CP3 (Employment) which seeks to safeguard sites suitable for job creation and modern business. The site is specifically allocated under policy CP3(4) site which in order to secure modern flexible employment floorspace will allow employment led (employment and residential) mixed use development.

- 9.6. In respect of the employment use proposed this would result in the loss of a significant amount of employment floorspace compared to the current provision. The applicants have sought to address the criteria set out in paragraph 4.36 of policy CP3 which sets out factors to be taken into account in considering a net loss of employment. Some of these factors are applicable to the current premises such as the quality of the employment accommodation and access which would be greatly improved compared with the current building. The planning policy team have also referred to other criteria addressed such as the density of employment and have accepted that the employment floorspace proposed would be acceptable. The provision of modern new flexible employment floorspace for short term lets has also been supported by the Economic Development team although it regrets the loss of 2,919 sq. m of employment floorspace (just more than half of the total floorspace on site). The opportunities for entrepreneurship of graduates in the employment space are also welcomed by the economic development team.
- 9.7. The viability assessment submitted with the application tested a redevelopment scenario providing solely office floorspace and alternatively solely industrial floorspace with no housing provision. The viability assessment concluded that neither an office nor industrial development would be commercially viable however policy CP3 does not require a solely employment development.
- 9.8. The proposal does include 24 affordable residential units which is welcomed however it is considered that the site is capable of accommodating a greater quantum of residential accommodation than 24 units. The site is also part of the Melbourne Street/Enterprise Point area included in the SHLAA for an indicative number of 80 units which would yield an affordable housing requirement. Although the PBSA provision is in addition to the element of affordable housing, as stated by the policy team, if additional residential accommodation is provided in excess of this then “....policy CP3 expects that accommodation to take the form of C3 housing”.
- 9.9. The applicants have also undertaken a sequential test approach to identifying alternative sites that could be available to demonstrate that this is the only site capable of delivering PBSA at scale in a sustainable location within the DA3 corridor. The policy team noted that the Falmer Retained Land which is supported for a variety of uses including PBSA in the City Plan Part One under policy DA3 has been omitted from the study. Notwithstanding, this sequential approach adopted by the applicants to justify a PBSA development is not recognised in policy guidance as a means to justify an exception to a site allocation which includes housing. The applicants have clearly stated that the scale of the proposed PBSA element which was initially 350 units fits VITA’s business model adopted across the country and has led to the unsuitability (in its opinion) of a number of sites in the city as being too small or unavailable and therefore PBSA on this site can be justified in the applicant’s submission.
- 9.10. In support of the provision of PBSA in this scheme, the applicants refer to National Planning Practice Guidance which states that PBSA can be included in a calculation of housing completions. This guidance is not new but the more

recent guidance (September 2018) now provides the specific formula to be used to allow a comparison to be made between housing numbers and student accommodation units if such a scenario existed. However, the inclusion of PBSA in the housing supply considerations is not appropriate in all circumstances. Clear evidence is required that the proposed development would directly lead to accommodation in the private rented sector being freed up. The LPA is not aware of evidence which would indicate this to be the case at the current time and no such evidence has been presented by the applicant. Therefore it cannot be assumed that a release of accommodation currently accommodated by students into the wider housing market would occur.

- 9.11. The latest SHLAA update (February 2019) released during consideration of this application now shows that housing delivery in the city in the past 3 years has been less than 80% of the City Plan requirement. Therefore, as referred to in the Policy Team's comments, increased weight should be given to housing delivery in line with the presumption in favour of sustainable development as set out in paragraph 11 of the NPPF. This policy coupled with section 38(6) of the Planning and Compensation Act 2004 which requires regard to be had to the development plan and determination must be made in accordance with the plan unless other material considerations indicate otherwise leads to the view that the site allocation under City Plan Part 1 policy CP3.4 should prevail.
- 9.12. Another strand of the applicant's case is that by providing PBSA, the development would assist in meeting a 'need' for PBSA which remains 'undiminished' and they quote a report submitted by the applicants of the Preston Barracks development in its support citing that there was a need for 4,000 PBSA bedspaces by 2020 in the city. The planning policy advice is to treat such expressions of 'need' with caution, as it largely stems from a desire to accommodate the existing cohort of students in the city differently and was commissioned to support to support a proposal including PBSA. PBSA is not responding to an increased demand that has been objectively assessed as it has for class C3 housing and no strategic target has been set in either the City Plan Part One or the draft City Plan Part Two. It is acknowledged there is likely to be a significant unfulfilled *demand* (as opposed to need) for PBSA and it is a strategic objective of the Council to support a sustainable increase in PBSA provision in order to accommodate a greater number of students with the aim of reducing pressure on the general housing stock. However the very significant constraints facing the city which inhibit its ability to meet the full demand for many types of new development mean this is not an issue solely facing the provision of PBSA, and it would not be in keeping with the aim of promoting sustainable, balanced communities to support the provision of sites allocated for other uses for which there is a pressing need.
- 9.13. Policy CP21 of the City Plan encourages PBSA subject to 7 criteria. The criteria relate to amenity issues for adjoining residents, high density developments being compatible with the existing townscape, its location on a sustainable transport corridor, the impact on local on-street parking, a safe and secure design and demonstrating that they have entered into an agreement with one of the city's universities or educational establishments. Criteria 7 states that the site should not have an extant consent, be allocated

for housing or be a site identified as having potential for housing in the latest SHLAA. The proposal would not meet these criteria.

Design and Appearance

- 9.14. The Design and Access Statement submitted with the application identified the site constraints and set out the options appraisal for accommodating the development on the site.
- 9.15. City Plan policy CP12 expects developments to raise the standard of design in the City and establish a strong sense of place by respecting the diverse character and urban grain of the city's identified neighbourhoods. It also expects developments to protect or enhance strategic views into, out of and within the city.
- 9.16. Context
The site context is mixed in character. To the east is a neighbourhood characterised by small scale low rise late Victorian dwellings typical of development in the Hanover and Elm Grove ward extending up the side of the valley. The dwellings on Shanklin Road comprise part 2/3 storey terraced dwellings built into the slope facing directly onto the site with compact rear gardens. Opposite the north east corner of the site is 29 Shanklin Road, a former dye works building was converted into 19 flats and studios in the late 1990's. The west flank of this building has its original windows facing directly onto the application site on the boundary itself. Some of these flats have a single aspect onto the current open car park of the site whilst others face north onto the cemetery or front Shanklin Road. Some corner units have both west and south west facing windows on the splay.
- 9.17. To the north, the main constraint is the historic Woodvale Cemetery gardens featuring a large mature tree belt which overhangs the site. Viaduct Lofts, opposite the site on Melbourne Street is part 3, 4 and 7 storeys. Some of the flats face east to the site and have balconies. Viaduct Lofts was built in 2012 on the site of a former builder's yard having been allowed on appeal. The remainder of the character of Melbourne Street south of the site features small scale two storey Victorian terraced dwellings.
- 9.18. A significant constraint further to the west rising up the west side of the Lewes Road valley is the Round Hill Conservation Area. The scale, height and proposed materials of the proposed development have been required to take account of the setting of the conservation area from within the Round Hill area and in longer views across the valley from east of the site.
- 9.19. The south boundary of the site adjoins the playground of St Martin's Primary School but the school buildings are set back further to the south, accessed from Hartington Road. One other adjoining building to the south is Gladstone Court, a 4 storey late 20th century residential block of flats which has an east-west outlook.
- 9.20. Footprint

Historically the site was occupied by the railway viaduct on the line which served Kemp Town. The proposed development would increase the footprint of development significantly on site by developing close to the north, west and east site boundaries leaving some open space to the south. The proposed development of the northern parking area is one of the key differences compared to the expired planning consent BH2013/ which included redevelopment of nos16-18 but retained the space adjacent to the woodland.

Appearance and materials

- 9.21. The proposed design of the building and its appearance and choice of materials would be contemporary. Following comments from officers, the bronze cladding was considered to be too bold for this context in the setting of the conservation area and the natural landscape of the crematorium woodland setting. The use of lighter coloured cladding would, it is considered, blend in better with the general palette of materials in the townscape provided by the rendered residential terraces.
- 9.22. The elevations provide articulation with deep reveals and strong parapet lines to frame the different elements of the blocks. There would be a clear vertical emphasis to the elevations achieved, for example, by combining projecting window surrounds across two floors on the north elevation. The use of framing and deep reveals would enhance the articulation of the elevations in a satisfactory manner.
- 9.23. The north facing block onto Woodvale cemetery would be in a pale fibre cement cladding system mixing sandblasted and ribbed facing effects for visual interest. This elevation would be the least visible in the development and is screened by the tree belt particularly in summer. The west and east wings would be in a light coloured brick facing Melbourne Street and Shanklin Road properties with chamfered metal clad reveals. The lower floors of the student block facing Melbourne Street and the courtyard would be in a fully glazed system affording views into the main activity areas of the business space and student hub.
- 9.24. The west facing gable would feature a perforated metal cladding system within which a themed graphic image is proposed to reflect the historic links with the railway viaduct. The east facing cladding of the north block would be perforated metal in a more simple design. Articulation would be provided by windows and dummy windows with reveals in a less regulated pattern whilst the cladding would lighten in colour on the upper floors to assimilate better into the background of the conservation area.
- 9.25. It is considered that the choice of materials and the overall appearance of the façade treatments with a variety of articulation and colour palette would provide a good quality design to the proposals and would help to mitigate the significant scale and massing of the development, its impact in the streetscene and the wider townscape.
- 9.26. Townscape

During consideration of the application, the applicants have reduced the height of the north and west blocks by a storey to 8 and 7 storeys respectively in seeking to overcome concerns about the impact on the setting of the conservation area.

- 9.27. Concerns were raised by officers including the Heritage officer about the impact of the student block in particular on the setting of the Round Hill Conservation Area as a heritage asset. The view from the higher end of Shanklin Road provides a view across the valley in which the profile of the round hill itself can clearly be seen, featuring the characteristic sweeping curves of terraces of houses broken up by green ribbons of mature trees and soft landscaping. This is highlighted in the Heritage officer's initial comments. The submitted scheme would have intruded significantly into this view with the large horizontal profile of the north block obscuring a substantial proportion of the landscape setting of the conservation area.
- 9.28. The changes to the north block would now integrate the block more into the context of Shanklin Road and the backdrop of the conservation area in terms of the predominant colour and tone of the built up area. From the key viewpoint selected (View 5) on Shanklin Road, one storey of the north block would be seen in the corner of the view obscuring Viaduct Lofts. The removal of the 8th floor of the west block would reduce the extent of the conservation area that would be obscured compared to the original submission. The articulation of this east elevation would also feature punched or recessed windows which would better reflect the proportions of dwellings in Shanklin Road than the bronze cladding and larger glazed areas initially proposed.
- 9.29. The Heritage officer is now satisfied that the reduction in height has satisfactorily addressed previous concerns about the impact of the height, bulk and roofline of the proposed development towards the Round Hill Conservation Area in View 5 and would not interrupt the curves of the terraces whilst the change in materials would be more sympathetic to the pale stucco terraces and their ordered fenestration. It is considered that from this perspective, the proposed development would preserve the setting of the listed buildings in Round Hill Crescent and consequently the setting of the conservation area and would comply with retained policies HE3 and HE6 of the Brighton and Hove Local Plan.
- 9.30. In views *from* the conservation area (Viewpoint 7), the initial proposals would have appeared as an excessively large and obtrusive feature in the backdrop. The proposed bronze cladding would have accentuated the scale visually drawing more attention to its bulk and massing. The setting from within the conservation area is enhanced by its outlook to the higher parts of the valley slopes and the vegetation rising up the historic crematorium gardens and to the ridge of the hill. The ridge and skyline would have been wholly obscured by the initial proposals as would glimpses of the characteristic small scale terraced housing above the application site. The reduction in storey heights of the north and west blocks of the development would reduce its impact and help to integrate it more satisfactorily with the existing heights and marginally more restrained massing of the current building and Viaduct Lofts.

Consequently the longer views of the greenery of the valley slope, the smaller scale settlement and the ridge would also be retained.

- 9.31. The lighter coloured cladding on the west flank of the north block would be more sympathetic to the general palette of colour in this townscape view. The perforated cladding would also add visual interest to this view. The Heritage Officer has commented that the proposals when viewed from the conservation area would now retain a sufficient view of the green backdrop to be acceptable and would not encroach on the horizon line of the tree canopy. It is therefore considered that the reduced scale and more sympathetic cladding and fenestration of the proposal would not be harmful to this backdrop of this important viewpoint and would be visually sympathetic to the historic context and would comply with retained policies HE3 and HE6 of the Brighton and Hove Local Plan.
- 9.32. **Massing**
The current mid 20th century Enterprise Point building has a large footprint centred in the middle of the site but it does provide a larger open area around 3 sides of the site which mitigates its height and impact on the urban form and its neighbours. The exception is the east side of the site where the building line is much closer to the east boundary. The proposed building would bring the building line closer to the north and west boundaries than the existing building whilst maintaining similar proximity to the east boundary. The southern part of the site would retain some open space with the courtyard and access arrangements.
- 9.33. Viaduct Lofts at 7 storeys maximum does step down in height along its north and east frontages to reflect the more domestic scale in the streetscene particularly on Melbourne Street and this also has the effect of reducing its bulk in townscape views.
- 9.34. The proposed development would have a more substantial impact on the character of the generally small scale Melbourne Street streetscene being part 8 and 6 storeys on the west facade. There would be some mitigation with the set back of 4 metres from the site boundary which contrasts with Viaduct Lofts built tight to the back edge of the footway and a further setback to the upper floors. The profile of the scheme at the upper floors has also been simplified to minimise setbacks and awkward corners. In addition the whole west façade above the ground and first floors was angled away in to be parallel to the street frontage and to minimise the overhang of the upper storeys. This has contributed to mitigating the scale of the proposal and would strengthen the horizontal lines of the canopy profile which line up with the profile of the terrace houses to the south. It is, notwithstanding, a substantial scheme in this Melbourne Street context.
- 9.35. Viewpoint 1 from the corner of south and east sections of Melbourne Street illustrates this in the context of the terraced houses. Viewed from a few metres east looking directly north, Viaduct Lofts would come into the view as well and the contrast in scale is lessened. The proposed 6 storey west block is set back a further 5 metres from the site frontage than the ground and first floors which

would help to alleviate the impact of the scale and massing in the streetscene. In comparison to the approved (expired) scheme, the height and bulk of the main building would be greater by having an additional storey and the step down to the site frontage would be less gradual, that scheme also included a 5 storey block on 16-18 Melbourne Street. The total volume of built form in the view may not be dissimilar and the impact overall is considered to be minor adverse.

- 9.36. Viewed from the Lewes Road east along Melbourne Street, the proposed 8 storey element featuring the main entrance would provide a strong focal point in this vista as it is nearer to the site frontage than the current building. The amended height helps the building sit more comfortably in the context of the height of Viaduct Lofts in the foreground and as a replacement for the current 6 storey building on site. In views from the Vogue Gyrotory (Viewpoint 6 of the Townscape Visual Impact), whilst the impact is substantial due to its greater prominence than the existing building, the reduction by a storey and the change in materials would mean that in this view, the appearance of the building and its improved integration into the scale and profile of development established by Viaduct Lofts would not have a harmful impact in the townscape or streetscene.

Impact on Amenity

Residential Accommodation Standard of Accommodation/Privacy Issues

- 9.37. The proposed residential units revisions are proposed as a mix of 12 x 1 bed units (suitable for 1 person) and 12 x 2 bed (3 person) units arranged as 6 units per floor. The unit sizes would comply with the government's Nationally Described Space Standard (March 2015) for these type of units which are 39 sqm. for a 1 bed/1 person unit and 61 sqm. for a 2 bed/3 person unit. The proposed units would be respectively 45 sqm. and 62 sqm. which is satisfactory. All of the residential units would be single aspect with the 2 bedroom units having a west facing aspect and the one bedroom units, an east facing aspect.
- 9.38. The units are served by a lift and would have ground floor cycle storage. The original proposals included balconies to the upper floors on the front and rear elevations but it was considered that there would have been an unacceptable impact on neighbouring residents due to loss of privacy as a result of the proximity of facing windows to Shanklin Road dwellings. The revised proposals would provide Juliette balconies on the west facing elevations only to those flats which face the access route to the block and the school playground area. The current building as a place of work has large windows which overlook the school at present. A proposal providing living accommodation may reduce the perception of overlooking when the school is open as there would be less of an overlap in times of the day when they school and accommodation are in use. There would be no privacy issues in the relationship with the school is considered.

- 9.39. In respect of the housing block on the east flank, the approved scheme in 2014 produced a similar arrangement but each flat had a dual aspect so that the lounges all faced west. This reduced privacy issues and only bedroom windows were required to have angled windows. Most of the proposed flats would have a single aspect, west or east with living rooms and bedrooms facing neighbouring dwellings. On the east elevation of the block of flats, the applicant has now proposed angled windows at the rear to the one bedroom units to mitigate the privacy issues. The east facing bedrooms and lounges would each have a projecting triangulated bay with a window so that an oblique view of the dwellings opposite would result. Each living room window would have a broad central mullion designed to partially obscure direct views opposite as it would be unsatisfactory to allow any outlook from a living room with an angled window.
- 9.40. The angled bay windows to the bedrooms would have a solid north east facing section with glazing on the south east facing section only. In section the separating distance between the proposed 2nd and 3rd floor windows and the rear of nos.15 and 17, for example, would be 14 metres to the main rear façade and 12 metres to the outrigger. This would not, it is considered, be unacceptable in an urban context. The windows to the proposed ground and first floor flats would be facing the landscaped embankment and the retaining garden walls to Shanklin Road dwellings above and there would be no privacy issues to existing neighbours. It is considered that the loss of privacy between upper floors of facing dwellings would not be so significant as to justify refusal against policy QD27 of the Brighton and Hove Local Plan.
- 9.41. The student accommodation has been designed as studios of various sizes. The vast majority (200) would have an internal floor area of 16 sqm which is considered by officers to be the minimum acceptable area for a self-contained *student* studio where there are no communal kitchen/lounges available on the same floor. This is comparable to other approved PBSA developments. There would be 95 studios with larger internal floor areas of 20 sqm. and 35 studios of 26 sqm. This would provide an acceptable range of studio sizes.
- 9.42. Daylight/Sunlight/Outlook
The applicants have carried out a daylight/sunlight assessment of neighbouring developments which take account of the impact on neighbouring residents in Shanklin Road, Viaduct Lofts and dwellings in Melbourne Street as well as Gladstone Court, Hartington Road and St Martins Primary School to the south. The assessment has also included the natural daylight levels to the proposed student rooms and dwelling units in the affordable block. It has not however assessed sunlight levels to proposed outdoor amenity space. The assessment has been peer reviewed by the Building Research Establishment (BRE) for the planning authority.
- 9.43. Shanklin Road
The existing main building on site is 6 storeys in height and its upper floors currently dominate the outlook of most of the rear of dwellings in Shanklin Road opposite. Currently Nos 11, 13 and 15 do, however, enjoy an uninterrupted outlook from their rear windows between Enterprise Point and

Gladstone Court whilst No.17 has a partially obscured outlook. West facing windows in No 29 Shanklin Road at the north end of the terrace currently have no obstructions affecting their outlook to the parking area whilst some units have south west facing windows on the south west splay of the building which face the current building. The north building line would be a maximum of 9 metres from the boundary compared to 21.5m at present.

- 9.44. No.27 faces onto the current building with a separating distance of 18.5 metres but currently benefits from an indirect outlook to the north west onto the car park aided by the splayed corner of No.29. The tallest 8 storey north block of student accommodation would directly face onto more than half of the rear façade of 29 Shanklin Road with a separating distance of 12 metres. Due to the rising land levels, the outlook of the occupiers would appear as a 7 storey façade. The height of the proposed block and its proximity to the rear of these two properties would have an overbearing and unneighbourly impact on them resulting in an unacceptable loss of outlook. No.29 would be the worst affected due to the degree of change in its outlook and its closer proximity to the block proposed. The outlook of the rear of 29 Shanklin Road would also be further compromised due to its relationship with the large mature tree belt on the north boundary.
- 9.45. It should be noted that the approved scheme in 2014 did not propose development north of the existing building on the car park and so Nos. 29 and 27 would have been unaffected by these amenity issues.
- 9.46. The proposed affordable housing block would be 5 storeys in height and its southern half would be built between the current gap opposite nos. 11 – 17 Shanklin Road between Enterprise Point and Gladstone Court. The northern half of the block would be sited in place of the demolished Enterprise Point building but would be 4 metres lower than the existing parapet line and the linking part of the housing block would be a further 0.75m lower. However, further north of the site, the 7 storey east (student) block would be 1.5m higher than the existing building facing the rear of nos. 23-27 (odd) Shanklin Road.
- 9.47. The results of the daylight assessment demonstrate that the existing dwellings that would be most affected on the east side of the development by loss of daylight would be flats and studios in no.29 Shanklin Road particularly at ground and first floors. The units in the centre are studios at ground and first are studios with a single aspect outlook facing west directly onto the development. The impacts on windows at No.29 are considered to range from minor to major adverse by the BRE. The worst affected are at lower floors directly opposite the proposed façade. Overall of those facing the development, fifteen different windows serving thirteen different rooms would be outside the BRE guidelines. The reduction in daylight levels measured by Vertical Sky Component (VSC) from current levels at 29-33% to 16-19% would be significantly below the BRE guidance of a percentage loss of no more than 20% and below the resultant 27% VSC level. Whilst some daylight loss could be expected as the windows are sited on the boundary and are large, daylight to these windows is currently restricted by the very tall and dense belt of trees. In winter the daylight levels were observed to be attenuated and in summer

the impact would have a similar effect to a very high wall as reported by the BRE. The applicants have acknowledged that the trees would have an impact on daylight levels but point out that in winter when daylight is more precious, these deciduous trees would allow more light in when not in leaf. No27 Shanklin Road, which is sub-divided into flats, would also be affected by a loss of daylight to 4 windows on its lowest floor (3 serving one room) which the BRE have assessed as a minor adverse impact.

- 9.48. Nos. 7-25 Shanklin Road would be less affected by daylight losses with some minor adverse impacts on two rooms at nos. 15 and 25. Loss of sunlight to windows would not be an issue since the rear of this terrace faces north of due west. There are some dwellings which would receive a very small gain in daylight levels to *some* windows which are nos.13-21 Shanklin Road. Nos.19 and 21 would have more windows that benefitted than not but the gains are generally minimal between 0-2 % VSC or a 0-3% increase whilst two windows lose 5-6%. There could be some small gardens to the rear of 13 – 27 Shanklin Road which could be affected by loss of sunlight but the applicants have not formally analysed this as recommended by the BRE.
- 9.49. Viaduct Lofts
East facing windows in Viaduct Lofts would be affected by the proposed development due to the proposed development being opposite the 7 storey element of the building. The BRE advised that the layouts of the flats on 6 floors above ground floor had been incorrectly modelled by room types by mistaking lounges for bedrooms. The balconies had not been modelled either which, the BRE advise, do affect the existing daylight levels to windows below, before the impact of the proposed development is factored in. As recommended by the BRE that modelling has been done with and without balconies identifying the correct rooms.
- 9.50. The BRE consider that there would be a major adverse impact to four windows on the ground floor of Viaduct Lofts facing the development and significant losses to windows on the first, second and third floor patio doors and adjacent windows at the south end of the façade.
- 9.51. The BRE confirm that taking account of balconies, the numbers of windows not meeting the guidance are similar with one additional window not meeting the daylight guidance and two more rooms not meeting the sunlight guidance. The daylight distribution is the same. For windows under balconies up to the 4th floor on the left side of the tower, daylight losses would be outside the BRE guidance. For the lower floors the impact is assessed as major adverse by the BRE and for the upper floor rooms with secondary windows: minor adverse. Except for the ground floor the windows serve lounges. All except one of the rooms meet the sunlight guidance.
- 9.52. For windows under balconies, on the right hand side of the tower, loss of daylight to lounge windows would be more severe. There would also be significant losses of sunlight outside of the guidance on all floors up to 5th floor in the north east corner of Viaduct Lofts. The BRE assess the loss of daylight to major adverse as the residual daylight would be very low.

- 9.53. With balconies, the applicants state that 65% of windows would meet the guidance for VSC daylight levels and without balconies, 67% would meet the guidance. The applicant considers that since most of the rooms are bedrooms and the 4 lounge/kitchen/diners (LKD's) have deep floorplates, the guidance should be applied more flexibly.
- 9.54. The applicants have sought to justify the low level of compliance by comparison with the redevelopment of a site in Hollingdean Road for student housing which was approved in 2015 (BH2014/01637). They have stated that 'no rooms to 6 properties on Hollingdean Road would meet the No Skyline daylight distribution targets and quoted losses of 80-97% to 3% and one room would be left with no view of the sky. These results have been misinterpreted and the BRE confirm that the relative loss was 3% and no rooms would be left without view of the sky.
- 9.55. The applicants have also drawn comparisons with the Former Wholesale Market, Circus Street development on a key strategic site in the City approved in 2014 (BH2013/03461) where a significant number of adjoining windows had a resultant loss of daylight outside BRE guidelines. In that application, the loss of daylight was acknowledged by the planning authority as being unacceptable in a number of cases but it also had to be acknowledged that the City Plan allocation and the development brief for the site could not have been achieved without impacting on the daylight of adjoining neighbours. The Circus Street development did conform to the City Plan which was a key consideration.
- 9.56. The applicants have also referred to an appeal decision in Tower Hamlets made in December 2018 which referred to the BRE Guidance which recognises that "in high density city centres, a higher degree of obstruction may be difficult to avoid if new developments are to match the height and proportions of existing buildings". The application site is not in the city centre and has a different contextual character where there are just two existing tall buildings, as defined in SPGBH15, on or adjoining the site; one on the application site to be demolished and the part 7 storey Viaduct Lofts opposite. As confirmed by the Heritage Officer, the site is also not in a tall building corridor as identified in SPGBH15 being located away from the Lewes Road. This proposal is to erect a taller (one extra storey) and proportionately larger scale of building than those currently adjoining the site. In the Tower Hamlets appeal, it is reported that the proposal was a 13 storey building in the context of 28 and 22 storey buildings built on their site boundaries.
- 9.57. Gladstone Court/St Martin's School
At Gladstone Court and St Martin's School there would be a small number of isolated minor adverse impacts to daylight but no impact on sunlight as the development is north of these buildings. Gladstone Court is orientated east-west with only minor windows on its north end thus it was anticipated that significant daylight issues would not arise from the redevelopment of this site. Likewise the school buildings are set well back from its north boundary and given the current height of buildings on the application site and relationship to

the boundary, daylight issues would be very limited by the site's redevelopment.

9.58. Proposed development

Daylight provision to the new development itself is stated as being poor overall by the BRE review. Of the 161 studio rooms analysed, 47 or 27% would not meet the minimum recommended average daylight factor (ADF) levels of 1.5. The BRE comment that there may be more studios which would fail if the tree belt had been taken into account. Of the 16 LKDs in the dwellings, 6 (37%) would not meet the recommended ADF levels of 2.0.

9.59. The applicants have compared the daylight levels for the proposed student rooms to an approved scheme at Hollingdean Road for student development stating that 71% of the communal kitchen diners met the guidance similar to its own pass rate. The percentage refers to a handful of LKD's where the analysis was carried out for the ground floor where the lowest daylight levels would be found. The proposed student accommodation has no LKDs since the rooms proposed are all studios so the comparison is not direct. However, the applicants have made no reference to the daylight levels to the 205 cluster rooms approved in Hollingdean Road of which 100% passed the ADF guidance very comfortably. No acknowledgement was given that the daylight results for the LKDs above ground floor would have been better. A subsequent S73 application (BH2016/05388) to amend the Hollingdean Road scheme relocated the LKDs to the south facing frontage into one larger combined LKD where the results would have been better and this scheme is now under construction.

9.60. Sunlight levels to the school playground have not been formally analysed but is unlikely to be significant as the proposed development is to the north.

9.61. Sunlight provision to windows is described as average by the BRE with around half the rooms facing north and receiving limited sun. No sunlight analysis has been carried out for the proposed amenity space for the development but is open to the south and would be expected to receive sufficient sunlight according to the BRE.

9.62. Amenity Space/OpenSpace and Recreation Provision

The proposals do not provide any on site or public open space. There would be a ground floor gym of 98 sqm. for use by the students (and potentially the business occupiers). This could off-set the indoor sports contributions required by the proposals in order to meet the requirements of City Plan policies CP16 (Open space) and CP17 (Sports Provision). The total contributions sought would be £382,361.14 for open space and outdoor recreation with an additional £74,088 for indoor sports. Broken down this would be:

£1512.46	Children's Play
£13,221.76	Amenity green space
£112,671.97	Outdoor sport and recreation
£164,907.79	Parks and Gardens
£73,876.32	Natural and Semi Natural

£16,170.84 Allotments
£ 74,088 Indoor sports

9.63. The application includes a gymnasium of 98 sqm. and it is considered that the contribution towards indoor sport could be deducted from the total. The total requirement would therefore be £382,361.14

9.64. Noise

In order to achieve appropriate noise levels in the student flats (BS 8233 recommends 35 dB $L_{Aeq,16hr}$ in the daytime and 30 dB $L_{Aeq,8hr}$ in the night time) which would require closed windows and alternative methods of ventilation for the following:

- All windows to student rooms on the west (outer – not courtyard) façade of the PBSA student accommodation block from 1st floor to 7th floor this is to mitigate road traffic noise (at levels 5 to 7) and mitigate car workshop noise
- All windows to student rooms on the north façade of the PBSA student accommodation block from 5th floor to 7th floor to mitigate road traffic noise.
- Potentially windows to student rooms at 7th floor level which overlook or are adjacent to the green roof where VRF condensing units are proposed i.e. if control of noise from the unit cannot be mitigated with local barriers and/or unit attenuation.
- All windows to habitable rooms at 4th floor of the west façade of the affordable housing flats (unless a discretionary 5 dB relaxation is exercised)

9.65. All other facades (i.e. facing into courtyard/ east facades/ lower levels) could have openable windows, unless non- acoustic considerations come into account. The Environmental Health Officer has no objections subject to the imposition of conditions requiring attenuation to keep plant noise levels at 5DB below background noise levels and sustainable acoustics to be installed to meet internal noise level standards of BS8233:2014 World Health organisation Guidelines. The Environmental Health Officer however would require windows to be openable however reflecting the concerns of the Private Sector Housing Team about overheating.

Sustainable Transport

9.66. The main issues for transport have been the service bay provision for deliveries at the front of the site, the pedestrian access to and from the site, vehicular access and cycle and the numbers of bays for disabled car parking.

9.67. Concerns were raised about the servicing arrangements at the front of the site and the poor pedestrian environment particularly around the northern section of Melbourne Street. The original proposals showed a long service bay at the frontage for deliveries, moving days and an access for 3 disabled parking spaces in the north west corner of the site. These three disabled bays have been redesigned to meet the required specifications and tracking paths

demonstrate that they are useable and the highway authority is now satisfied that they would be useable and would avoid overhanging the footway.

- 9.68. Transport officers sought enhancement of the public realm in front of the site by minimising servicing facilities and the number of accesses to them to avoid them dominating this section of footway. Concerns were also raised about the opportunities created for indiscriminate parking on the site frontage which could be addressed by providing planting. The revised plans now indicate the provision of separate entrance and exit points, the latter of which is shared with the pedestrian access to the housing. This would also enable occasional vehicle and emergency access. The service bay would be sited between the building line and a new continuous footway so that the footway would be approximately 16.5m in length between access and egress. The Highway Authority are satisfied with this arrangement subject to details under a S278 agreement.
- 9.69. Refuse collections for the student accommodation will be in the north of the site by reversing into the site or can be carried out on street if preferred by City Clean. Domestic waste would be collected from the main bin store close to the southern boundary.
- 9.70. The servicing facility would extend across most of the business space frontage and would be within the site itself and could accommodate a 4.6 tonne van and one other vehicle at the same time if necessary. Access would be physically controlled by means to be agreed and managed by staff of the student accommodation.
- 9.71. Aside from the disabled bays required, it is considered that car free development is acceptable in principle in this location as the site is in a Controlled Parking Zone (CPZ). A car free condition has been requested by the Highway Authority since a parking survey has not been carried out but the Council's data suggests a high uptake of parking permits so there should be no permits issued to students or residential occupiers.
- 9.72. The parking standards under SPD14 require a disabled parking bay for each wheelchair unit for the student accommodation. That would result in a requirement of 8 bays. In addition 2 disabled bays for the offices are required and one per accessible flat. Policy HO19 would require 3 wheelchair accessible flats to be provided in this affordable scheme (10%). It is understood that whilst the flats would be adaptable, the registered social landlord who has entered into an agreement with the applicants is not intending to accommodate occupiers needing a wheelchair unit. The applicants state that students requiring wheelchair units do not normally have a car in their experience.
- 9.73. The revised scheme would provide 4 disabled parking bays. In addition to the 3 bays in the north east corner, the highway authority considers that a 4th disabled bay could be located in front of the flats. The highway authority considers that a further 3 disabled bays could be accommodated on a request basis for tenants of the employment space on the southern amenity space

since the numbers of disabled bays proposed would fall short of SPD 14 requirements by 7 spaces. This would remove the useable amenity space provided on site for the business space if the bays were required. On this basis, the highway authority has no objections to the proposals.

- 9.74. The applicants have provided some details of the move in day management which will include use of the 2 parking bays at the front of the site. The students would be allocated time slots and assistance by staff with trolleys to unload vehicles rapidly and information would be provided on where to park locally following loading.
- 9.75. The highway authority are now satisfied with the 298 secure cycle parking spaces proposed together with 30 on site hire for students to be privately run. The bike stores would be located either within the building accessed on the north side or in a separate store in the north east of the site. 25% of spaces would comprise Sheffield stands and 75% Josta double stacking. 24 long stay cycle parking for the residents of the dwellings are provided in a ground floor store and 10 commercial spaces in the business space. The numbers would comply with SPD14 parking standards for cycles in terms of numbers.
- 9.76. A Framework Travel plan has been provided to promote the use of sustainable transport modes and reduce dependence on the car. The Travel Plan would also generate a requirement for sustainable transport measures to be funded by the applicant such as car club membership for 2 years and travel packs.
- 9.77. The proposed development would generate an increase in trip rates it is considered and the Highway Authority have sought a financial contribution towards sustainable transport measures including a location based deduction, of £33,000 to go towards cycle improvements on Melbourne Street and Lewes Road and bus stop facilities on the Lewes Road. The Transport Assessment estimates an additional 222 person trips compared to the current site if fully occupied but the reduction of the 80 space car park would reduce vehicle trips.
- 9.78. The main concern could be the future potential for competing demands between the needs of residents requiring disabled parking bays and amenity space should demand for the former materialise. The highway authority has not raised objections and would accept that it would not be possible to fully meet the parking standards in SPD14 on site.

Sustainability

- 9.79. The information provided by the applicant in support of the application is limited. A sustainability checklist has been submitted and an energy strategy which indicates that the development would meet the minimum requirement of BREEAM Excellent for energy performance with CHP and air source heat pumps. There is conflicting information about the use of photo voltaics (PV's) on the roof however the plans do not show any proposed PV's and the Energy Strategy states that it would not form part of the strategy. Similarly, green roofs are referred to in the planning statement and shown on the roof plans for the

projecting east and west blocks but not referred to in the sustainability assessment.

- 9.80. The proposed student building should achieve BREEAM Excellent and there are considered to be no reasons why the development could not achieve that. The proposed residential block should also be capable of meeting the energy and water saving requirements set out in City Plan policy CP8 of achieving a 19% carbon reduction energy performance against Part L of the Building Regulations and the 'optional' water saving targets of 110 litres per person in the Building Regulations. The proposed development should be capable of meeting these targets which could be conditioned by requiring a Design Stage Certificate prior to any construction and a Post Completion BREEAM certificate.
- 9.81. It has been confirmed that mechanical ventilation would be provided for the PBSA and affordable housing provision, which will provide background ventilation and boost ventilation.

Arboriculture/ Landscaping

- 9.82. The current site itself has a negligible amount of landscaping in existence however the woodland tree belt (mostly elm) in the cemetery on the north boundary outside of the site provides a significant backdrop of mature trees of high townscape value. There are some other isolated areas of vegetation around the perimeter of the site including 3 self-seeded (mainly sycamores) on the site boundaries as well as some vegetation which has grown over from Shanklin Road gardens.
- 9.83. As the proposed development would be built close to the boundaries on three sides, there would be limited opportunities for new planting particularly in areas where good light and sunlight would be available. On the north boundary, the scheme proposes some careful management of the tree crowns prior to construction works to allow scaffolding to be erected. The rising ground levels on the north part of the site would be maintained to avoid excavation and potential damage to tree roots except in the north east corner to provide the plant room. The root protection areas have been mapped and above ground floor level, the north building line would be 8-9 metres away from the boundary and would ensure that the building itself would avoid the rooting zone. No new planting is proposed as it would not establish.
- 9.84. On the east boundary all of the current tarmac/concrete hard surface areas would be broken up but as with the north side, there are limited opportunities for planting where the area receive limited sunlight and daylight. Planting of species suitable for dry shady areas are proposed on an embankment to be created between the development and Shanklin Road rear gardens.
- 9.85. The south side of the site has the most potential for planting facing south with no obstructions. The proposed courtyard however would be hard landscaped with a single large tree proposed in the middle of the courtyard. The courtyard would be approximately 14 x 10 metres and due to its modest size, further

substantial planting could cause loss of light and outlook to student rooms above ground floor. The remainder of the amenity space is required to be kept clear for emergency access and a turning head and or disabled parking spaces.

- 9.86. At the first floor roof terrace for the student occupiers, the wind assessment has identified that some tree planting for mitigating some of the impacts would be required. Trees of 4 metres in height are suggested which would be required to be planted in pots or troughs being above ground level.
- 9.87. A row of trees and climbing planting are proposed adjoining the school boundary but the landscape buffer initially proposed was considered to be too narrow at mainly 1.5 – 2.5m in width, in the arboriculturalist officer's opinion, to enable a substantive landscape scheme to mitigate the scale of the development proposed. The wind assessment also suggests trees reaching 8 metres in height could be planted along the southern boundary. The landscape buffer has been amended by providing a 4 metre buffer. This has been achieved by pulling back the ground and first floors of the employment and student hub space thus maintaining emergency access.
- 9.88. The existing high timber boarded fence would be replaced by a 3 metre high mesh fence similar to the existing fence currently fronting Melbourne Street. As seen from the south where the benefits of the proposed landscaping would be most appreciated in the streetscene, the mesh fence as illustrated in the Landscape Statement would appear as quite an opaque physical barrier thus limiting the amenity value of the tree planting and climbing plants unless they do reach the heights suggested by the applicants.
- 9.89. The applicants are proposing to provide new play facilities and playground markings within the school playground which is outside the red line boundary of the site application. The play facilities would include a small synthetic turf games area within the boundary of the school on the existing playground. No tree planting is proposed to add to the landscape benefits in the streetscene. The play areas would not be publically accessible and therefore could not contribute to the on or off site open space and recreation requirements generated by the proposal in accordance with City Plan policy CP16. It is not considered that the proposals within the school playground are neither required nor necessary to off-set any impact on the school of the development proposed and therefore are not a material consideration in assessing the application. The works would not be required by the planning authority as a condition or obligation if consent was granted and are a matter between the applicant and the school.
- 9.90. The western frontage would also be hard landscaped to provide servicing and loading zones with a small strip of planting proposed to provide 2 trees as indicated on the plans.
- 9.91. The proposals have identified the existing trees and would retain those trees which are the most important on the north boundary. There are no objections

to the removal of other low quality specimens that have self-seeded on the site.

- 9.92. The concerns about potential impacts of the development on the existing canopy and root system of the northern tree belt have been clarified to some extent regarding changes in levels and surfaces and any works to trees overhanging the site could be carefully managed under supervision and could be covered by a planning condition.
- 9.93. Policy QD16 of the retained local plan policies also require new tree and hedge planting as part of new proposals where feasible. Local Plan policy QD15 requires consideration to be given to spaces around the building early in the process in designing the landscaping including suitable open space provision. The landscape scheme has considered the optimum location for the amenity space to be sited which would be on the south side of the building, opposite the school playground to maximise opportunities for natural light and sunlight in the amenity areas at ground and first floor.
- 9.94. The landscaping statement indicates that the amenity space around the proposed building could comprise high quality paving as well as on the site frontage to enhance the public realm. The current building is surrounded by tarmac and concrete surfacing and has no landscape value at ground level. However, the proposed hard landscaped frontage would be 4 metres in front of the building line which is relatively narrow in proportion to the scale and height of the building on this frontage on this narrow Melbourne Street frontage and would only permit one or two trees to be planted.
- 9.95. The applicants have sought to utilise every available space within the curtilage of the scheme for landscaping however the extent and site coverage of the landscape proposals are disappointing due to the large footprint of the building and the need to accommodate parking bays, servicing zones and emergency access which would limit the opportunities for successful and substantive landscaping including planting to soften the development.
- 9.96. The later modifications to the southern end of the scheme to create a 4 metre planting strip would now however be a positive improvement and would enable more substantive planting on this side to be established. The arboriculturalist considers that the extent of landscaping on the north, west and east edges of the site would still be limited. Given the improved potential for landscaping on the south edge of the scheme, the arboriculturalist no longer objects to the proposals and subject to details of appropriate species and a management and maintenance regime the proposed landscaping can be accepted and that the requirements of Local Plan policy QD15 would be met.

Archaeology

- 9.97. The County Ecologist has not raised the likelihood of there being any archaeological remains on site so there would be no concerns about any impact on archaeological heritage.

Ecology/Biodiversity/Nature Conservation

- 9.98. The affordable housing block would have a green roof as would the roofs of the west and east student blocks but not the north block. The Ecologist supports the application subject to suitable mitigation being provided on and off site. The ecologist has requested that care should be taken when working around the existing tree belt to ensure its protection including the potential for existing bird or bat nests and care should be taken in consideration of light spillage onto the proposed onto the existing vegetation. The current site provides limited ecological value at present with the exception of the belt of trees which grow over the site from the cemetery land. The Ecologist has requested an Ecological Design Strategy to be provided as a condition of any consent.

Conclusion

- 9.99. The proposed development comprises mainly 330 studio units of purpose built student accommodation (PBSA) on a site which has been allocated under City Plan Part One Policy CP3 as a mixed employment and housing site. Whilst the proposal does include 24 affordable units as shared ownership tenure, it is considered that the site would not be fulfilling its potential as a housing site given that the indicative numbers of units in the SHLAA is for 80 units. Policy CP21 (Student Accommodation) states in criteria 7 that PBSA will not be supported on housing allocated for housing or with either an extant planning permission for residential development or sites identified as residential.
- 9.100. The council's priority is general needs housing particularly given the city cannot demonstrate a 5 year housing supply. As such it is critical that the council is able to maximise the delivery of residential (C3) accommodation on the sites specifically allocated for housing. The Government's Housing Delivery Test, published in February 2019, shows that delivery over the last 3 years has fallen short of the City Plan's annualised target and that a 20% buffer should applied to the five year housing figures. Increased weight should therefore be given to housing delivery as set out in City Plan policy CP1 and in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).
- 9.101. It is not considered that the applicant's case that allowing this proposal would free up other housing currently in multiple occupation to return to class C3 family housing has been evidenced which might allow an exception to policy. It is acknowledged that there is a demand for PBSA in the city but this would not override the need to retain sites allocated to meet the pressing need for housing.
- 9.102. The proposal includes a proportion of employment floorspace in modern premises which whilst resulting in a significant loss of employment floorspace compared to current provision has been accepted by the planning policy and economic development teams. The B1 floorspace retained is a similar quantum to that retained as part of the now expired planning consent for housing and could be accepted.

9.103. The development proposed, at a maximum 8 storeys, would be defined as a tall building as is the existing 6 storey building on site. and is in the immediate context of the 7 storey Viaduct Lofts. The scheme would be built at very high density tight to the boundaries on 3 sides of the site, but has also been considered in the context of a site which is constrained by small scale terraced housing. The wider townscape impacts have been mitigated such that the scale of the scheme would not cause harm in longer views, by some height reduction and by improving the design, appearance and materials. Notwithstanding, it is considered that the proposed development would have an unacceptable impact on the amenity of neighbouring residents due to its siting, overbearing nature and impact on residents' outlook and would result in unacceptable daylight losses to residents contrary to policy QD27 of the Brighton and Hove Local Plan.

9.104. It is considered therefore that the application should be refused as the proposal is contrary to the City Plan site allocation for mixed housing and employment use and due to its impact on the amenity of adjoining residents, the application should be refused.

10. EQUALITIES

10.1. The proposals could ensure that all new build dwellings are in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings). In addition 3 of the new dwellings and 5% of the new student rooms could meet Wheelchair Accessible Standards.

Cllr. Dick Page

BH2018/02751- Enterprise Point & 16-18 Melbourne Street

01/10/2018:

I must object in the strongest possible terms to this major project, summarised as:

Demolition of all existing buildings and electrical substation and erection of building of between 4 to 9 storeys comprising office floor space (B1), student accommodation including 350no student bedrooms (Sui Generis), 20no residential flats (C3).

In February a developer was canvassing us about approximately 87 student units on this site; now it has grown to 350. This neighbourhood has an excess of HMOs already, and purpose built student blocks (PBSBs) similarly contribute to an imbalance in the local population, with temporary residents who are more likely to cause late night noise and nuisance. There are a number of other PBSBs in the immediate vicinity on the Lewes Road, not to mention the massive Preston Barracks student accommodation in construction, some 5-600 metres to the north.

In addition the development replaces the big small business block of Enterprise Point with just one (ground) floor of “office space” – and at 9 floors may be too high and overbearing.

If we have to accommodate more and more students off-campus, I see no reason why PBSBs cannot be dispersed away from “academic corridor” to places like Woodingdean, East Brighton and Hove, which mostly have (or could easily have) good transport links to the universities.

To grant this massive addition in student numbers would clearly tell settled residents that the Council does not care about their wellbeing, community or primary schools.

Please inform me if/ when this application will be considered at Planning Committee.

Cllr. David Gibson

BH2018/02751- Enterprise Point & 16-18 Melbourne Street

18/10/2018:

I am writing concerning the planning application to re-develop enterprise point and I would like to address the planning committee when it comes for decision. Please advise me of the date as soon as it is known.

I (and residents who have contacted me) feel that the scheme represents an overdevelopment of the site (with risks to light for neighbours and imposing a strain on the narrow access roads) and also that the balance between long term residential accommodation/ affordable residential accommodation and student accommodation is far too weighted in favour of student provision. Whilst accepting this accommodation will be managed (and therefore less disruptive), it is important to recognise that residents in the area have already seen 3 student blocks built by the gyratory and this comes on top of a very high concentration of HMOs particularly in Newmarket Rd and Gladstone Place which already is well in excess of the 10% concentration required in the article 4 planning restrictions. This makes it really hard to achieve a balanced and strong community in an area with a huge proportion of non permanent residents On top of this there will be a large expansion of student accommodation on the Preston barracks site nearby.

I feel that residents of the area should be fully consulted about needs an possible community benefit/compensatory improvements that can arise from section 106 monies

I accept that the developers (who were originally proposing an entirely student development (of a smaller size)) have taken on board the lack of non student housing provision to a small extent, by including much needed 20 affordable residential homes and this is very welcome, but more is needed. The 20 units goes alongside 350 student units. In my view the number and proportion of non student affordable (and residential) housing provided needs to be higher.

Currently around 30 property guardians housed at truly affordable rents will be lose their homes as a result of the development and I feel that the planning committee needs to take account of this impact of people who are currently affordably housed and seek a significant net increase in affordable housing provision. I note that the previously approved planning application was providing over 80 residential units on the site (were 40% of this be provided as affordable housing (as is planning policy) there would have been over 32 affordable affordable units of housing provided

In summary, given the residential housing crisis in the city, the proposed development provides insufficient affordable other general residential (non student) accommodation to address this, if approved it will contributes to

a very understandable feeling from many residents that the council does not listen to their concerns and it will make the achievement of community cohesion even harder than it already is. I feel that the developers should be asked by planning committee to revisit their plans and prepare a new proposal that addresses these concerns. There should be full consultation with residents about the use of developer contributions arising from any future planning approvals once approved.

Cllr. Emma Daniel

BH2018/02751- Enterprise Point & 16-18 Melbourne Street

09/10/2018:

First, please can I reserve a space to speak on this item when it comes to committee and be notified as far in advance as possible that it is coming to committee?

I would like to present these concerns to planning committee and to ask them to take them into consideration with this item please.

I am not opposed to this site being redeveloped, it is currently an eyesore and a realistic plan to create a safer and better built environment is welcome. I also would say that I appreciate the work the company has done to engage the councillors and community and respond to issues. I want to start with the positive aspects before asking that committee work to reduce the concerns that the community have presented to me and that I share.

I welcome the design where the windows open internally to a horseshoe design into the centre of the site. This is thoughtful and reduces noise and an impact of privacy and prevents rooms directly overlooking the school playground that the site neighbours. I hope that this design feature is maintained if the committee asks the company to resubmit following the feedback from the community.

I also appreciate the fact that they are seeking to create a green barrier between the site of trees and planting and the school which will be much better for health and the environment than what is there now. I would like to see this as a condition of planning consent. They have also offered to resurface and landscape the playground as a compensation for the disruption and noise during the day the school will experience during works. If this can be a condition, I would appreciate that.

They have also assured me and residents of the area that the site will have 24 management and that any nuisances can therefore be dealt with immediately. I would like to see this as a condition of planning.

I also praise them for considering the location and impact by designing in space for deliveries and drop-offs. This is practical and necessary given the narrow single lane nature of the street.

Concerns I present on behalf of residents that I would ask committee to please reject the current plans and ask that these concerns are tackled prior to the scheme approval:

1. Whilst the site itself is large, the street it is on is incredibly narrow single lane with narrow pavements. I believe that residents will suffer significant loss of amenity in terms of onstreet

noise and traffic and I would therefore urge committee to reject the plans and ask for a project with a lower density that reflects this.

2. Residents feel the design is too close to the street and would cause an oppressive atmosphere and lack of privacy and unreasonable additional noise for existing residents in Viaduct Lofts. They would urge that the scheme is reduced and moved further back from the narrow pavement.
3. They would want to see a detailed report from transport on how they anticipate the additional pedestrian and delivery traffic to be managed safely. This street is one way and has two blind corners as it is a U-shape. In addition small children aged 3 upwards use this road to access their school. **I would recommend that a transport officer reports on this so it can be presented to committee with the application.**
4. Its vital that the management of the project is safe and considerate of neighbours – concerns about managing dust, construction noise and how trucks and heavy equipment access the site, given the nature of the street. We would ask that there is named person that residents can contact in the event of a site issue. We have concerns in particular about consistent emergency services access and two people at least, have very serious health issues that require frequent hospital visits. Residents want reassurance on this point too.

We note too, that the neighbouring site is also in the early stages of submitting a planning application and community concerns are that potentially two major sites are developed simultaneously with heavy vehicles blocking the street. We would like to understand how these projects could be managed if developed simultaneously in terms of site management and traffic.

To conclude, this is a scheme whose developers have done a lot of the right things, residents recognise that and they don't oppose on principle a scheme going forward for students on the site. They do urge you to reject the scheme until it is lower density and the right conditions are in place to protect them from avoidable nuisance and loss of amenity.

06/03/19:

First, I would like to state that I am in favour of this site being redeveloped. It is currently an eye sore and badly needs redevelopment. However, balancing all the different considerations I would ask that you reject this scheme.

Recently, other sites nearby have been developed as purpose built student accommodation on the Lewes Road and I haven't put any objections in as it is my view those sites were not suitable for permanent accommodation (situated right on the main road on small sites and not impinging on residents amenities).

However it is my view that this site is best developed for permanent homes rather than for students. It has space for decent sized units and I believe a profitable business plan could be made to achieve a significant level of affordable housing as well.

Whilst I do think that the applicants have done an excellent job of engaging the community and councillors and have modified their designs as a result of this feedback, residents still believe the loss of amenity in terms of height and risk of overlooking into their homes is high.

Whatever is developed here in a very confined one way street with access to a primary school and two wheelchair users already resident on this street, must have accompanying plans using the s 106 to completely redesign the current layout and make it safer for the users of the street.

The applicants have ensured there is space for inevitable deliveries and move in and out of tenants but the parking is still potentially too limited. Equally, it is my view the rest of the street would not be safe with increased deliveries/ taxis and general access traffic without a really intensive redesign especially to keep the very young children who access the school safe. The nursery age is 3 years old.

What is good about the design is the thought about impact on the school and the introduction of a green wall which has been used in Tower Hamlets to improve playground air quality. I would like to see both primaries on the Lewes Road corridor at Lewes Road level have these as we know air quality due to the "bowl" geography is an issue. These schools in my ward are St Martins (adjacent to the development) and Fairlight) a few streets along.

The applicants have reduced the height and sense of overbearing of the building but as you can see from the feedback from residents - in terms of design they still consider it too high and too close to their current boundaries.

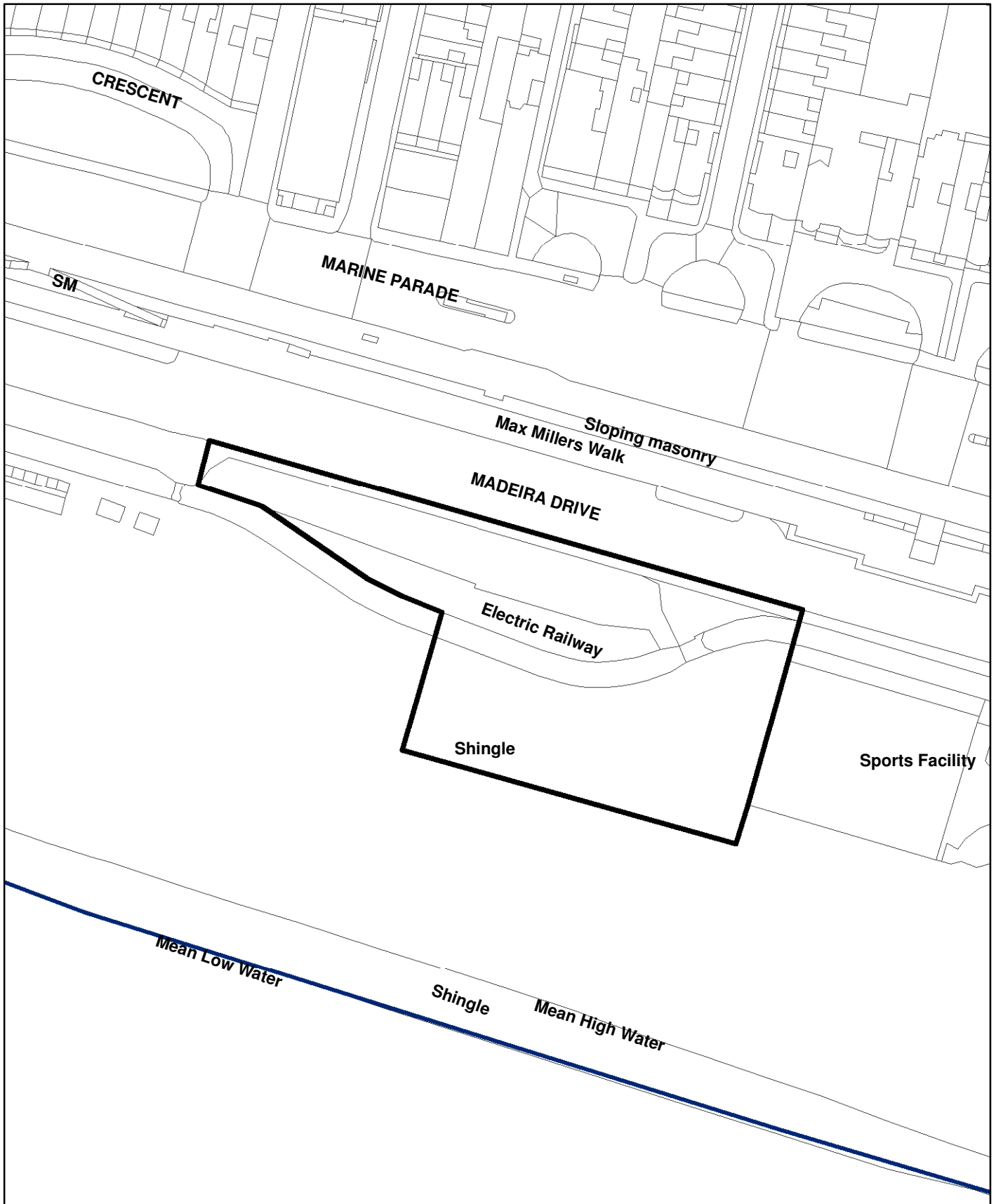
I hope this letter is useful in terms of making the decision on this application.

ITEM B

**Former Peter Pan Playground Site
BH2019/00293
Full Planning**

DATE OF COMMITTEE: 3 April 2019

BH2019_00293 Former Peter Pan Playground Site



N



Scale: 1:1,250

<u>No:</u>	BH2019/00293	<u>Ward:</u>	East Brighton/Queens Park Wards
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Former Peter Pan Playground Site Madeira Drive Brighton BN2 1PS		
<u>Proposal:</u>	Erection of outdoor swimming pool (25m x 12.5m) and changing/plant rooms (D2 use), flexible events space (D2 use) and 1-2 storey relocatable modular buildings with first floor deck to provide mixed leisure/retail/food/drink/office uses (D2/A1/A3/A4/A5/B1 uses) with associated cycle parking, refuse storage, landscaping, boundary treatment and retractable beach mat. Temporary (meanwhile use) for 5 years.		
<u>Officer:</u>	Nick Eagle, tel: 2106	<u>Valid Date:</u>	04.02.2019
<u>Con Area:</u>	East Cliff	<u>Expiry Date:</u>	06.05.2019
<u>Listed Buildings Grade:</u>	II (setting of)	<u>EOT:</u>	
<u>Agent:</u>	Absolute Town Planning Ltd Gemini House 136-140 Old Shoreham Road Brighton & Hove BN3 7BD		
<u>Applicant:</u>	SeaLanes Brighton Ltd C/o Agent		

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 and the following Conditions and Informatives as set out hereunder, **SAVE THAT** should the s106 Planning Obligation not be completed on or before the **24th July 2019** the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 10 of this report.

S106 Heads of Terms:

Ecology: An Obligation to secure submission and agreement of an Ecological Strategy and Plan prior to first installation of the swimming pool which commits the developer to the following (which will require a licence from the council as landowner):

- Provision of details of an off-site coastal vegetated shingle mound (minimum 1,500sqm in area) between the Yellowwave facility and the Banjo Groyne (or another location to be agreed) and implementation of it. Details to include methodology, size, design, location, materials to be used, planting/seeding, specification including volume, number and type of plants, period of implementation

- Provision of details of a boardwalk and one interpretation board and implementation of them associated with the vegetated shingle mound
- Provision of details of a minimum of area of 371sqm of on-site vegetated shingle habitat adjacent to the Volks Railway and implementation of it before development is first brought into use
- The area of green vegetated roofs to be 246 sqm
- Provision of details of a maintenance/management strategy for all the ecological mitigation measures to include provision of an annual monitoring report over a 10 year period
- A financial contribution total of £2,074 towards annual review of the monitoring reports by the County Ecologist (over a 10 year period)

Sustainable Transport:

- A financial contribution of £3,500 towards enhancement of sustainable modes of transport within Madeira Drive to include, but not be limited to, provision of additional cycle stands including the Bike Share scheme, pedestrian enhancements and signage.

Economic Development:

- Submission of an Employment & Training Strategy to demonstrate how the developer or main contractor and / or their subcontractors will encourage 20% local labour and training opportunities during the life of the project.

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	Date Received
SITE PLAN AS EXISTING	0001	02.02.19
BLOCK PLAN AS EXISTING	0002	02.02.19
PROPOSED GROUND FLOOR GA PLAN	0003	02.02.19
PROPOSED 1ST FLOOR GA PLAN	0004	02.02.19
PROPOSED ROOF PLAN	0005	02.02.19
PROPOSED SECTIONS AA-CC	0006	02.02.19
PROPOSED SECTIONS DD-GG	0007	02.02.19
PROPOSED SECTIONS HH-KK	0008	02.02.19
PROPOSED SECTION CC – COMPARISON TO REFUSED SCHEME	0009	02.02.19
PROPOSED GROUND FLOOR GA PLAN UNIT ALLOCATION AND CONFIGURATION	0010	02.02.19
PROPOSED 1ST FLOOR GA PLAN UNIT ALLOCATION AND CONFIGURATION	0011	02.02.19
PROPOSED GROUND FLOOR GA PLAN EXTRACT TO SHOW VIEWS TO BEACH	0012	02.02.19

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
3. The outdoor pool and all structures hereby permitted shall be removed within 5 years from the date of the A1/A3/A4/A5/D2/B1 uses north of Volks Railway line first being brought into use or by 1st April 2025, whichever is the sooner, and shingle shall be replaced on the beach where the pool and flattened to match the surrounding beach.
Reason: The structures hereby approved are not considered suitable as a permanent form of development as their scale, height, siting, site coverage/density, design, colours and materials cause harm to the special historic character and appearance of the East Cliff Conservation Area and the setting of adjacent listed Madeira Terraces, Shelter Hall and Lift, to comply with policies SR18, HE3 and HE6 of the Brighton and Hove Local Plan and policies CP12, CP15 and SA1 of the Brighton and Hove City Plan Part One. Temporary permission has been granted exceptionally as at this particular time it is considered the public benefits of instigating regeneration of the area would outweigh the harm caused. Permanent permission is not considered appropriate because this area of the seafront is identified in the long term for comprehensive coordinated regeneration with permanent development which is sympathetic to its special setting, and to ensure the development does not prejudice the emerging plans for restoration and viability of the Madeira Terraces.
4. Within 12 months of the A1/A3/A4/A5/D2/B1 uses north of Volks Railway line hereby permitted first being brought into use the outdoor pool and associated ancillary facilities and retractable beach mat shall be implemented and completed ready for first use or alternatively the pool shall be implemented and ready for use by 1st April 2020.
Reason: To ensure the sports/leisure attraction element of the scheme is delivered to accord with policy SA1 of the Brighton and Hove City Plan Part One which primarily seeks to secure family and leisure based activities in this location, and in the interests of preserving the visual amenities of the area as the A1/A3/A4/A5/D2/B1 uses hereby permitted have only been justified as enabling development to support the viability of the leisure/sports attraction, to comply with policies SR18, HE3 and HE6 of the Brighton and Hove Local Plan and CP12, CP15 and CP17 of the Brighton and Hove City Plan Part One.
5. No development of each respective phase 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 commitment to adopt and implement the Considerate Contractor Scheme (or equivalent at the time of submission)
- (iv) A commitment to ensure that all road hauliers and demolition/construction vehicle operators are accredited to Bronze standard (or greater) of the Freight Operator Recognition Scheme
- (v) A scheme of how the contractors will liaise with local residents, businesses, elected members and public transport operators 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)
- (vi) A scheme of how the contractors will minimise, record and respond to complaints from neighbours regarding issues such as noise, dust management, vibration, site traffic, idling vehicles, parking by staff and contractors and deliveries to and from the site
- (vii) Details of hours of construction and deliveries to site, including all associated vehicular movements
- (viii) 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.
- (ix) A plan showing construction traffic routes.
- (x) Details of measures to facilitate sustainable travel to site by staff and contractors.
- (xi) 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 can be informed by 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 at intervals over a 16 hour period on two neutral weekdays and one Saturday. Survey areas, dates and times shall be agreed in advance with the Council.
- (xii) A scheme to minimise the impact, within Brighton & Hove, of demolition and construction traffic on Air Quality Management Areas and areas that currently experience, or are at risk, noise exceeding World Health Organisation lower limits.

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

Reason: As this matter is fundamental to the protection of amenity and highway safety 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.

6. No development, including demolition and excavation, shall commence of each respective phase 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.

7. The B1 office use floorspace within the development hereby permitted shall not exceed 300sqm in total and no one A4 bar use unit shall exceed a total of 150sqm (unless alcohol is ancillary to food served at the premises or there is service to seated customers taking meals on the premises).

Reason: To ensure no one use dominates in the interests of securing a mix of vibrant and active uses that complement the seafront location and help draw visitors to the area, and in the interests of crime prevention and preventing anti-social behaviour, to comply with policies SR12 and SR18 of the Brighton and Hove Local Plan and SA1, CP5, CP12 and CP13 of the Brighton and Hove City Plan Part One.

8. No development (excluding excavation) shall take place of each respective phase until details (and samples where necessary) 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) All brick, stone, concrete, render, modular building wrapping and roofing material (including details of the colour of modular building wrapping/render/paintwork to be used and evidence of robustness against weathering)
- b) All cladding to be used, including details of their treatment to protect against weathering
- c) All hard surfacing materials including for landscaping and means of enclosure
- d) All the proposed window, door and balustrade/railing treatments
- e) The colour and type of pool lining to be used
- f) All other materials to be used externally

The development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and HE3 and HE6 of the Brighton and Hove Local Plan and CP12 and CP15 of the Brighton and Hove City Plan Part One.

9. The outdoor pool hereby permitted shall not be first brought into use until details of the retractable beach mat from the pool to the sea across the beach has been submitted to and approved in writing by the LPA. The agreed mat shall be installed ready for use before the pool is first brought into use.

Reason: To ensure the scheme delivers accessibility benefits to the seafront, to comply with policy SR18 of the Brighton and Hove Local Plan and SA1 of the Brighton and Hove City Plan Part One.

10. The development hereby approved (excluding outdoor pool and associated ancillary facilities) shall not be open to customers except between the hours of 07.00 hours and 23.00 hours daily. The outdoor pool shall not be open except between the hours of 06.00 hours and 22.00 hours daily.

Reason: To safeguard the amenities of nearby residents and occupiers and the amenity of the general locality and in the interests of crime prevention to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton and Hove City Plan Part One.

11. No odour control/extraction/ventilation equipment shall be installed within the development until details have first been submitted to and approved in writing by the Local Planning Authority. This shall include details of sound insulation of the equipment. The unit(s) to which the equipment is to be fitted shall not be first brought into use until all the measures agreed have been implemented and they shall thereafter be retained as such.

Reason: To safeguard the amenities of the occupiers of nearby properties and the amenity of the general seafront locality and the visual amenity of the area to comply with policies QD27, SU9, SU10 and HE3 and HE6 of the Brighton and Hove Local Plan and CP12 and CP15 of the Brighton and Hove City Plan Part One.

12. No plant and machinery shall first be brought into use until details of their appearance and location and a scheme for the suitable treatment of all plant and machinery against the transmission of sound and/or vibration has been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in strict accordance with the approved details prior to the first occupation of the development and shall thereafter be retained as such.

Reason: To safeguard the amenities of the occupiers of adjoining properties and the visual amenities of the locality to comply with policies HE3, HE6, SU10 and QD27 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton and Hove City Plan Part One.

13. No sound reproduction or amplification equipment (including public address systems, tannoys, loudspeakers, etc.) which is audible outside the site boundary shall be installed or operated on the site.

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

14. Each respective phase of the development of the development hereby permitted shall not be first brought into use until details of external lighting (and any internal lighting of place marker units) have been submitted to and approved in writing by the Local Planning Authority. These details shall include:

- Location, design and visual appearance
- Hours of operation
- Luminance levels
- Evidence that the lighting has been selected and designed to minimise light spillage and pollution and avoid dazzle or distraction to drivers on nearby highways
- Evidence that landscaping/screening measures have been incorporated to screen illuminated areas in environmentally sensitive areas as applicable

- Evidence that lighting designs have reference to both horizontal and vertical
- illuminance to account for the varied sensitive receptors around the site.
- Independent evidence from a Competent Person to demonstrate the lighting installation complies with the recommendations of the Institution of Lighting Professionals (ILP) Guidance Notes for the Reduction of Obtrusive Light (2011), or similar guidance recognised by the council

The lighting shall be installed in accordance with the approved details before first occupation of each respective phase and thereby retained as such unless a variation is subsequently submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the amenities of the occupiers of nearby properties and the character and appearance of the general locality and to comply with policies QD25, QD27, HE3 and HE6 of the Brighton and Hove Local Plan and Cp15 of the Brighton and Hove City Plan Part One.

15. Within 3 months of the date each respective phase of the development hereby permitted is first brought into use, a Travel Plan shall be submitted to the Local Planning Authority for approval. The Travel Plan shall set out a package of measures and commitments tailored to the needs of the development, which is aimed at promoting safe, active and sustainable travel choices by its users (visitors and staff), and shall include the following measures:

- a) A travel survey of employees and visitors;
- b) Details of publicity and ticketing initiatives including advanced booking. This shall include evidence that sustainable transport information has been provided on the operators website and booking information/tickets, including information regarding public transport links and walking and cycling routes to the site;
- c) Details of a monitoring framework based on an annual survey, to enable the Travel Plan to be reviewed and updated as appropriate;
- d) Nomination of a member of staff as Travel Plan Co-ordinator.

The approved Travel Plan shall thereafter be fully implemented throughout the duration of the use of the development.

Reason: To ensure the travel demand created is satisfactorily met and to prevent undue traffic generation and promote sustainable modes of transport, to comply with policies TR4 of the Brighton and Hove Local Plan and CP9 of the Brighton and Hove City Plan Part One.

16. Notwithstanding the layout of the scheme as shown on the drawings hereby permitted, no development shall be first occupied until a Delivery & Service Management Plan, which includes details of the types of vehicles, a drawing of how deliveries will take place, and the timing and frequency of deliveries for each respective phase shall be submitted to and approved in writing by the Local Planning Authority. The layout shall be amended as approved before the development is first brought into use and all deliveries shall thereafter be carried out in accordance with the approved plan.

Reason: In order to ensure that the safe operation of the development and highway safety, in accordance with policy TR7 of the Brighton & Hove Local Plan.

17. Each respective phase of the development hereby permitted shall not be occupied until details of secure cycle parking facilities for the occupants of, and visitors to, the development have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.
Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan and SPD14: Parking Standards.
18. Each respective phase of the development hereby permitted shall not be occupied until a scheme for the storage of refuse and recycling has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out and provided in full in accordance with the approved details prior to first occupation of each phase of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.
Reason: To ensure the provision of satisfactory facilities for the storage of refuse and to comply with policy QD27 of the Brighton & Hove Local Plan, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.
19. No part of each respective phase of the development hereby permitted shall be first occupied until a Crime Prevention Scheme has been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before first occupation of each respective phase.
Reason: In the interests of crime prevention in this relatively isolated seafront location, to comply with policies CP12 and CP13 of the Brighton & Hove City Plan Part One.
20. Each respective phase of the development hereby permitted shall not be commenced until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design in each phase.
Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with policy SU3 of the Brighton & Hove Local Plan.
21. No development of each respective phase shall take place until a Drainage Strategy detailing the proposed means of foul and surface water disposal and an implementation timetable, has been submitted to and approved in writing by, the Local Planning Authority in consultation with the sewerage undertaker (Southern Water). The development of each phase shall be carried out in accordance with the approved scheme and timetable.

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

22.

(a). No development of each respective phase shall take place until the applicant has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority.

(b) 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 policies HE12 of the Brighton and Hove Local Plan and CP15 of the Brighton and Hove City Plan Part One.

Informatives:

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

2. The applicant is advised that a licence from the council (as landowner) will be required in order to carry out work on the beach outside the site for ecological mitigation as per the associated S106 Obligations secured as part of this permission.

3. The applicant is advised that having a planning application in place is no defence against a statutory noise nuisance being caused or allowed to occur. Should the Council's Environmental Health department receive a complaint, they are required to investigate under the provisions of the Environmental Protection Act 1990 to determine whether or not a statutory nuisance is occurring.

4. Any grant of planning permission does not confer automatic grant of any licenses under the Licensing Act 2003 or the Regulation (EC) No. 852/2004 on the Hygiene of Foodstuffs, Article 6(2). The applicant is advised that the site is located in a cumulative impact area and an applicant would have to have extra regard to presumption of a refusal for additional licences within the area.

5. The applicant is advised that the details of external lighting required by the condition above should comply with the recommendations of the Institution of Lighting Engineers (ILE) 'Guidance Notes for the Reduction of Light Pollution (2011)' or similar guidance recognised by the council. A certificate of compliance signed by a competent person (such as a member of the Institution of Lighting Engineers) should be submitted with the details. Please contact the council's Pollution Team for further details. Their address is

Environmental Health & Licensing, Bartholomew House, Bartholomew Square, Brighton, BN1 1JP (telephone 01273 294490 email: ehlpollution@brighton-hove.gov.uk website: www.brighton-hove.gov.uk).

6. The applicant is advised that this planning permission does not override the need to obtain a licence under the Licensing Act 2003. Please contact the Council's Licensing team for further information. Their address is Environmental Health & Licensing, Bartholomew House, Bartholomew Square, Brighton BN1 1JP (telephone: 01273 294429, email: eh1.safety@brighton-hove.gov.uk, website: www.brighton-hove.gov.uk/licensing).
7. 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

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The site is owned by the council and is part of the former Peter Pan amusement site between Madeira Drive and the Volks Railway, just west of the Yellowwave volleyball facility. The site comprises an area of hardstanding north of the Volks Railway and also part of the beach to the south of the railway. It has had several temporary uses.
- 2.2. The site lies 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 is also partly located within the Volks Railway Site of Nature Conservation Interest (SNCI).
- 2.3. The application is a resubmission following the refusal of application Bh2018/01973 and proposes the following for a temporary time period of 5 years (from date of first use):
 - The location of the swimming pool has been moved 4 meters up the beach to sit in line with the curtilage of Yellowwave and reduce the loss of public open space
 - The heated open air 25 m pool will provide facilities for a comfortable maximum of 6 swimmers per lane and therefore with 6 lanes a total of 36 swimmers may use the pool at any one time
 - Floor space has been reduced from 1386sqm to 1372sqm
 - Commercial 'enabling' development is proposed comprising shops/cafes/restaurants/bars/takeaway (A1/A3/A4/A5 uses), leisure/yoga studios/swimming-related uses (D2 uses) and office (B1 use) in modular 'container' type structures of between 1 and 2 storeys high with first floor terrace. These will be delivered in advance of the pool, so the scheme is effectively two phases.
 - The 2nd storey place markers have been entirely removed from the scheme – reducing the overall height of the scheme by 1.27 meters

- The materials have been reviewed with new robust materials to ensure durability with rubber, steel and recycled composite cladding proposed
- The colour pallet has been softened to complement existing seafront assets
- Pitched roofs have been re-introduced to soften the visual appearance of the scheme and reduce the overall massing
- Strategic views through the scheme have been protected with glass balustrades added to the first storey to ensure uninterrupted views of the sea whilst walking along Madeira Drive; the protected views are between 4.5 and 5.4 meters in width
- The existing vegetated shingle mound is to be relocated and expanded in line with the recommendations and to the satisfaction of the County Ecologist
- The loss of the existing substandard 1121 sqm of vegetated shingle to the east of the Yellowwave site would be mitigated by the creation of a new high-quality habitat of not less than 1500 sqm by the Banjo Groyne. The new area of vegetated shingle would be maintained for 10 years
- The updated scheme provides 371 sqm of ecology habitat enhancement in terms of ground cover vegetation
- Green roofs have been introduced to reduce surface water runoff, to provide together with protected pockets of vegetated shingle on site, to provide ecological enhancement. The area of green vegetated roofs is 246 sqm.

2.4. The application information suggests that a future application may be submitted for a permanent scheme, with an extended 50m pool, however, no further information relating to this has been submitted and this does not form part of the current application.

3. RELEVANT HISTORY

Former Peter Pan Amusements Site (history back to 2000 only):

- 3.1. **BH2018/02281** Erection of temporary buildings including first floor terrace to provide swimming training facility, sauna and changing facilities (D2 use), marketing suite/office (B1 use) and associated storage, plant and fencing, and use of land for general leisure/therapy use and pop-up events (D2/D1 uses) for temporary period of 12 months (Part retrospective). Approved 30.01.2019.
- 3.2. **BH2018/01973** 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. Refused 19 December 2018.

3.3. Reasons for Refusal:

1. The proposal, by reason of design, scale, density, height and colour would be incongruous and visually harmful to the setting of nearby listed buildings including the Madeira Terraces, Shelter Hall and Lift, and the setting of the East Cliff Conservation Area, contrary to policies HE3, HE6 and SR18 of the Brighton and Hove Local Plan and CP15 and SA1 of the Brighton and Hove City Plan Part One and the East Cliff Conservation Area Study and Enhancement Plan 2002.
2. The proposed siting of the swimming pool and associated structures on the beach would result in the loss of public open space, contrary to policy SR18 of the Brighton and Hove Local Plan and SA1 and CP16 of the Brighton and Hove City Plan Part One.
3. The proposal would result in the loss of rare coastal vegetated shingle habitat and would cause harm to the Volks Railway Site of Nature Conservation Importance, and does not contain sufficient mitigation and enhancement, contrary to policy NC4 and SR18 of the Brighton and Hove Local Plan and SA1 and CP10 of the Brighton and Hove City Plan Part One.

3.4. **BH2016/01405** Erection of a single storey temporary structure for use as a theatre (Sui Generis) and food court (A3) from 9th of May until the 6th of September 2016 (retrospective). Approved 24/6/16.

3.5. **BH2011/01424** Erection of steel container for operation of cycle hire business for temporary period until 31 October 2011. (Retrospective). Approved 25/7/11.

3.6. **Prior to 2000:** Numerous applications approved for amusement and fairground ride-related development, prior to amusements ceasing in approximately the year 2000.

Adjacent sites:

(Yellowwave):

3.7. **BH2005/02408** Creation of a sand area for beach sports, erection of a cafe/reception pavilion, erection of a climbing wall and erection of boundary screening. Approved 22/6/06.

Gracies Place café adj to peter Pan Playground:

3.8. **BH2014/03148** Demolition of existing cafe and erection of new single storey cafe with roof terrace (A3) in relocated position. Approved 23/3/15.

Adventure Golf Course:

3.9. **BH2018/00700** Erection of 16 metre high rope climbing course above existing golf course. Approved 23/6/18 (on a temporary basis for 5 years).

4. REPRESENTATIONS

4.1. Six (4) letters have been received objecting to the proposed development for the following reasons:

- Overdevelopment
- Poor design
- Adverse impact to setting of Conservation Area and listed buildings
- Pool too small to be useful public facility or attraction

4.2. Two hundred and seventy one (271) letters have been received supporting the proposed development for the following reasons:

- Great idea
- Will create jobs and help small businesses
- Will enliven a derelict area and help bring other business down there
- Will be huge asset for city and make it more attractive
- Would be a year round attraction
- Will encourage people to be active and more healthy, less strain for the NHS
- City is seriously lacking decent swimming pool facilities, an outdoor one would be ideal given the increase in popularity of outdoor swimming and triathlons
- Will be good for local athletes
- Good stepping stone to sea swimming
- Will be good alternative to leisure based pools in the city, will be an important venue for serious swimming, swim training and coaching, will be centre of excellence
- Will complement Yellowwave
- Good design, is quirky, colours are cheerful, will enhance this dreary area of seafront
- Pool should ideally be 50m but good start and there is potential for this
- Will attract visitors to city
- Is temporary only so allows council to use for something else in future if needed
- Previous pop-up events here have proved very popular
- Strongly support but prefer less garish colours
- Support but containers are uninspiring- could be more artistic
- Should be permanent, not temporary

5. CONSULTATIONS

External:

Historic England: Comment/Concerns:

5.1. We provided pre-application advice about a previous proposal in May 2016 and commented on planning application BH2018/01973 in August 2018. The comments we made then remain largely valid for this application and so this letter should be read in conjunction with our earlier advice. On the basis of

the information now available, we offer the following advice to assist your authority in determining this new application.

Historic England Advice

- 5.2. The proposed site is located within the East Cliff Conservation Area and is adjacent to the grade II listed Madeira Terrace and Madeira Walk, lift tower and related buildings, built between 1890 and 1897 to the designs of the Borough Surveyor, Philip Lockwood.
- 5.3. The East Cliff Conservation Area is on our Heritage at Risk Register and lies between Palace Pier and Brighton Marina and is characterised by its outstanding Regency terraces overlooking the Victorian esplanade below, with wide shingle beach and sea beyond. The residential terraces are set behind Marine Parade, originally a small track that was widened to form a promenade in 1827 supported by a concrete retaining wall below.
- 5.4. At beach level flanking the retaining wall is the grade II listed Madeira Terrace. A two tier, arched cast iron colonnade, constructed to have a covered colonnade below and open promenade above. The terrace is in a very poor condition and is fenced off and closed to the public, contributing to the conservation areas At Risk status.
- 5.5. To the front of the terrace runs Madeira Drive which was designed as a short esplanade and carriageway along the base of the cliff which over time has become a wide road which on occasion is used for motoring events. In front of Madeira Drive and forming the margin to the shingle beach is the Volks Railway of 1883, the earliest public electric railway in Britain.
- 5.6. Together these features have significance as surviving remarkable examples of 19th century engineering and reflect the late Victorian heyday of the seafront, when the coming of the railway opened Brighton up to a much wider public. These features currently sit within a flat open expansive location along the lower seafront esplanade, to the east of Palace Pier. From a variety of different levels either at the top of Marine Parade, at mid-level on Madeira Terrace or walking along the lower esplanade, clear uninterrupted views of the sea and across to Palace Pier are afforded. The open seaside environment forms the setting of the designated heritage assets and contributes to their significance.
- 5.7. This site has been the subject of previous proposals for leisure and mixed-use development on which Historic England has provided advice as seen in our letters of the 5th May 2016 and 10th August 2018. These letters set out the significance of the site and its contribution as part of the setting to the above mentioned designated heritage assets. Whilst supporting the principle of a new high-quality, leisure-based activity on this site as part of a coherent strategy to continue the regeneration of Brighton's seafront we raised several concerns relating to the potential impact upon the sensitive historic environment. In particular we raised the issues of balancing regeneration through development with the current openness and important relationship between the heritage assets and the sea front, which is a major contributor to

their historic and architectural interest as well as a distinctive element of the conservation area. Additionally we highlighted concerns about the scale and visual impact of the new development.

- 5.8. We previously advised that whilst we understood that the proposed use could compliment other activities on the seafront, the likely visual impact and harm could only be justified by the usage of this site in supporting the Council to generate funds towards the longer- term sustainable regeneration of the seafront, including repair and use of the listed Madeira Terrace and related buildings. We advised that this justification would only be convincing if the extent of harm had been minimised as far as possible and the funding clearly secured towards the long-term regeneration, as a form of public benefit.
- 5.9. The current proposals are for a 25m outdoor pool that would be in temporary use for five years. It is our understanding from the application that this is seen as a stepping stone to a permanent 50m open air pool, for which planning permission would be sought three years after the 25m pool opens. If long-term planning permission was not to be granted the site would be closed and dismantled and land returned to the local authority. Due to the costs of providing and operating this facility we note the requirement of additional development to generate sufficient income to meet these costs and this would be in the form of broadly complementary uses to the pool such as flexible events space/leisure/retail/food/drink and office uses.
- 5.10. We acknowledge that this new application has introduced some changes to the previously refused scheme, application BH2018/01973. Most notably the palette of materials has changed, which is now proposed to be black rubber membrane cladding, cedar weather board cladding and white corrugated steel cladding. Additionally we observe that there has been a slight reduction in the maximum height of the scheme, with a reduction in height of 1.27m. This is as a result of the removal of place markers and structures of a three storey height. It is noted that there has been design alteration with the introduction of pitched roofs and a change in the fenestration articulation.
- 5.11. Whilst there has been a reduction in harm from the previously refused application, we note however that the density and plan form of the proposed additional buildings remains mainly unchanged. Equally whilst the maximum height of the buildings has been slightly reduced the development remains heavily two storey. Whilst we welcome the change in palette, the scale and height of the development in our view remains harmful. A less harmful approach would see single storey development that sits below the canopy of Madeira Terrace, maintaining the distinctive openness of this part of the seafront and the uninterrupted views of the sea and Palace Pier from all levels. We acknowledge that this could have implications for the viability of the proposal but as no viability assessment is included with this application this is difficult to ascertain.
- 5.12. With the changes to the scheme advised above the level of harm could be further reduced. At that point, whilst there would still be some harm from change within the setting to the designated heritage assets and for the

conservation area, we think this would be less than substantial harm. If your council are minded to approve the scheme as submitted we think this would result in more harm to the significance of the designated heritage assets but we also think that harm would remain as less than substantial but at the higher end of that scale. NPPF paragraph 196 advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The weighing should only be carried out once you are satisfied that harm has been avoided or minimised to the greatest extent possible by design of the development. It is the remaining harm after such a process that should be weighed against the public benefits of the proposal.

Recommendation:

Historic England has concerns regarding the application on heritage grounds.

- 5.13. We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 190, 193, 194 and 196 of the NPPF. A key element to the justification of this scheme is the necessity to clearly demonstrate that the development itself and the funds generated by will contribute to the future regeneration of the seafront, including specifically the repair and use of the listed Madeira Terrace.
- 5.14. In determining this application, you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.
- 5.15. Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice.
- 5.16. **Marine Management Organisation:** The MMO is responsible for the management of England marine area below the mean high water mark. [This site is above that]

Southern Water: Comment:

- 5.17. No development will be permitted to be constructed over or within 6m either side of the existing combined critical sewer that crosses the (Peter Pan) site. From our initial assessment of the existing apparatus it appears that there is limited opportunity to divert existing drainage apparatus, and therefore Southern Water objects to the proposed development.
- 5.18. **Verbal update received on previous application BH2018/01973:** The sewer is sufficient distance below ground so as not to be affected by this temporary scheme involving modular container buildings. An engineering solution

should be able to be found should a future scheme with permanent buildings (and foundations) be proposed in the future.

- 5.19. Southern Water requires a formal application for a connection to the public foul sewer and public water main to be made by the applicant or developer.
- 5.20. The applicant should be advised that a wastewater grease trap should be provided on the kitchen waste pipe or drain installed and maintained by the owner or operator of the premises.
- 5.21. Initial investigations indicate that there are no dedicated public surface water sewers in the area to serve this development. Alternative means of draining surface water from this development are required.
- 5.22. The application contains a proposal for a swimming pool for commercial/public use. If the pool produces filter backwash water this would need to be discharged to the public foul sewer. The rate and times of discharge of this water to the sewer, and of the contents of the pool, if these need to be drained to the sewer, would have to be agreed with SW.
- 5.23. The applicant will need to ensure that arrangements exist for the long term maintenance of the SUDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system.
- 5.24. We request that should this application receive planning approval, a requiring details of the proposed means of foul and surface water sewerage disposal is recommended.
- 5.25. **Sport England:** Support as proposal is considered to provide facilities to meet demand:
- 5.26. Swim England have been consulted and they would like to emphasise its support of the project, it states that it has been in communication with the project team from an early stage and therefore is on hand to provide advice and consultancy throughout the project. Swim England believes it will have a positive impact on the swimming community of Brighton and also provide strong links between pool and open water swimming. Within the wider region of Brighton & Hove there is a slight deficit of water space, that combined with a fairly active swimming community would result in a large demand for this facility and the additional water space it provides.
- 5.27. At this stage the designs are adequate, however fine details will need to be considered and Swim England's advice should be sought as the process proceeds due to the close nature of the pool to the sea at the potential impact this will have on tank finishes and fixtures and fittings around the pool.
- 5.28. Sport England, therefore, considers this proposal addresses an identified need for this facility type and has the potential to be of benefit to the

development of sport. We would wish to see this accorded an appropriate weight in the decision that is reached on this application.

Sussex Police: Comment:

- 5.29. Main concerns with this current application are the effectiveness of the perimeter security and CCTV systems when the premises are closed and how the occupants will manage control of all the various facilities to ensure there is no lapse in security.
- 5.30. Reiterate previous comments, that providing the perimeter fencing is 1.8 metre high and fit for purpose, located on the top of the previously mentioned gabion walls to provide 2 metres in total height, with no external points that would assist climbing, and of a Heras fencing or weldmesh specification, together with 2 m high gates to provide a similar height , it will provide an adequate degree of security.
- 5.31. The application states CCTV will be included to cover most of the site. Pleased to see that CCTV has been included, together with security patrols who will visit the site on an irregular basis.
- 5.32. recommend the CCTV is monitored 24/7 by the security company control room or on a dusk to dawn basis when the premises are shut, as it will provide a quicker response time than a stand-alone digital recorder on the site which following an overnight incident would not be viewed until the following day.
- 5.33. Should a stand-alone digital recorder be installed, it would need to be securely locked away to deter it being damaged or stolen if there was an unauthorised access to the building where it is stored.
- 5.34. Having a CCTV as a 24/7 constant guardian of the site may be a stronger deterrent to unauthorised persons attempting to use the swimming pool, and the potential consequences of an accident occurring when there is no immediate help to assist.
- 5.35. The CCTV system must be commensurate with any lighting conditions and must be regularly maintained to provide clearly defined images and deal with the weather and coastal conditions.
- 5.36. CCTV should be professionally fitted and include a maintenance contract to ensure cameras operate correctly in exposed weather conditions.

Internal:

County Archaeologist: Approve subject to conditions.

- 5.37. The proposed development is of archaeological interest due to the proposed impact to the remains of the late Victorian Volks Railway, the earliest public electric railway in Britain. The proposed development area contains the course of a section of track (not the current course) that ran from a station at Banjo Groyne to the east through to a station by the Palace Pier. The route

eastward from the Banjo Groyne to Rottingdean was constructed 60metres from the shore on sets of legs 23 feet high. The proposed construction in the northern section of the site has a potential to destroy or disturb remains of the 19th century railway.

- 5.38. 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 (secured by condition). This will enable any archaeological deposits and features that would be disturbed by the proposed works, to be either preserved in situ or, where this cannot be achieved, adequately recorded in advance of their loss. These recommendations are in line with the requirements given in the NPPF.

Coastal Engineer: Comment:

- 5.39. The Shoreline Management Plan 2006 for this section of coast (policy unit 4d12) has a policy of 'Hold the Line' for the next 100 years. Hold the Line is defined as 'maintain or upgrade the level of protection provided by defences'(Defra 2001). A strategic study of the coastline carried out in 2014 and approved by committee and the Environment Agency does not identify the need for any coast defence works in the area of the application for the next 100 years, only continued maintenance of existing defences.
- 5.40. According to the results of the south east regional coastal monitoring programme (which carries out regular surveys of beach levels) this section of coast is an accreting coastline. Therefore it is not expected that the development will be affected by coastal erosion only an increasing beach width. From time to time beach management activities take place towards the Marina (extraction and movement of shingle back to Shoreham Port's beaches) this is not expected to have a negative impact on the development.
- 5.41. The application proposes laying temporary matting system across the shingle to the sea to enable disabled access. The proposed matting ('mobi mat') is shown going over a sand beach. Shingle beaches develop steeper slopes than sand; the developer should satisfy himself that this type of matting will still perform as expected in a situation such as this.
- 5.42. There is no record of sea flooding in the area of the development and no conditions are recommended.

County Ecologist: Comment

- 5.43. The proposed development will lead to the loss of 1121m² of vegetated shingle and 420m² of scrub, grassland and tall ruderal habitats. The vegetated shingle that would be lost includes a conservation mound that was created to mitigate for the Yellowwave development. Whilst the vegetated shingle habitat on the mound is not an outstanding example of the habitat, it includes a good proportion of native shingle species and remains a notable habitat, the extent of which is significant.

- 5.44. The ecology report propose to compensate for the loss of vegetated shingle habitat through the creation and management of 1500m² of vegetated shingle offsite (to the east of the Yellowave development), which would be acceptable. Green roofs have been introduced to reduce surface water runoff, to provide together with protected pockets of vegetated shingle on site, ecological enhancement. The area of green vegetated roofs is 246 sqm. The provision and protection of small areas of vegetated shingle within the site adjacent to the Volks Railway LWS totalling 371m² will enhance the site for biodiversity.
- 5.45. If the Council is minded to approve the application on the basis of this updated ecology report, a detailed plan for the compensatory habitat should be provided, including size, design and location, materials to be used, planting/seeding methodology, details of proposed public access/boardwalk, details of interpretation boards and a monitoring and management scheme. Whilst a 10 year management plan is appropriate to establish the site, management of the habitat should ideally be secured for 25 years.
- 5.46. Cost for annual review of monitoring report approximately as follows (£55ph):
- Year 1:
 Site visit x 3 = 9 hours
 Review of monitoring reports + advice re subsequent management/remedial measures = 3-4 hours
- Years 2-3:
 Review of monitoring reports + advice re subsequent management/remedial measures = 3-4 hours per year
- Years 4-10:
 Review of monitoring reports = 2 hours per year
 (total approx. £2,074 incl VAT)
- Economic Development: Support**
- 5.47. City Regeneration welcomes the provision of employment floorspace. These proposals will deliver jobs and help meet the needs of the City Skills and Employment Plan (2016). City Regeneration welcomes the creation of around 70 new jobs and opportunities for the local community. The proposals support the regeneration of Madeira Drive (Madeira Drive Regeneration Framework (MDRF)) and the rejuvenation of Brighton seafront in this area. The application also supports Policy SA1 'The Seafront' of City Plan Part One which encourages regeneration of the seafront and that proposals should support year round sport, leisure and the cultural role of the seafront. To the east of the site is the Yellowave beach volley ball facility and café and these proposals are complementary to the existing facilities and businesses and help attract people towards this area of the seafront and contribute towards its rejuvenation.
- 5.48. Should this application be approved, due to the size of the development, it would be subject to certain obligations which would be included in a S106

agreement. There will be a requirement for the developer or their contractor to submit an Employment & Training Strategy linked to the development. The strategy should demonstrate how the developer or main contractor and / or their subcontractors will source local labour and provide training opportunities during the life of the project. How they will work with the Council's Local Employment Scheme Coordinator and organisations operating in the city to encourage employment of local construction workers during the construction phases of the Proposed Development, with a target that at least 20% of the temporary and permanent job opportunities created are available to local residents interested in working in construction or gaining training, facilitated on site. In addition to the strategy, there will be a requirement for Developer Contributions for the sum of £12,110 to be made prior to commencement towards the Local Employment Scheme, as per the Developer Contributions Technical Guidance.

Environmental Health: Comment

- 5.49. There are concerns that lighting used in the evenings could cause light nuisance to neighbours. The mixed uses should have restricted opening times to avoid causing noise nuisance. Opening hours of 7am-11pm are suggested although acknowledge a gym opening at 6am nearby does not cause a nuisance, so a temporary early start could be considered to allow this to be monitored. External lighting details should be secured by condition. No PA/tannoy equipment should be permitted.

Heritage: Objection

- 5.50. The Heritage Team considers that the materials currently proposed are a significant improvement on previous schemes and would support this approach; however inadequate changes to scale and density have been made to address the previous objections regarding the proposed height and density of the development. As a result the, Heritage Team considers that the potential benefits to the Eastern Seafront that could result from increased activity brought by this development would not outweigh the harm it would cause to the identified heritage assets and cannot currently support this scheme.

Statement of Significance:

- 5.51. This site is in the East Cliff Conservation Area and adjacent to the grade II listed Madeira Terraces, Lift and associated buildings, with the route of the historic Volks Electric Railway partly running around it.
- 5.52. It is currently cleared land with basic barriers/boundary treatment against the public highway and Volks railway route, beyond which the land is open beach. The ground surfaces and boundary treatment are not positive features that sustain or enhance the conservation area, however the openness of the site is characteristic of the Western half of Madeira Drive, affording uninterrupted views of the sea and Palace Pier to the south, contrasting with the imposing scale of Madeira Terraces to the north.

- 5.53. The uninterrupted sweep of shingle beach along the Eastern seafront has a different character to the beach and esplanade West of the Palace Pier, however a small hub of open leisure uses with low level ancillary structures has developed between the application site and the Banjo Groyne. The low heights and low density of the buildings along with the choice of materials used has minimised their impact on the distinctive openness of this area.

Relevant Design and Conservation Policies and Documents

- 5.54. Planning (LBCA) Act 1990: Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the local authority shall have 'special regard to the desirability of preserving a listed building or its setting...' This presumption can be outweighed by material considerations powerful enough to do so. Where the identified harm is limited or less than substantial, the local planning authority must nevertheless give considerable importance and weight to the preservation of the listed building and its setting.
- 5.55. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance...' of the conservation area.

National Planning Policy Framework:

- 5.56. Section 192 states that 'In determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets.' And Section 193 states 'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.'

Brighton & Hove Local Plan Policies:

- 5.57. HE3 Development will not be permitted where it would have an adverse impact on the setting of a listed building, through factors such as its siting, height, bulk, scale, materials, layout, design or use.
- 5.58. HE6 Proposals within or affecting the setting of a conservation area should preserve or enhance the character or appearance of the area and should show: a. a consistently high standard of design and detailing reflecting the scale and character or appearance of the area b. the use of building materials and finishes which are sympathetic to the area; c. no harmful impact on the townscape and roofscape of the conservation area²; d. the retention and protection of trees, gardens, spaces between buildings, and other open areas which contribute to the character or appearance of the area; e. where appropriate, the removal of unsightly and inappropriate features or details; Proposals that are likely to have an adverse impact on the character or appearance of a conservation area will not be permitted.

City Plan Part 1:

- 5.59. CP 15 The city's historic environment will be conserved and enhanced in accordance with its identified significance, giving the greatest weight to designated heritage assets and their settings and prioritising positive action

for those assets at risk through, neglect, decay, vacancy or other threats. The council will further ensure that the city's built heritage guides local distinctiveness for new development in historic areas and heritage settings.

- 5.60. CP16 Planning permission resulting in the loss of open space, including the beach, will only be granted where:
- d) The site is: physically incapable of meeting the city's wider open space needs; • is not part of the beach or a playing field (current or historical); and, in accordance with the Open Space Study Update 2011 (or subsequent approved revisions), is of a poor quality without potential for improvement (current and potential) and there is an identified surplus (current and future) in all types of open space within the locality (ward and sub area)....
- 5.61. SR18 Seafront recreation New recreation facilities which are related to seafront / coastal activities will be permitted on the seafront provided that: a. there will be no development onto the beach; b. the importance of the seafront and beach as an open space is not undermined; c. any development does not have a detrimental impact on strategic views along the coastline; d. the development makes a considered response in its design to the visual and environmental character of the stretch of seafront to which it relates, supported by a design statement which addresses that character;..... g. the development will not have an adverse impact on the setting of important seafront buildings; h. the development does not have an adverse impact on nature conservation interests; and i. any development enables the beach and seafront to be accessible to all.
- 5.62. SA1 - Proposals should support the year-round sport, leisure and cultural role of the seafront for residents and visitors whilst complementing its outstanding historic setting and natural landscape value. Priorities for the whole seafront are to: • Enhance and improve the public realm and create a seafront for all; to ensure the seafront has adequate facilities for residents and visitors (including public toilets, waste disposal facilities, seating, signage, lighting and opportunities for shelter and shade) and continue to improve access to the beach and shoreline and ensure the seafront is accessible to everyone; • Promote high quality architecture, urban design and public art which complements the natural heritage of the seafront and preserves and enhances the character and appearance of the Conservation Areas, and the historic squares and lawns that adjoin the seafront
- 5.63. East of Palace Pier to the Marina deliver the regeneration of Madeira Drive as a centre for sports and family based activities supported by a landscaping and public art strategy which also provides for an improved public realm and the conservation and enhancement of the historic and nature conservation features present in this location; • Safeguard the vibrant and important event space at Madeira Drive as this presents a unique location for a mix of cultural, sport and leisure activity to take place; and • Improve beach and seafront access for pedestrians and cycle users, linking with access improvements at the Marina/Black Rock East Cliff Conservation Area Study and Enhancement Plan 2002 :

Appearance

- 5.64. The expanse of open beaches is an integral element of the setting of the buildings and the seafront amusements at Peter Pan's Playground partly detract from it. This clutter of structures is also a discordant element when viewed from above but the Volks Railway line at least provides a logical, and historic, southern boundary.

Character

- 5.65. The seafront shelters, Madeira Terrace and Covered Walkway, the Shelter Hall and Lift and below that the wide, straight southern pavement of Madeira Drive all evoke traditional seafront promenading. The continuous line of wide, uncluttered beaches contribute significantly to this character.
- 5.66. Peter Pan's playground currently detracts from the appearance of the conservation area due to its random collection of ramshackle buildings and other structures and the poor quality of its immediate environment. The council will seek to use its powers to achieve a better quality children's play area, with buildings and structures clustered together in a visually co-ordinated manner, and high quality hard and soft landscaping appropriate to the seafront location. Replacement buildings of a high standard of design will be encouraged, which respect the appearance of the conservation area not only in views along Madeira Drive and from the beach, but also from Marine Parade above. No expansion of the boundary of the playground will be acceptable. Single storey buildings only will be appropriate, with careful attention paid to the design and material of the roofs, and no amusement or ride should exceed the pavement height of Marine Parade, including when in use.

The Proposal and Potential Impacts

- 5.67. This application follows a process of formal and informal pre-application submissions and planning applications over the last two years, which has seen the scheme change in various ways. This application is for a 5 year temporary use of the site with a part 1 part 2 storey structures containing mixed leisure/retail/food/drink/office uses.
- 5.68. Previous discussions and advice have included encouragement for a more holistic and co-ordinated approach to be taken, to include the upgrading of the public realm and the relationship of the development with potential new uses for the Madeira Terrace arches and their restoration. The move to a temporary use makes such an aims more ambitious, and it is disappointing that the scope for this is lost, at least for the time being.

Policy context

- 5.69. The relevant sections of policies are set out above. The principal heritage considerations are the effect of the development on the character of the conservation area (specifically at this point the openness of the beach and promenade contrasted with the scale and enclosure of the sea wall) and the setting of the listed Terraces.

- 5.70. The East Cliff Study identifies the character of this part of the seafront as wide, uncluttered beaches which were harmed by the run-down playground that existed at that time. Since then, this site has been vacated but is still considered to have a negative impact on the immediate setting.
- 5.71. Use The Yellowwave Beach Sports venue now bounds the site to the East, and due to the previously developed nature of the site along with the cluster of activities in the vicinity, the open water swimming facility is considered a suitable use for the site in principle. It is noted that the application requests approval for a temporary period of 5 years after which presumably the site would be cleared.
- 5.72. Current Council aspirations for the regeneration of Madeira Drive support the creation of an active waypoint between the Palace Pier and Marina, however Heritage considerations require an acceptable balance to be made between the advantages to be gained in respect of the future restoration of the listed Terraces and improvements to the public realm, and the negative impact that ancillary uses and developments could have on the heritage assets that make this space special.

Site Area and Layout, Scale and Materials

- 5.73. Previous advice from the planning service has been that the siting of built structures north of the railway in this location is generally considered acceptable. This application also includes development south of the railway route and the policy of confinement of developments to the area bounded by the railway line has already been eroded by Yellowwave, it is therefore considered that a minimal amount of structures south of the railway would be acceptable if, like Yellowwave, they were at beach level and of materials that tone with the shingle.
- 5.74. The density of the development and the amount of 2 storey units is largely unchanged from the refused application BH2018/01973. The Heritage Team remains of the view that the overall density is too great for this site and would have a harmful impact on the character of the conservation area, although the change at the eastern end to improve views through the site is noted. Additionally, in line with advice consistently provided through the previous schemes the Heritage Team considers that any development of this area should be predominantly single storey and the proportion of 2 storey units is unchanged in this application, and they are scattered along the development giving an overall impression of a 2 storey development, therefore the Heritage Teams concerns over the harmful impact this would have on the setting of Madeira Terrace remain. The removal of the higher place marker elements is however noted.
- 5.75. Previous advice has been that the material and finish should make reference to the surrounding natural environment and the representation of the proposed materials submitted indicates finishes that would accord with this aspiration, however it is noted that Eternit Cedral weatherboard cladding comes in a range of pastel colours and the Heritage Team would consider a

natural timber colour to be desirable; confirmation on this is therefore required.

- 5.76. The roofs will have impact when viewed from the higher vantage points on the terraces and Marine Parade and it is considered that a shingle finish which may or may not support beach plant species would be more appropriate than a more conventional green roof on this occasion, and clarification/amendment is requested accordingly.
- 5.77. The appearance of security gates, staircases, cycle storage areas, bin stores, lifeguard unit, boundary fencing is not detailed and requires further information

Planning Policy: Comment

Summary of Comments:

- 5.78. In principle the proposed use - the outdoor pool - accords with City Plan Part 1 Policy SA1 The Seafront and emerging aspirations for the regeneration of Madeira Drive (Madeira Drive Regeneration Framework) and the emerging City Plan Part 2.
- 5.79. This revised schemes seeks to address the reasons for refusal of the earlier scheme (BH2018/01973):
1. *The proposal, by reason of design, scale, density, height and colour would be incongruous and visually harmful to the setting of nearby listed buildings including the Madeira Terraces, Shelter Hall and Lift, and the setting of the East Cliff Conservation Area, contrary to policies HE3, HE6 and SR18 of the Brighton and Hove Local Plan and CP15 and SA1 of the Brighton and Hove City Plan Part One and the East Cliff Conservation Area Study and Enhancement Plan 2002.*
 2. *The proposed siting of the swimming pool and associated structures on the beach would result in the loss of public open space, contrary to policy SR18 of the Brighton and Hove Local Plan and SA1 and CP16 of the Brighton and Hove City Plan Part One.*
 3. *The proposal would result in the loss of rare coastal vegetated shingle habitat and would cause harm to the Volks Railway Site of Nature Conservation Importance, and does not contain sufficient mitigation and enhancement, contrary to policy NC4 and SR18 of the Brighton and Hove Local Plan and SA1 and CP10 of the Brighton and Hove City Plan Part One.*
- 5.80. Encroachment on the shingle beach is contrary to Policy SR18 a) and Paragraph 3.123 of the supporting text to Policy SA1 The Seafront indicates a presumption against proposals involving an increase in hard surfacing of the seafront at or in the vicinity of the sites of city-wide nature conservation importance. Paragraph 4.176 of the supporting text to CP16 Open Space indicates the importance to protect the intrinsic geological and aesthetic interest of this expanse of shingle stones which forms such a major open space between the land and the sea. A key policy consideration is whether

the proposed use, size and design of the pool would harm the beach in in this location.

- 5.81. It is acknowledged that the applicant at this stage is only seeking temporary permission for a 25m swimming pool. Therefore subject to the revised scheme appropriately addressing Policies NC4 of the BHP and CP10 Biodiversity of the CPP1 as well as the third reason for refusal a temporary permission for a 25 m pool could be considered as an exception to CPP1 policies SR18, CP16 and SA1 if weight is given to the fact that the proposal will provide an outdoor leisure activity which accords with seafront strategies for this area of the seafront and the proposed uses would positively support the regeneration of this section of the seafront.
- 5.82. The applicant has indicated that they wish in the longer term to create a permanent larger swimming pool and provided in the submitted information an outline footprint. However the case for a permanent, larger facility would need to be fully justified with any future planning application.
- 5.83. Whilst a mix of small independent businesses would be considered acceptable to help support the leisure use and help create a vibrant seafront these would need to be ancillary/ supportive uses. The commercial elements should be kept ancillary to the main leisure use and to an absolute minimum as delivery of leisure related is the key aim for this site.
- 5.84. A Sequential Test site assessment for the proposed commercial (town centre) uses in an edge of centre location was required in order to accord with the requirements of paragraph 86 of the NPPF and Policy CP4 Retail. The assessment undertaken with the previous application and resubmitted indicates that there are no sequentially preferable sites which are suitable, available or viable and therefore the requirements of the NPPF and CP4 have been met.
- 5.85. It is recognised that the commercial development is required in order to enable the provision and operation of the temporary 25 m and this was justified with the previous application through a Viability Assessment. The use of condition to ensure the enabling development is closely related to the delivery of the pool should be sought.

Main Comment:

Planning Policy:

Proposed Leisure Use

- 5.86. The former Peter Pan Leisure site is currently an enclosed hard standing which is located to the north of the Volks Railway line and has remained vacant for many years.
- 5.87. A strategic objective of the council reflected in the adopted City Plan Part 1 (SO17) is to enhance the seafront as a year round place for sustainable

tourism, leisure, recreation and culture whilst protecting and enhancing the quality of the coastal and marine environment.

- 5.88. The overarching priority for the seafront is set out in Policy SA1 The Seafront is the on-going regeneration and maintenance of the seafront in an integrated and coordinated manner. Proposals should support the year-round sport, leisure and cultural role of the seafront for residents and visitors whilst complementing its outstanding historic setting and natural landscape value. Part A sets out a number of priorities applicable to the whole seafront and specific priorities for East of Palace Pier to the Marina are set out at Part B. which relate to the regeneration of Madeira Drive as a centre for sports and family based activities supported by a landscaping and public art strategy which also provides for an improved public realm and the conservation and enhancement of the historic and nature conservation features present in this location.
- 5.89. The 2012 draft Seafront Strategy includes as an objective the need to 'identify new sport and recreational facilities for people to be physically active on the Seafront to improve health and well-being' and supports the location of the seafront as a base for sports clubs as well as the need to make best use of the remaining seafront development sites. Whilst The Seafront Strategy is not a supplementary planning document and therefore the weight to be attached to this document is limited.
- 5.90. More recently the council has published a Madeira Drive Regeneration Framework which looks at options for reactivating and revitalising Madeira Drive and Terrace.
- 5.91. Whilst of very limited weight currently, it should be noted that emerging policy SSA6 in the draft City Plan Part Two specifically identifies the former Peter Pan site (the hardstanding site as defined on the draft CPP2 Policies Map) as appropriate in principle for leisure uses and ancillary supporting retail uses.
- 5.92. An initial 5 year temporary permission is sought for a 25 pool on the beach south of the site across the Volks Railway Line with the longer term strategy to deliver a year round heated 50 m open air pool. Through legal framework with the Council the applicant Sea Lanes are required to deliver a further planning application for the 50 m pool within 3 years of opening the 25 m pool. The temporary permission allows the consortium to 'test the market for commercial uses in this yet unproven location'.
- 5.93. The revised Planning Statement indicates an area of extension of the swimming pool on the beach however it is unclear whether additional commercial uses will be sought at the second phase and this should be clarified by the applicant.
- 5.94. The Head of Sport & Leisure should be consulted to advise whether the proposed swimming pool will accord with the council's Sports Facilities Plan. Retained BHLP Policy SR18 Seafront Recreation and adopted City Plan Part 1 Policy CP17.6 Sports Provision in particular apply.

- 5.95. Subject to these comments it is considered that in principle a proposed outdoor swimming pool broadly fits the emerging seafront strategy. The main policy issue is the proposed location on the beach.

Development on the beach

- 5.96. Whilst in principle the proposed leisure use broadly fits the emerging seafront strategy, encroachment onto the shingle beach would be contrary to Policy SR18 a) Seafront Recreation of the adopted Brighton & Hove Local Plan and the proposed use would also result in a change from this section of the beach as open space to formal recreation use and adopted City Plan part 1 Policy CP16 Open Space apply.
- 5.97. Consideration is given as to whether the proposed use, size and design of the pool would harm the beach in qualitative terms in this location given adjoining uses and particularly as the proposal is for a temporary outdoor leisure activity and would support the regeneration of this section of the seafront.
- 5.98. The applicants have previously stated that the area north of the railway (the area marketed by the council) is not sufficient to accommodate their proposals and potential future plans for a 50 m pool. The applicants have indicated in their Planning Statement that they consider the beach location for the pool to be an 'infill' site between the Yellowwave Beach sports venue and seafront huts/ containers associated with fishing and the swimming pool on the beach would not be an unexpected feature on a popular beach; beach incursions have occurred elsewhere on the beach for temporary events and permanently with Yellow Wave.
- 5.99. The proposed development site includes part of the Volks Railway SNCI/LWS. Volks Railway is designated a SNCI Site (due to be renamed as Local Wildlife Site) in the 2005 Brighton & Local Plan and following the 2017 Local Wildlife Sites Review it has been recommended that it should be renamed Local Wildlife Site with an amended boundary to incorporate the additional area of vegetated shingle created through the adjacent Yellowwave Development. Formal designation of the amended boundary will be taken through the adoption of the CPP2 (the emerging draft City Plan Part Two is currently out to Regulation 18 Consultation). The SNCI/amended LWS is designated for supporting coastal vegetated shingle at one of only three remaining sites in Brighton & Hove.
- 5.100. Paragraph 3.123 of the supporting text to Policy SA1 the Seafront indicates a presumption against proposals involving an increase in hard surfacing of the seafront at or in the vicinity of the sites of city-wide nature conservation importance. Paragraph 4.176 of the supporting text to CP16 Open Space indicates the importance to protect the intrinsic geological and aesthetic interest of this expanse of shingle stones which forms such a major open space between the land and the sea. It is noted that the revised scheme alters the location of the swimming pool to 'sit in line with the curtilage of

Yellowwave and reduce the loss of public open space' although the amount of reduction is not specified.

- 5.101. Policy NC4 Sites of Nature Conservation Importance (SNCIs) and Regionally Important Geological Sites (RIGS) and City Plan Part 1 Policy CP10 Biodiversity apply and the potential ecological impacts need careful and thorough consideration. It is noted that the applicant is proposing on and off site mitigation for the loss of vegetated shingle with the revised application which also includes green vegetated roofs. The County Ecologist should be consulted on this application to assess whether satisfactory mitigation, avoidance or compensation measures have been proposed to address the policy requirements.

Commercial Uses

- 5.102. The revised application proposes for the Former Peter Pan site a temporary modular arrangement of 39 providing flexible studio spaces suitable for food and beverage offerings, retail and office space. The revised Planning Statement suggests the scheme is focused on leisure uses such as; yoga studios, physiotherapists, therapists, fitness studios and a sauna. The Design and Access Statement indicates that the largest mass of modular buildings will provide offices and facilities for Swimtrek.
- 5.103. The Revised Design and Access Statement suggest an arrangement of modular units on ground and first floor along with promenade and viewing deck with a reduced height compared with the previous application.
- 5.104. The submitted Application Form indicates a total of 1,827 sq m of commercial uses
- 840 sq m A1 retail
 - 250 sq m A3 restaurant and café
 - 287 sq m D2 Assembly and leisure of which 189 sq m is understood to be the swimming pool area.
 - 300 sq m B1a office
 - 150 sq m A4 drinking establishment
- 5.105. Whilst a mix of small independent businesses would be considered acceptable to help support the leisure use and help create a vibrant seafront these would need to be ancillary/ supportive uses. The commercial elements should be kept ancillary to the main leisure use and to an absolute minimum as delivery of leisure related is the key aim for this site.
- 5.106. The commercial development is required in order to enable the provision and operation of the temporary 25 m and this was justified with the previous application through a Viability Assessment. The use of condition to ensure the enabling development is closely related to the delivery of the pool should be sought.
- 5.107. Although a temporary 5 year permission is sought, given the scale of retail and leisure uses (main town centre uses) proposed for an edge of centre site not on site allocated in adopted plan a sequential site assessment is required

to accord with paragraph 86 of the NPPF (July 2018). It is therefore welcomed that the applicant has provided a Sequential Test site assessment for the proposed town centre uses that are proposed on an edge of centre site in order to accord with the requirements of paragraph 86 of the NPPF and Policy CP4 Retail Provision. It is also acknowledged that commercial uses proposed are enabling development for the swimming pool and this would limit the opportunities to disaggregate the commercial elements from the leisure uses. The applicant has looked at available sites within the St James Street District Centre and the assessment has confirmed that there are no sequentially preferable sites which are suitable, available of viable and therefore the requirements of the NPPF and CP4 have been met

- 5.108. As with the previous application it is recommended the use of conditions to avoid the consolidation of units into larger format retail/ restaurant uses/ office units.
- 5.109. Policy SA1 The Seafront sets out as specific priorities for the East of Palace Pier to Brighton Marina section of the seafront the need for an improved public realm and the conservation and enhancement of the historic and nature conservation features present in this location; and the need to improve beach and seafront access for pedestrians and cycle users, linking with access improvements at the Marina/Black Rock. The site is also located in the East Cliff Conservation Area and adjacent to the grade II listed Madeira Terraces, Lift and associated buildings. Policy CP12 Urban Design and CP15 Heritage apply. The Conservation Team should be consulted on this revised application.
- 5.110. No artistic component sum will be sought for this temporary planning application.

Sustainable Drainage: Approve subject to condition.

- 5.111. No building can commence until the submission of a final drainage design has been submitted for the new development. The drainage design must include the SuDS and a detailed maintenance plan, highlighting how they will be managed.

Sustainable Transport: No objection subject to conditions and S106

- 5.112. The Highway Authority would not wish to object to this temporary proposal but does request the following conditions are included:
- Delivery and Servicing Plan detailing, amongst other matters, how:
 - Delivery times shall be restricted to outside of the peak hours (both leisure and commuting peak hours)
 - The frequency and type of deliveries can be accommodated and include swept path analysis of the likely vehicle movements and manoeuvres
 - Multiple deliveries shall be managed
 - Deliveries associated with the businesses west of the site shall be managed/ restricted and the cycle lane kept clear at all times.
 - Cycle parking - store details, including how all areas of cycle parking shall be signposted

- A Construction Environmental Management Plan (CEMP);

And in addition:

- A Sustainable Transport S106 Agreement of £35,000 is requested, owing to the size of the development and the likely increase in trips to the site. This is deemed reasonable and is heavily discounted from the contribution that would be requested using the council's standard calculation outlined in the Technical Guidance for Developer Contributions. This reflects the site's temporary use. It is recognised that the Local Planning Authority will need to consider the overall viability of the development in determining the level of contribution requested by the Highway Authority. However, it should be noted that, where a discount has been applied, trips associated with a temporary use will not be taken into account as 'existing' trips when determining the level of contribution required by a future permanent application.

- 5.113. For a development of this scale, the Highway Authority would typically expect to see a full Transport Assessment, considering a range of factors including assessment of walking and cycling routes connecting to the site and trip generation. In this case, it is recognised that the development is temporary and likely to be seasonal in nature. However, for any future application for a permanent venue, the Highway Authority would expect to see a full Transport Assessment as required by Brighton & Hove City Plan Part One policy CP9.

Main Comment:

Pedestrian and Cycle Access

- 5.114. Pedestrian access is provided via a number of access points on Madeira Drive which directly serve the proposed commercial units. The swimming pool would be accessed via the existing pedestrian access to the beach and crossing over the Volk's Railway. The Highway Authority has no objections to these proposals.
- 5.115. The site has a direct connection to the seafront cycle route, although this would benefit from improvements to the east of the site. Pedestrian accessibility to the north is constrained by the Madeira Terraces; however, a stepped route remains open as does the Madeira Lift, meaning access to public transport services on Marine Parade is possible.

Vehicle Access

- 5.116. A 4.7m access road is retained to the east of the site to allow continued access to the beach for servicing. The applicant has provided detail of the area where on-site deliveries can take place with a turning area. The Highway Authority is agreeable in principle with this but does request further details of deliveries with necessary swept path analysis in a Delivery and Servicing Plan as requested.

Car Parking

- 5.117. No car parking is proposed on-site and any visitors requiring car parking would be expected to use existing pay & display parking on Madeira Drive.

The Transport Statement states that the applicant intends to encourage sustainable travel to the site as is required by City Plan Part One policies CP9 and SA1, as well as the emerging City Plan Part Two policies SSA5 and SSA6.

- 5.118. The Highway Authority notes that the provision of on-site parking would not support this objective and the proposal is consistent with SPD14 which allows no non-disabled parking for A1, A3 and D2 uses in the city centre. Although the site is located to the east of this area and is less well served by public transport, the Highway Authority remains of the view that it is appropriate for car free development.
- 5.119. The applicant has not completed any assessment of on-street parking capacity; however, in this case it is recognised that parking demand beyond the available capacity would be managed by the surrounding Controlled Parking Zone. Additional car parking would be likely to generate additional vehicle trips and again be contrary to objectives to encourage sustainable travel to the site.

Disabled Parking

- 5.120. The proposed development has the potential to generate additional demand for disabled parking. Blue badge holders would however be able to use the pay & disabled bays on Madeira Drive as is the case with the adjacent uses. The council will consider the conversion of existing bays to dedicated disabled parking as demand requires.

Cycle Parking

- 5.121. SPD14 requires the following minimum cycle parking (based on the quantum of development cited on the revised ground floor plan (Rev C)):
- A1 retail (840 m²): One space plus one space per 150 m² = 7
 - A3 restaurants/ cafes (259 m²): One space plus one space per 150 m² = 3
 - D2 leisure (189 m²): One per 50 m² = 5
 - Staff (70): One space per five staff (long-stay) = 15
 - Total: 30
- 5.122. The applicant is proposing 45 spaces which is welcomed and given the location and desire to encourage access by sustainable modes, it is considered provision above the minimum would be beneficial.
- 5.123. The applicant is proposing a mixture of cycle storage, the majority of which will be provided at locations throughout the site using 'toast-rack' Sheffield stands. Given the temporary nature of the proposal, these are considered appropriate and offer flexibility; however, it is recommended that full details of the specification be secured by condition in addition to how the various locations shall be signposted to visitors and staff.
- 5.124. Additional stores are proposed to provide longer-term cycle parking however the design of the cycle parking including spacing is unclear and it is recommended that further details be secured by condition. In order to provide

secure and convenient storage as required by Brighton & Hove Local Plan policy TR14, the Highway Authority's preference is for the use of Sheffield stands laid out in accordance with Manual for Streets paragraph 8.2.22.

- 5.125. The applicant has also stated that they would welcome an expansion of the Brighton Bike Share scheme. A hub is located a short distance to the east; however, further capacity would be beneficial, particularly with the additional demand in this location. This will be subject to discussion with the scheme operator and potentially some of the requested S106 contribution could be used for this purpose should enhancements to the existing hub be agreed and a suitable location identified.

Deliveries and Servicing

- 5.126. The applicant proposes that all vehicles associated with servicing and delivery will approach and leave the site from Madeira Drive. An area on-site has been provided for loading/unloading with a turning space for vehicles to manoeuvre and leave site in a forward gear.
- 5.127. This will therefore mean that loading can take place off the public highway and reduce the likelihood of people parking in the cycle lane or carrying deliveries across it.
- 5.128. It is requested that these proposed arrangements are detailed within a Delivery and Servicing Management Plan and secured by condition.
- 5.129. In addition to standard information, such as the frequency and type of vehicles entering the site (including swept path analysis), the Highway Authority does have other matters that need addressing. For example, how:
- Delivery times shall be restricted to outside of the peak hours (both leisure and commuting peak hours)
 - Multiple deliveries shall be managed
 - Deliveries associated with the businesses west of the site shall be managed/ restricted and the cycle lane kept clear at all times.
- 5.130. However these matters can be addressed at condition stage.

Trip Generation/ S106 Contribution

- 5.131. No details of trip generation have been provided. The Highway Authority would ordinarily expect a full trip generation exercise to be undertaken for a development of the scale proposed, including temporary uses.
- 5.132. In this case, it is recognised that the proposals combined with the location are relatively unique and it is not considered that there would be exact matches within the TRICS national trip rate database. The fact that the site has been largely vacant during recent times means any development of the site will lead to a sizeable increase in person trip generation.
- 5.133. However, in this case, it is acknowledged that additional vehicle trips will be constrained by the availability of car parking whilst some trips are likely to be

linked to a wider visit to the seafront or city centre. The greatest impact is therefore likely to be in the form of additional person trips on foot or by bicycle to the site itself from the city centre, Brighton Marina and Marine Parade.

- 5.134. Walking and cycling infrastructure would benefit from improvement to provide for the increased number of trips, particularly to the east and north of the site. It is therefore recommended that a sustainable transport S106 contribution of £35,000 be sought for these improvements. This will be allocated to walking and cycling infrastructure improvements on and connecting to the seafront.
- 5.135. The contribution request is in accordance with Brighton & Hove City Plan Part One policies SA1, CP7 and CP9. It is also necessary to provide for users of the development of all abilities and access to sustainable modes; directly related to the development; and proportionate. It is therefore, consistent with the tests contained within the National Planning Policy Framework (NPPF) paragraph 56.
- 5.136. The Highway Authority would be willing to discuss the value of the contribution requested should the applicant be able to provide details of forecast visitor numbers. Employee trips would be calculated based on the number expected to be on-site during a single day.
- 5.137. However, it should be noted that the contribution requested represents a significant reduction on the value that would be required using the process outlined in the council's Developer Contributions Technical Guidance. This is in reflection of the temporary nature of proposals and additional contributions would be sought in the event of a future extension to the period of planning consent or permanent proposals.
- 5.138. However, a contribution of £35,000 is heavily discounted from the contribution that would be requested using the council's standard calculation outlined in the Technical Guidance for Developer Contributions in order to reflect the site's temporary use. It is recognised that the Local Planning Authority will need to consider the overall viability of the development in determining the level of contribution requested by the Highway Authority. However, it should be noted that, where a discount has been applied, trips associated with a temporary use will not be taken into account as 'existing' trips when determining the level of contribution required by a future permanent application.

Construction

- 5.139. Owing to the location adjacent to a busy cycle route, it is recommended that a Construction Environment Management Plan (CEMP) be secured by condition.

6. MATERIAL CONSIDERATIONS

- 6.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 6.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016)
 - Brighton & Hove Local Plan 2005 (retained policies March 2016);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex, South Downs and Brighton & Hove Waste and minerals Sites Plan (adopted February 2017).
- 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
CP2	Sustainable economic development
CP4	Retail provision
CP5	Culture and tourism
CP7	Infrastructure and developer contributions
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP11	Flood risk
CP12	Urban design
CP13	Public streets and spaces
CP15	Heritage
CP16	Open space
CP17	Sports provision
CP18	Healthy city
SA1	The Seafront

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

TR4	Travel plans
TR7	Safe Development
TR14	Cycle access and parking
TR18	Parking for people with a mobility related disability
SU9	Pollution and nuisance control
SU10	Noise Nuisance
QD5	Design - street frontages
QD15	Landscape design
QD18	Species protection

QD27	Protection of amenity
EM4	New business and industrial uses on unidentified sites
SR4	Regional shopping centre
SR5	Town and district shopping centres
SR6	Local centres
SR18	Seafront Recreation
HE3	Development affecting the setting of a listed building
HE6	Development within or affecting the setting of conservation areas
NC4	Sites of Nature Conservation Importance (SNCI's)

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD11	Nature Conservation & Development

Supplementary Planning Guidance:

SPD14	Parking Standards
-------	-------------------

East Cliff Conservation Area Study and Enhancement Plan (2002)

Background Documents:

Sports Facilities Plan 2012-2022
 Madeira Drive Regeneration Framework
 Draft Seafront Strategy 2012
 Local Wildlife Sites Review 2018

8. CONSIDERATIONS & ASSESSMENT

- 8.1. The main considerations in the determination of this application relate to:
- (i) The principle of developing the open shingle beach
 - (ii) The impact to ecology and biodiversity
 - (iii) The principle of locating the proposed uses in this location
 - (iv) The impact to local retail centres
 - (v) The impact to the setting of the special character and appearance of the East Cliff Conservation Area and nearby listed buildings
 - (vi) The impact to tourism and the economy
 - (vii) The contribution the development will make to sports provision in the city
 - (viii) The demand for travel created by the development
 - (ix) The impact to amenity

Planning Policy:

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

- 8.3. The policy sets out priorities for the whole seafront which include enhancement of public realm, provision of adequate facilities for residents and visitors, improvements to beach access and the shoreline and ensuring the seafront is accessible for everyone. Securing high quality architecture which complements the natural heritage of the seafront and historic built environment is identified as a priority.
- 8.4. SA1 identifies specific priorities for the area of the seafront east of Palace Pier to the Marina and states development should:
- (i) Deliver the regeneration of Madeira Drive as a centre for sports and family based activities supported by a landscape and public art strategy which also provides for an improved public realm and conservation and enhancement of the historic and nature conservation features present in this location;
 - (ii) Safeguard the vibrant and important event space at Madeira Drive as this presents a unique location for a mix of cultural, sport and leisure activity to take place;
 - (iii) Improve beach access and seafront access for pedestrian and cycle users, linking with access improvements at the Marina/Black Rock.
- 8.5. City Plan Policy CP5 is relevant as it relates to culture and tourism. Its key priority is to maintain and enhance the cultural offer of the city to benefit residents and visitors. It aims to support the role the arts, creative industries and sustainable tourism sector has in creating a modern and exciting visitor destination with a range of high quality facilities, spaces, events and experiences. New visitor attractions will be expected to:
- (i) Be of a high environmental standard in terms of design, management and access;
 - (ii) Complement and build on the city's distinct tourism offer;
 - (iii) Contribute to a sense of place;
 - (iv) Reduce seasonality;
 - (v) Promote diversity;
 - (vi) Widen local access;
 - (vii) Support the regeneration of the city and benefit the city's economy; and
 - (viii) Be accessible by public transport.
- 8.6. City Plan Policy CP16 seeks to safeguard, improve, expand and promote access to Brighton & Hove's open spaces (public and private) and the diverse range of experiences offered by these spaces. Planning permission resulting in the loss of open space, including the beach, will only be granted provided certain exceptional criteria are met.
- 8.7. City Plan Policy CP17 states the council's aspiration to increase participation in sports and physical activity, and seeks to safeguard, expand, enhance and promote access to Brighton & Hove's sports services, facilities and spaces. Supporting text to CP17 states the city's outdoor sports space provision is low compared to other local authorities. The Open Space, Sport and Recreation Study (which forms part of evidence base of the City Plan) indicates a further potential need for additional pool space, and the Sport Facilities Plan 2012-2022 builds on this and identifies a need to expand and

improve public facilities especially swimming pools, sports halls, health and fitness suites and artificial grass pitches.

- 8.8. City Plan Policy CP18 seeks to promote healthier lifestyles.
- 8.9. Local Plan Policy SR18 of the Brighton and Hove Local Plan is relevant as it relates to seafront recreation. This states that new recreation facilities which are related to seafront/coastal activities will be permitted on the seafront provided that:
- (i) There will be no development onto the beach;
 - (ii) The importance of the seafront and beach as an open space is not undermined;
 - (iii) Any development does not have a detrimental impact on strategic views along the coastline;
 - (iv) The development makes a considered response in its design to the visual and environmental character of the stretch of seafront to which it relates, supported by a design statement which addresses that character;
 - (v) The development does not have a harmful impact on the amenity of local residents and the seafront due to noise, disturbance and light pollution;
 - (vi) The development will not result in the significant generation of car borne journeys, nor additional pressure for car parking;
 - (vii) The development will not have an adverse impact on the setting of important seafront buildings;
 - (viii) The development does not have an adverse impact on nature conservation interests; and
 - (ix) Any development enables the beach and seafront to be accessible to all.
- 8.10. Local Plan Policy NC4 states permission will not be granted for a proposal within, or in the setting of, an existing or proposed Site of Nature Conservation Importance (SNCI) where it is likely to have an adverse impact, on the nature conservation features of the site. Exceptions will only be made where:
- a. the proposal can be subject to conditions that will prevent damaging impacts on the nature conservation features and their setting and includes provision for the protection, enhancement and management of nature conservation features; or
 - b. the proposal is: essential to meet social, environmental and / or economic needs; of more than local importance within the City; cannot be located anywhere else; and the following requirements have been met:
 - i. the location, design and construction of the development is such that damage to nature conservation features is minimised and opportunities are taken for nature conservation gain;
 - ii. compensating and equivalent nature conservation features are provided;
 - iii. remaining features are protected and enhanced and provision made for their management; and

- iv. improvements to public appreciation of and access to the site are provided.
- 8.11. Local Plan and City Plan policies relating to A1/A3/A4/B1 uses, Heritage, Ecology, Transport and Amenity are also relevant in the consideration of the proposal, and are discussed in this Considerations Section.
- Emerging Policy in City Plan Part Two (due to be adopted 2020):
- 8.12. Although policies in CPP2 carry very limited weight at this stage, emerging policy is a material consideration and is a useful indicator of the direction of travel for seafront policy.
- 8.13. Policy SSA6 specifically identifies the former Peter Pan site as appropriate in principle for leisure uses and ancillary supporting retail uses. Proposals will be expected to:
- a. Contribute towards the priorities for the Seafront as set out in City Plan Part One Policy SA1, including supporting the role of the seafront as an all year recreation attraction for residents and tourists;
 - b. Achieve a high quality of design and sustainability which preserves and where possible enhances the setting the Conservation Area, adjacent Listed Buildings/ structures, the character of the seafront and strategic views;
 - c. Provide for sustainable means of transport to and from the site and demonstrate good linkages for pedestrians and cyclists;
 - d. Complement the regeneration of Madeira Terraces and Drive (SSA5) and contribute to a coordinated approach to enhance the public realm;
 - e. Improve accessibility and connectivity between the site and the beach and sea; and
 - f. Conserve and enhance biodiversity in the area.
- 8.14. Policy DM15 states proposals for new shop, food and drink and drinking establishments (A1 – A5) and D1 galleries and museums (D2 Use Class) on the lower promenade Madeira Drive and within the seafront arches, will be permitted provided certain criteria are met.
- 8.15. Policy DM16 states that the council will encourage temporary uses which help animate and activate vacant buildings or sites before regeneration/ construction commences. Provision of ancillary small-scale retail outlets will be permitted on identified seafront development sites or to support existing or proposed leisure/ tourism schemes.
- 8.16. Policy DM39 echoes existing policy in stating there is a general presumption against development extending onto the shingle beach and that the importance of the seafront and beach as an open space should be safeguarded.
- 8.17. The CPP2 also seeks to increase the area of the allocated SNCI (due to be renamed Local Wildlife Site) in this location as it is one of only three remaining sites of coastal vegetated shingle in Brighton and Hove.

- 8.18. It is anticipated CPP2 will provide a step towards a coordinated strategy for future development along this part of the seafront to guide development proposals and prevent harmful ad hoc schemes, in the interests of preserving the special character and appearance of the area. Policy SSA5 allocates the Madeira Terraces for a vibrant and balanced mix of uses. Restoration of the declining Terraces is a key goal for the council and restoration and use of a number of arches at the eastern end of the Madeira Terraces is proposed to commence next year. It is anticipated work will commence on a masterplan and public realm strategy to identify key enhancement priorities and guide future development proposals in the locality.

Principle of proposed uses in this location:

- 8.19. The former Peter Pan Amusements site has been vacant for nearly 20 years and this area of the seafront is in decline and requires regeneration, therefore potential investment here is certainly welcomed in principle. Introduction of new uses which help draw people to the area and give the area a boost are welcomed.
- 8.20. Given the existing and emerging policy context outlined above, the proposed leisure use (i.e. pool) is welcomed in principle given that it would deliver a sports based activity in a location where this is encouraged, and there is an identified shortage of swimming pools in the city. The proposal would contribute towards the council aspiration to promote healthier lifestyles. Sport England support the proposal. The proposal for swimming in this location links back to Brighton's history as a bathing resort and is considered an appropriate seafront use. The proposed pool use would add to the overall visitor offer of the seafront and help boost tourism and the economy, as sought by policy. The proposal could operate all year round, which reduces the seasonality. The positive benefits of a pool here is therefore given significant weight.
- 8.21. Given its location directly on the beach however, the pool's location would conflict with policies SR18, SA1 and CP16 (and emerging policy DM39) which seek to safeguard the importance of the seafront and beach as an open space. The applicant has stated that the area north of the railway (which was the site marketed by the council) is not sufficient to accommodate their proposal (and potential future plans for a 50m pool) and they cite examples of other sites where this exception has been made. It is accepted that the location of the pool does conflict with policy however it is considered that an exceptional case can be made in this particular case, and the benefits of the scheme outweigh the harm caused. Exceptions have been made in a similar circumstance where a significant public benefit is delivered, such as in the case of Yellowwave adjacent. In this particular location the beaches are wide and a substantial amount of open beach will remain surround the site. The site is close to existing development south of Madeira Drive (Yellowwave, Peter Pan playground, Adventure Golf and Volks Railway sheds) so forms part of a distinct cluster, which is considered appropriate. The proposed structures south of the railway are kept to the minimum required for pool operation and help retain a degree of openness. In addition, weight is given

to the fact the proposal is for a temporary period only, therefore the site would return to open shingle eventually. On balance therefore, the positive benefits of locating a (temporary) swimming pool here are considered to outweigh the policy conflict in this instance.

- 8.22. In order to provide and operate the pool, a significant amount of commercial 'enabling development' is required to ensure it is viable. The requirement for this is understood but it is a concern that such a substantial amount of floorspace is required, given the priority for this area of the seafront is for family/sports based activities, and given the impact such development has on the character and appearance of the locality. Emerging policy is clear that any such uses here should be ancillary only. It is however recognised that certain sport facilities, and swimming pools in particular, require significant resources. The applicant has submitted a Viability Assessment which outlines how marginal the viability of the scheme is and why the amount of enabling development is required. On this basis the enabling development is considered acceptable in principle as an exceptional case. The area is clearly in need of a boost and the proposal should add much needed vibrancy and vitality to this declining area. The proposal will introduce something a bit different for the seafront and the city and is welcomed. Weight is also given to the fact this is a temporary scheme only. A condition is recommended to ensure the enabling uses are closely related to delivery of the pool, and this will ensure the pool is delivered within 12 months of the commercial uses first being brought into use (or by April 2020).
- 8.23. There is no objection in principle to the type of uses proposed in principle, as these would draw people to the area and add vibrancy, and generally accord with existing and emerging policy. Such uses could help attract visitors and boost the wider economy. The proposal will create jobs and is supported by the council's Regeneration Team. Flexible mixed uses across the site is encouraged in principle. There is some concern however regarding the proposed B1 office use as this is not an 'active' use as such and is not strictly appropriate in a beachfront location, however, the overall amount of B1 floorspace can be restricted by condition so that it does not become the dominant use and to allow for a vibrant mix of uses. The applicant hopes to attract leisure based office users which is welcomed and encouraged (but occupiers cannot be controlled through the planning process). A Sequential Test has been submitted, and it is satisfactorily demonstrated that the proposal would not undermine the vitality or viability of local retail centres, as required by Policy CP4.

Ecology, Biodiversity and Beach Processes:

- 8.24. National and local planning policies seek to ensure developments do not compromise ecology or biodiversity, and seek enhancement. The site is partly located in a Site of Nature Conservation Importance (adjacent to the railway) and the site of the pool is on a vegetated shingle habitat mound created to mitigate the impact of the adjacent Yellowwave development. Development is generally resisted in such locations unless exceptional criteria can be met, as set at out in policy NC4.

- 8.25. Coastal vegetated shingle is a globally restricted habitat and this site is one of only three sites for this habitat in Brighton & Hove therefore any development here requires very careful consideration. The proposed development will lead to the loss of c. 14% of the City's vegetated shingle resource, 6% of the revised Volks Railway Local Wildlife Site and loss of a conservation mound, therefore significant weight is given to the need to secure appropriate mitigation and enhancement. Even though the proposal is for a temporary use, the ecological impact will be permanent.
- 8.26. In this particular case it is considered an exception can be made given the wider benefits of providing a pool here and given that the application includes appropriate ecological mitigation and enhancement, and also enhances public appreciation of it (via boardwalk and interpretation board) as per policy NC4. These measures (and future maintenance and monitoring) can be secured via S106. On the basis of the applicant's revised ecological scheme which outlines a scheme to replace the vegetated shingle mound off-site and enhances the habitat on site, the County Ecologist raises no objection.
- 8.27. *The previous ecological reason for refusal is that the proposal would result in the loss of rare coastal vegetated shingle habitat and would cause harm to the Volks Railway Site of Nature Conservation Importance, and does not contain sufficient mitigation and enhancement, contrary to policy NC4 and SR18 of the Brighton and Hove Local Plan and SA1 and CP10 of the Brighton and Hove City Plan Part One.*
- 8.28. This revised application is to provide 371 sqm of ecology habitat enhancement in terms of ground cover vegetation as opposed to 266.5sqm in the previous refused scheme. Green roofs have also been introduced to reduce surface water runoff, to provide together with protected pockets of vegetated shingle on site, ecological enhancement. The area of green vegetated roofs in the revised application is 246 sqm. These enhancements are considered significant enough in this instance to overcome the reason for refusal in the previous scheme.
- 8.29. The council's Coastal Engineer confirms that the proposal would not compromise any beach processes and they do not expect the development will be affected by coastal erosion, only an increasing beach width. They do request further details of the retractable beach matting to ensure it is fit for purpose (which can be secured by condition). No coastal defence works are identified as necessary in this area. Both the council's Coastal Engineer and the Sustainable Drainage officer raise no concerns with regard to potential flooding.

Design, Appearance and Impact to Heritage:

- 8.30. The council has a statutory duty to have special regard to the desirability of preserving listed buildings and their settings (in this case the Madeira Terraces, Shelter Hall and Lift and Banjo Groyne), and also to pay special attention to the desirability of preserving or enhancing the character or

appearance of conservation areas (in this case East Cliff CA). National and local planning policies reinforce this importance.

- 8.31. The NPPF states that great weight should be given to conservation of heritage assets and that this presumption can be outweighed by material considerations deemed powerful enough to do so. The NPPF states that where a proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. Where the identified harm is limited or less than substantial, the local planning authority must nevertheless give considerable importance and weight to the preservation of the listed building and its setting.
- 8.32. The character and appearance of this part of the East Cliff Conservation Area is described in the formally adopted East Cliff Conservation Area Study and Enhancement Plan 2002, and this document provides guidance for future development here and is a material consideration.
- 8.33. Paragraph 3.3.4 of the Study states *the southern side of Marine Parade remains a broad promenade overlooking the Madeira Terrace, Madeira Drive and the wide shingle beaches with the only significant built development being the Aquarium Terraces at the far western end. It is generally uncluttered by modern street furniture etc. but the grade II listed 1890s lamp columns on the pavement edge and the late 19th century seafront shelters and early 20th century wooden benches add to its traditional seaside appearance. The expanse of open beaches is an integral element of the setting of the buildings and the [former] seafront amusements at Peter Pan's Playground partly detract from it. This clutter of structures is also a discordant element when viewed from above but the Volks Railway line at least provides a logical, and historic, southern boundary.*
- 8.34. Paragraph 3.3.6 states: *The seafront shelters, Madeira Terrace and Covered Walkway, the Shelter Hall and Lift and below that the wide, straight southern pavement of Madeira Drive all evoke traditional seafront promenading. The continuous line of wide, uncluttered beaches contribute significantly to this character.*
- 8.35. And paragraph 3.3.7 states: *...part of the seafront relates more to the brasher seafront pleasures of the Palace Pier, and includes the Aquarium Terraces and Colonnade and the beaches immediately east of the Pier. Any further intensification of this commercial brashness would, however, be detrimental to the special character of the seafront. It should be noted too that the seafront as a whole has a different character in summer to that of the winter. The influx of summer visitors gives this sub-area a lively character, which contrasts with a more sedate atmosphere during the winter months.*
- 8.36. In this context, the principal heritage considerations are the effect of the development on the character of the conservation area (specifically at this point the openness of the beach and promenade contrasted with the scale and enclosure of the sea wall) and the setting of the listed Terraces. The

East Cliff Study identifies the character of this part of the seafront as wide, uncluttered beaches which were harmed by the run-down playground that existed at that time. Since then, this site has been vacated but is still considered to have a negative impact on the immediate setting.

- 8.37. The comments made by Historic England and the council's Heritage Team have been made in the context of current policy and guidance. The Heritage Team considers that the materials currently proposed are a significant improvement on previous schemes and would support this approach; however inadequate changes to scale and density have been made to address the previous objections regarding the proposed height and density of the development. As a result the, Heritage Team considers that the potential benefits to the Eastern Seafront that could result from increased activity brought by this development would not outweigh the harm it would cause to the identified heritage assets and cannot currently support this scheme.
- 8.38. Historic England (HE) commented that they acknowledge this new application has introduced some changes to the previously refused scheme, application BH2018/01973. Most notably the palette of materials has changed, which is now proposed to be black rubber membrane cladding, cedar weather board cladding and white corrugated steel cladding. Additionally they observe that there has been a slight reduction in the maximum height of the scheme, with a reduction in height of 1.27m. This is as a result of the removal of place markers and structures of a three storey height. It is noted that there has been design alteration with the introduction of pitched roofs and a change in the fenestration articulation.
- 8.39. Whilst there has been a reduction in harm from the previously refused application, Historic England note however that the density and plan form of the proposed additional buildings remains mainly unchanged. Equally whilst the maximum height of the buildings has been slightly reduced the development remains heavily two storey. Whilst the change in palette is welcome, the scale and height of the development remains harmful. A less harmful approach would see single storey development that sits below the canopy of Madeira Terrace, maintaining the distinctive openness of this part of the seafront and the uninterrupted views of the sea and Palace Pier from all levels.
- 8.40. With the changes to the scheme advised above the level of harm could be further reduced. Whilst there would still be some harm from change within the setting to the designated heritage assets and for the conservation area, Historic England thinks this would be less than substantial harm. They note that if the council are minded to approve the scheme as submitted they think this would result in more harm to the significance of the designated heritage assets but also think that harm would remain as less than substantial but at the higher end of that scale. NPPF paragraph 196 advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The weighing should only be carried out

once satisfied that harm has been avoided or minimised to the greatest extent possible by design of the development. It is the remaining harm after such a process that should be weighed against the public benefits of the proposal.

- 8.41. Given the concerns regarding the scale of the development and impact to heritage assets, the merits of the proposal are considered to be finely balanced. It is considered that given the substantial decline of this area of the seafront and its current state of flux, the development could have a positive impact, despite its shortcomings. The area is clearly in need of a boost and will need to change and adapt to present circumstances. The site currently is vacant and detracts from the area. Given the marginal viability of the scheme it is not possible at this stage for the scheme to contribute financially towards heritage enhancement. In the short term however, the positive effects and enlivening of the area could benefit the longer term aspirations for the area, including the campaign for restoration of the Madeira Terraces and enhancement of public realm.
- 8.42. It is considered 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 it is temporary only (and thus harm would be minimised and ultimately reversible). It is considered that there is clear and convincing justification for the scheme, as required by para 194 of the NPPF. It is 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. It is therefore that on a fine balance the reasons for objection by reason of design, scale, density, height and colour are considered have been overcome.
- 8.43. The proposal and its 'temporary' nature and appearance would not be considered acceptable as a permanent form of development given that it would prove counterproductive to the long-term aspirations for the area. The seafront has been, and always will be, the 'shop window' of Brighton & Hove therefore development has to be of the highest quality to be successful. It is disappointing that previous advice to take a more holistic and co-ordinated approach, to include the upgrading of the public realm and the relationship of the development with potential new uses for the Madeira Terrace arches and their restoration has not been taken, however, it is recognised these projects are at different stages of development. This is only a temporary scheme and there remains the opportunity for this as plans emerge for the Terraces (a 5 year consent should not prejudice this). Detailed follow on work from the Madeira Drive Regeneration Framework is to commence shortly and the regeneration of this particular eastern part of the Madeira Terraces is at a very early stage. It is considered particularly important that only temporary consent is granted given the uncertainty over plans for the Terraces and Madeira Drive in general. In the medium to long-term, a significant development on the Peter Pan site could prejudice the special setting and future viability of the Terraces and thus would need very careful consideration. Concerns in this regard have been expressed by Historic

England. In the future, retention of sea views will be important, as will retention of the prominence of the listed structures and the height of the middle promenade. Quality of design and materials will also be important. The council will encourage the developer to get involved in emerging plans for the future.

- 8.44. The County Archaeologist confirms that the site does contain archaeological interest relating to remains of the Volks railway, which are likely to be at shallow depth. Therefore the scheme, albeit with shallow foundations, is likely to disturb remains. This impact thus needs mitigating in line with policy and the NPPF and an appropriate condition is recommended.

Impact to Amenity:

- 8.45. 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. Other policies seek to ensure development do not result in unacceptable noise or other pollution.
- 8.46. *The application was refused as the proposed siting of the swimming pool and associated structures on the beach would result in the loss of public open space, contrary to policy SR18 of the Brighton and Hove Local Plan and SA1 and CP16 of the Brighton and Hove City Plan Part One.*
- 8.47. The location of the swimming pool has been moved 4 meters up the beach to sit in line with the curtilage of Yellowwave and reduce the loss of public open space. It is considered that this change in location of the pool reduces the impact on open space and in this instance overcomes the reason for refusal.
- 8.48. As this is a seafront location, nearby residential properties are some distance away at the upper promenade level on Marine Parade. There are already several leisure uses in this location which generate activity. Therefore there is no objection in principle to the proposal from an amenity point of view. No details of lighting have been provided but a condition can ensure brightness is not excessive and ensure they are visually sympathetic. The Environmental Health Team raise no objection in principle, subject to the imposition of conditions restricting opening hours and to secure an appropriate lighting scheme. A condition can control potential noise from plant, PA's and tannoys etc.
- 8.49. The Environmental Health team expressed some concern regarding a 6am start and suggest this is tested on a trial basis only, however, given the location and nature of the pool use, on balance it is considered a 6am start would be acceptable for the duration of the proposal and is indeed comparable to gyms in the wider area. This earlier start also makes the development more accessible. A 7am start would be appropriate for the commercial uses. A 10pm closing time for the pool would be appropriate given this ties in with the hours of Yellowwave adjacent, and also other seafront attractions. There is no objection to an 11pm closing time for the

commercial uses. See comments under 'crime prevention' below relating to size of A4 bar uses deemed appropriate here to prevent undue noise, crime and anti-social behaviour.

- 8.50. A condition can secure a Construction Environmental Management Plan (CEMP) to mitigate construction impacts.

Sustainable Transport:

- 8.51. City Plan Policy CP9 seeks to encourage use of sustainable modes of transport. Local Plan policy TR7 seeks to ensure developments do not compromise highway safety.

- 8.52. There is no objection to a car-free development here. The site is well located to take advantage of pedestrian and cycling routes. Public transport access is possible but is more difficult given this is located above on Marine Parade. There is public car parking, including disabled, on Madeira Drive. Cycle provision on site is welcomed and encourages use of sustainable modes. A Travel Plan can promote further use of sustainable modes and would be appropriate for uses that could attract significant visitors, and can be secured by condition.

- 8.53. The applicant has stated they are unable to meet the financial contribution requested (£35,000) towards enhancement of sustainable transport given the marginal viability of the scheme. The on-site cycle provision will go some way towards this however the scheme is proposing a significant amount of new commercial uses as well as a destination use in the pool, therefore further mitigation is considered necessary. In the context that this proposal is for 5 years only, that the viability is marginal and that the scheme delivers other benefits, it is considered appropriate and reasonable to secure a significantly reduced figure (of £3,500). By way of comparison, the wheel and zip wire both contributed £10,000, and these schemes did not present a viability case. This sum could go towards enhanced signage/cycling/pedestrian facilities in Madeira Drive and could add to the bike share scheme. See also later section on 'viability'.

- 8.54. Some concerns regarding deliveries and servicing have been expressed, and a condition to secure a revised layout to ensure adequate highway visibility and safety is recommended. This will mean one modular unit will need to be relocated. Conditions can also secure a CEMP to mitigate construction impacts and ensure highway safety is not compromised.

Other Considerations:

Crime Prevention:

- 8.55. The NPPF and City Plan Policies CP12 and CP13 seek to ensure developments consider crime prevention.
- 8.56. In this relatively isolated seafront location crime prevention will be particularly important, and Sussex Police have identified measures that should be incorporated. Therefore submission of a Crime Prevention Strategy is recommended by condition. This could include Secure By Design

certification. A balance will need to be struck to ensure that security measures such as fencing, CCTV etc do not comprise the visual amenity of the area.

- 8.57. Given the site is close to a large nightclub/gig venue with bar area at Concorde 2, and there is a bar area at Yellowwave, and Madeira Drive is used for events, a condition is also recommended to restrict the A4 (bar) floorspace to be no greater than 150sqm unless service is to seated customers to persons taking meals on the premises or alcohol is ancillary to food service. This accords with policy SR12, which resists large bars in close proximity to each other in the interests of preventing antisocial behaviour and crime.

Sustainability:

- 8.58. City Plan Policy CP8 expects all new development to incorporate sustainable design features to avoid expansion of the city's ecological footprint. It states 'major' development of more than 1,000sqm (as is proposed) should meet BREEAM 'excellent' standard. In this exceptional case however, which involves modular temporary buildings, it is considered it would not be reasonable or practically possible to secure this standard. The applicant does propose sustainable drainage systems, ecological mitigation and enhancement and promotes sustainable transport in the form of cycle stands, which is welcomed from a wider sustainable perspective.

Viability

- 8.59. Policy CP7 seeks to ensure developments meet the demands they create for infrastructure. The council's Developer Contribution Technical Guidance is a material consideration and sets out formula for calculating financial contributions based on the impact of particular development types.
- 8.60. The applicant has submitted a Business Case which demonstrates that the viability of the scheme is marginal. The NPPF states weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case.
- 8.61. The applicants have not allowed for any S106 contributions (except for ecology) to mitigate the impact the development would have or to comply with planning policy. This would normally mean the development is in unacceptable in planning terms as the impacts it creates should be appropriately mitigated, notwithstanding viability. In this exceptional case however, given its temporary nature and the wider regeneration and public benefits of achieving development here, it is considered that significantly reduced S106 contributions may be sought, rather than recommend refusal of the application.
- 8.62. On balance, contributions towards the council's Local Employment Scheme are not sought (£12,110 requested), given the wider economic aims that would be achieved by the development, which is a similar aim of the Scheme. A S106 obligation to encourage use of local labour and training will however still be pursued. A contribution of £3,500 for sustainable transport

enhancement has been agreed, which would allow for some enhancement of sustainable transport in Madeira Drive (signage/cycling/pedestrian enhancement). This is considered a reasonable balance which should enable the scheme to proceed in this area in need of significant regeneration. In addition this is preferable to an alternative of additional commercial units (to make the scheme more viable) which would be unacceptable on other grounds. It is considered that this reduced contribution, in these very exceptional circumstances, would meet the relevant tests in that it is necessary to make the development acceptable in planning terms, is directly related to the development and is fairly and reasonably related in scale and kind to the development.

Conclusion:

- 8.63. The proposed development is considered to bring significant benefits to an area which is in decline. It will help regenerate the area and boost tourism and the wider economy. There is an identified shortage of pool space in the city and the scheme will promote swimming and healthier life styles. The principle of locating the proposed 'enabling' commercial and sporting uses here on this part of seafront is considered acceptable. There is a general presumption against development directly on the beach, outside of the previously developed site, however there are other such examples like Yellowwave adjacent and on balance the wider benefits of the scheme are 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. There are concerns regarding the overall scale/density of the scheme however the amount of development proposed is necessary to make the pool viable, and provision of this sporting facility is given significant weight. The scheme would cause harm to the special setting of listed buildings and the East Cliff Conservation Area, but this harm is exceptionally considered to be outweighed by the public benefits of the scheme and the fact any impacts will be only temporary. The developer is trying to do something different and exciting here and, on balance, approval is recommended.

9. EQUALITIES

- 9.1. A platform lift is shown on the drawings which would allow access to the first floor. The remainder of the site, including pool and changing rooms, has level access which is welcomed. A retractable beach mat is proposed from the site to the seawater edge, which is welcomed, and accords with policies which seek greater public accessibility on the seafront. Details of the mat will be secured by condition.

10. DEVELOPER CONTRIBUTIONS

- 10.1. The s106 Agreement heads of terms are set out in Section 1.

- 10.2. In the event that the 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 appropriate mitigation of the ecological impacts of the development contrary to policies NC4 and QD18 of the Brighton & Hove Local Plan and CP10 of the Brighton and Hove City Plan Part One.
 2. The proposed development fails to provide appropriate mitigation of the transport impacts of the development contrary to policies TR7 of the Brighton & Hove Local Plan and CP7 and CP9 of the Brighton and Hove City Plan Part One.
 3. The proposed development fails to provide an Employment and Training Strategy specifying how the developer or their main contractors will provide opportunities for local people to gain employment or training on the construction phase of the proposed development contrary to policy CP7 of the Brighton and Hove City Plan Part 1 and the City Council's Developer Contributions Technical Guidance.

ITEM C

**Buckley Close, Hove
BH2018/03600
Full Planning**

DATE OF COMMITTEE: 3 April 2019

BH2018_03600 Buckley Close, Hove



N



Scale: 1:1,250

<u>No:</u>	BH2018/03600	<u>Ward:</u>	Hangleton And Knoll Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Buckley Close Hove BN3 8EU		
<u>Proposal:</u>	Demolition of existing garages (B1) and erection of 3no two storey residential blocks providing 12no flats in total (C3) with gardens. Creation of 11no car parking spaces and cycle storage, with landscaping and other associated works.		
<u>Officer:</u>	Eimear Murphy, tel: 01273 293335	<u>Valid Date:</u>	14.02.2019
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	16.05.2019
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	24.07.2019
<u>Agent:</u>	Miller Bourne Architects 332 Kingsway Hove BN3 4QW		
<u>Applicant:</u>	Mr Sam Smith Brighton & Hove City Council, Hove Town Hall, Norton Road, Hove BN3 8BQ		

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 and the following Conditions and Informatives as set out hereunder, SAVE THAT should the s106 Planning Obligation not be completed on or before the 24th July 2019 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 11 of this report.

S106 Heads of Terms:

Education

- £10,116.80 toward the cost of secondary provision at Hove Park and Blatchington Mill Schools.

City Regeneration

- Employment and Training Strategies for the provision of 20% of any new roles created from the demolition (where appropriate) and construction phases of the development, should provide opportunities for the local workforce should be provided and approved at least one month before the intended date of Formal Site Commencement.
- Requirement for a developer contribution of £3,600 towards the council's Local Employment Scheme.

Sustainable Transport

- A Sustainable Transport Contribution of £10,800 to be spent on bus stop and footway improvements including but not limited to:
 - dropped kerbs and tactile paving across Buckley Close at its junction with Chichester Close and/or
 - an accessibility kerb at the Barnet Way eastbound bus stop

Affordable Housing

- Securing of a minimum of 30% (4 units) of the development as affordable housing

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 Plan	4639 AD-01	Rev A	25 January 2019
Block Plan	4639 AD-02	Rev B	15 February 2019
Proposed Drawing	4639 AD-08 Sections		21 November 2019
Existing Drawing	4639 AD-04 Existing Elevations		21 November 2019
Proposed Drawing	4639 AD-05		15 February 2019
Proposed Drawing	4639 AD-06		15 February 2019
Proposed Drawing	4639 AD-07		15 February 2019
Existing Drawing	14356-HOP-ZZ-XX-DR-C-001	P3	14 February 2019
Proposed Drawing	14356-HOP-ZZ-XX-DR-C-002	P5	14 February 2019
Report/Statement	Affordable Housing		21 November 2019
Report/Statement	Landscaping Details		21 November 2019
Report/Statement	Planning Statement		21 November 2019
Report/Statement	Pre-Development Tree Condition Survey and Arboricultural Report		21 November 2019
Report/Statement	External Lighting Schedule		21 November 2019
Report/Statement	External Lighting Details		21 November 2019
Report/Statement	Preliminary Ecological Appraisal		3 December 2019
Report/Statement	Transport		21 November 2019
Report/Statement	Biodiversity Checklist		21 November 2019
Report/Statement	Sustainability Checklist		4 December 2019
Report/Statement	Archaeological Desktop Assessment		13 December 2019
Report/Statement	AMENDMENT-SUSTAINABLE DRAINAGE ASSESSMENT	Rev A	14 February 2019
Report/Statement	AMENDMENT-		14 February 2019

	SUSTAINABLE DRAINAGE ASSESSMENT Appendices		
Report/Statement	Amended Design and Access Statement		14 February 2019
Proposed Drawing	4639 AD-10 Existing and Proposed Site Plan		19 March 2019

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

3. The development hereby permitted shall not be commenced until a programme of archaeological works in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority. A written record of any archaeological works undertaken shall be submitted to the Local Planning Authority within 3 months of the completion of any archaeological investigation unless an alternative timescale for submission of the report is first agreed in writing with the Local Planning Authority.
Reason: To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with policy HE12 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.

4. No phase of the development hereby permitted shall be brought into use until the archaeological site investigation and post - investigation assessment (including provision for analysis, publication and dissemination of results and archive deposition) for that phase has been completed and approved in writing by the Local Planning Authority. The archaeological site investigation and post - investigation assessment will be undertaken in accordance with the programme set out in the written scheme of investigation approved under condition 3.
Reason: To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with policy HE12 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.

5. The provision of sustainable water drainage system for the site shall be carried out in accordance with the details and recommendations contained in the Hemsley Orrell Partnership report on Sustainable Drainage Assessment, Rev A date received 14 February 2019 and proposed drawing 14356-HOP-ZZ-XX-DR-C-002 P5 and shall be implemented on site prior to the commencement of development (excluding demolition) unless otherwise agreed in writing.
Reason: To ensure the principles of sustainable drainage are incorporated into this proposal and to comply with policy SU5 of the Brighton & Hove Local Plan.

6. Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water. The scheme shall be implemented fully in accordance with the agreed details.

Reason: To ensure the principles of sustainable drainage are incorporated into this proposal and to comply with policy SU5 of the Brighton and Hove Local Plan.

7. 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 complaints from neighbours regarding issues such as noise and dust management vibration site traffic and deliveries to and from the site
- (v) Details of hours of construction including all associated vehicular movements
- (vi) Details of the construction compound
- (vii) A plan showing construction traffic routes
- (viii) 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 and Supplementary Planning Document 03 Construction and Demolition Waste.

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

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

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

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

9. The windows in the first floor rear east elevations to the common stairways and landings of the development hereby permitted shall not be glazed otherwise than with obscured glass and thereafter permanently retained as such.

Reason: To safeguard the privacy of the occupiers of the adjoining property and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

10. Notwithstanding the plans hereby approved, and prior to commencement of the development hereby permitted, a scheme for the storage of refuse and recycling shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in full as approved prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.

Reason: To ensure the provision of satisfactory facilities for the storage of refuse and to comply with policy QD27 of the Brighton & Hove Local Plan, 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.

11. Access to the flat roofs of the buildings hereby approved shall be for maintenance or emergency purposes only and shall not be accessed for any other purpose.

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

12. Prior to the commencement of the development above ground floor slab level, details of an anchor-safe system to the flat roofs of the buildings hereby approved, shall be submitted to and approved in writing by the local planning authority unless otherwise agreed.

Reason: To ensure a satisfactory appearance to the development and to comply with policies HE6 and QD27 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.

13. The development hereby permitted shall not be occupied until a plan detailing the positions, height, design, materials and type of all existing and proposed boundary treatments shall has been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be provided in accordance with the approved details prior to 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 and residential amenities of the area and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.

14. 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 & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.
15. 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 & CP11 of the Brighton & Hove City Plan Part One.
16. Prior to commencement of development, excluding demolition, details for the provision of additional lockable gates along the rear access and between each building, including security locking systems, 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, before first occupation and thereafter retained.
Reason: To safeguard the amenities of residents and in the interests of secured by design and to comply with Policy QD27 of the Brighton & Hove Local Plan.
17. Prior to first occupation of the development hereby permitted, details of secure cycle parking facilities including for the occupants of, and visitors to, the development shall have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.
Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan and SPD14: Parking Standards.
18. The development hereby permitted shall not be commenced (including demolition and all preparatory work) until the protection measures for the trees to be retained on site identified in the submitted Ruskins Tree Consultancy Report 12/10/2018 are in place and retained throughout the construction process. The fences shall be erected in accordance with British Standard BS5837 (2012) Trees in relation to design, demolition and construction - Recommendations and shall be retained until the completion of

the development and no vehicles, plant or materials shall be driven or placed within the areas enclosed by such fences.

Reason: 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 & Hove Local Plan and CP12 / CP13 of the Brighton & Hove City Plan Part One and SPD06: Trees and Development Sites.

19. No tree shown as retained on the approved drawings 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 bio-diversity benefits and to maximise the quality and usability of open spaces within the development in compliance with policies QD15 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.

20. The landscaping scheme detailed in the supporting Landscape Proposals received on 21 November 2018 shall be carried out in the first planting and seeding season following the first occupation of the flats hereby permitted or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become, in the opinion of the Local Planning Authority, seriously damaged or diseased, shall be replaced with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

21. No development shall take place until an ecological design strategy (EDS) addressing measures for the protection of biodiversity and enhancement of the site for biodiversity 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.

22. The vehicle parking area(s) shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles and motorcycles belonging to the occupants of and visitors to the development hereby approved and shall be maintained so as to ensure their availability for such use at all times.

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

23. The development hereby permitted shall not be first occupied until the disabled car parking provision shown on the approved plans, for the occupants of, and visitors to, the development has 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.

24. The wheelchair accessible dwelling(s) hereby permitted as detailed on drawing no. received on 15 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.

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

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

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

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

27. Prior to first occupation of the development hereby approved, details of the photovoltaic array referred to in the Sustainability Checklist, Planning Statement and submitted plans hereby approved, shall be submitted to and approved in writing by the Local Planning Authority. The 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.

28. Prior to occupation, a "lighting design strategy for biodiversity" and for the security of occupants and visitors, shall be submitted to and approved in writing by the local planning authority. The strategy shall 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 sensitive species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy.

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 and to ensure the provision of a safe and secure environment in accordance with the requirement of Policy QD27 of the Brighton & Hove Local Plan.

29. Notwithstanding the plans hereby approved, and prior to commencement of the development hereby permitted, the applicant must submit drawings detailing proposed amendments to Buckley Close, including:

- A 1.5m width continuous footway on the Buckley Close's eastern edge adjacent to the site
- Uninterrupted Double Yellow Lines (DYL's) along one side of Buckley Close for its entire
- length;

- Intermittent DYL's on the opposite side to provide passing points for vehicles;
- DYL's on the turning area at the bottom of the cul-de-sac; and
- A series of dropped crossing points for pedestrians across Buckley Close, in locations linking the site to the nearby public footpath (Dyke Railway Trail).

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..

Informatives:

1. Windows- obscured glass: The applicant is advised that the application of translucent film to clear glazed windows does not satisfy the requirements of this condition).
2. Hardsurfaces: The applicant is advised that advice regarding permeable and porous hardsurfaces can be found in the Department of Communities and Local Government document 'Guidance on the permeable surfacing of front gardens'.
3. Wildlife: 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.
4. Invasive plant species: The applicant is advised that the site contains multiple stands of Tree-of-Heaven on site; this species spreads aggressively and should be removed from site to prevent its further spread.
5. Energy Efficient Standard: The water efficiency standard required under condition 26 is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.
6. External lighting: The applicant is advised that the details of external lighting required by the condition above should comply with the recommendations of the Institution of Lighting Engineers (ILE) 'Guidance Notes for the Reduction of Light Pollution (2011)' or similar guidance recognised by the council. A certificate of compliance signed by a competent person (such as a member of the Institution of Lighting Engineers) should be submitted with the details. Please contact the council's Pollution Team for further details. Their address is Environmental Health & Licensing, Bartholomew House, Bartholomew

Square, Brighton, BN1 1JP (telephone 01273 294490 email: ehlpollution@brighton-hove.gov.uk website: www.brighton-hove.gov.uk).

7. Sewers: The applicant is advised that a formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Southern Water, Southern House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (tel 0330 303 0119), or www.southernwater.co.uk
8. Energy Efficient Standard: The applicant is advised that accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see Gov.uk website); two bodies currently operate in England: National Energy Services Ltd; and Northgate Public Services. The production of this information is a requirement under Part L1A 2013, paragraph 2.13.

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. Buckley Close is within the northern extremities of the suburban area of Hangleton and Knoll beyond which is the wooded 'cut' for the A27 which separates the city boundary and the boundary of the South Downs National Park, a landscape of national importance, to the north side of the A27. The green slopes of the cut form part of the urban fringe to the city. This area and the route of the former Dyke Railway which is located to the west beyond the flats is designated as an 'Open Space', a Nature Improvement Area. Part of the application site is an Archaeological Notification Area.
- 2.2. The area in general has been characterised as 'the Hangleton Estate' largely comprised of a 20th century residential suburb of a medium to low density. Buckley Close is connected to the A293 via Chichester Close, Hangleton Way and Hangleton Lane. The A293 provides access to the A27 to the north and the A270 Old Shoreham Road to the south. Public footpaths include the Dyke Rail Trail provide access to a footbridge over the A27 to the South Downs.
- 2.3. The subject site measures approximately 12 metres in depth and 137.5 metres in length, covering an area of 1279.3 sqm which includes the 48 no. garages, land to the north and south and part of the public highway. The site is located to the east side of Buckley Close, a cul-de-sac with 9 x 3 storey flatted buildings with pitched roofs set an angle to the road. Behind the existing garages, sitting on higher ground, is a mix of two storey flats and dwellinghouses of Chichester Close. There is gap between the row of garages and rear garden boundaries. The rear gardens are defined a mixture of post-and-wire and/or close-boarded fence panels. Some trees are

growing out of the rear boundary retaining wall, over this space. The supporting planning statement states that all the garages have been empty for many years and unlettable due to their current condition. Over two-thirds have been empty for many years and are in a poor condition. All garages are now boarded up.

- 2.4. The nearest bus stops are located on Hangleton Way. A small parade of shops are within walking distance also on Hangleton Way. A library and medical centre are located on redundant railway land.
- 2.5. The application seeks to demolish the existing garages and to erect 3no. detached two-storey buildings to provide 12 no. affordable units of accommodation for rent comprising:
 - 8 x 2b4p units
 - 3 x 1b2p units
 - 1 x 1b2p wheelchair accessible unit designed to comply with Part M4(3) of the Building Regulations
- 2.6. The proposed buildings would be placed up to the edge of the concrete apron that currently exists and beyond this a new footpath would be provided of 1.1m in width for the entirety of its length. The proposed buildings would be of a consistent plan form with a recessed entrance 'bay' leading to the communal hall and stairs. They do however vary in length and in the pattern of fenestration reflecting the units, types and room designations. All buildings would be faced in a buff/grey brick as a contrast with the surrounding buildings and to provide the buildings with a more contemporary appearance. Horizontal bands of stack bonded bricks are shown between the ground and first floor windows to create visual relief and provide visual interest.
- 2.7. The main entrance door is denoted by a flat projecting canopy, the details of which have not been provided. Windows are proposed to be either uPVC or metal in dark grey with those to the recessed sections having powder coated grey spandrel panels. A glazed panel would be placed across the French doors to specific first floor flats to provide Juliette balconies. The recessed 'entrance' area is shown to include an integrated internal 'service' cupboard and a rear door leading to a back service access pathway. Contained gardens are shown to the north and south sides of each block to be used by each respective ground floor unit. Secure cycle storage would also be provided within a separate contained area within the garden spaces.
- 2.8. Block A to the northern end of the site would measure 26.87 metres x 7.3 metres at its widest point. It would rise to approximately 6.1 - 6.2 metres to the parapet behind which is a flat roof which is shown to have photovoltaic arrays and safety railings around the perimeter of the roof. Block B would be

approximately 23.72 metres in length x 7.3 metres and Block C would measure approximately 24.40 metres x 7 metres. Both Blocks B and C would be of the same height as Block A. The blocks would be aligned to the front and rear with the rear elevations set between 1.2 to 1.8 and 2.0 metres away from the rear boundary and accommodates a path along the full length of all three blocks, gated at both ends.

- 2.9. Eleven (11) no. car parking spaces are shown to the south of the Block C and the garden area, 2 of which are shown as disabled bays. The wheelchair accessible unit is shown to occupy the southern part of the ground floor of Block C and is provided with direct access from the parking bays. Planting would be provided between the groups of parking spaces. A total of twenty-four (24) no. bicycle spaces would be provided to serve the development, with 6 no. external stands for visitors placed within the recess to the side of the angled cupboard. An area of planting is also shown to separate the spaces from the approach to the main entrances. The bicycle storage for each ground floor flat would be provided within the respective dedicated gardens.
- 2.10. The plans show the removal of the trees along the back wall, categorised as Category C trees under the British Standards. These are shown on drawings AD-05, AD-06 and AD-07. A planting scheme has been submitted with the application documents.

3. RELEVANT HISTORY

Pre-Application Advice

- 3.1. This site was the subject of pre-application enquiries in 2013/14 and was again presented in December 2016. Initially the scheme included 6no. buildings, 1 of which was shown at three storeys and the remainder at two storeys, all with flat roofs. This was amended to 5no. buildings, all at two storeys in height with flat roofs to provide 14 units of accommodation. Parking was shown on both sides of Buckley Close.
- 3.2. At that time, it was advised that a scheme including a three storey building would be unlikely to receive support due to concerns regarding neighbouring amenity. With the focus on buildings of two storeys in height and given the constrained nature of the site, the pre-application scheme could not be supported with a number of concerns set out as follows:
- 3.3. Design/ Amenity
- Uncomfortable relationship with the street frontage, hard up to the pavement

- Long runs of blocks and lack of landscaping or defensible space creates a stark and uncomfortable relationship with street frontage.
- Special attention needs to be paid to ensuring the frontage is visually interesting with high quality detailing and materials are necessary to soften the juncture with the public domain.
- Blank façade to properties to the rear on Chichester Close, overbearing and enclosing with potential for overshadowing.
- Gradient of land is a factor and widths of buildings at the southern end should be reduced ensuring the development does not extend across the full width of the rear gardens to Chichester Close.
- First floor balconies could cause overlooking, loss of privacy, noise disturbance to existing and proposed accommodation.
- Single aspects habitable rooms with views straight onto the pavement is considered to be uncomfortable in amenity terms and would be worsened by cars parked outside front windows.
- Preferable that each unit is provided with outdoor amenity space at ground floor level.

Transport:

- A suitable footway width (minimum 1.5m) should be provided in front of all properties. The footway could reduce to a minimum of 1.2m but this must be over short lengths and not be continuous.
- Two way vehicular access along Buckley Close and a suitable turning area must be retained. A swept path must be undertaken to ensure that delivery/service vehicles can turn around within the turning area provided.
- Removing parking from the east side of the street could provide scope for reducing the width of the carriageway to increase the pavement width and/or the depth of the development to benefit the scheme.
- The advisable minimum carriageway width for two cars to pass is 4.1m. However, if refuse vehicles are accessing this route the route may have to be wider 4.8m, as set out within section 7.1 of the Manual for Streets.
- Car parking should be provided in line with the maximum car parking standards contained within SPD14.
- Overspill from displaced parking needs to be addressed.
- Information in respect of current usage of the garages should be obtained.
- If necessary, an on-street stress parking survey should be undertaken in line with the Lambeth Methodology.
- Parking should be restricted to the west side of the road as existing.
- More off-street car parking could be provided at the southern end.
- A Residential Travel Information Pack would be required to promote active and sustainable forms of travel and should include provision of started bus season tickets; free voucher toward the purchase of a bike; public transport information; local walking and cycling maps.

4. REPRESENTATIONS

- 4.1. Eight **(8)** representations have been received from neighbours objecting to the proposals for the following reasons:

Principle

- Agree with the demolition of the garages as they are unsafe
- Accept the responsibility of the council to accommodate every need in the city
- This is not a considerable plan for this community
- Unacceptable development and highly inappropriate
- Already overcrowded with social problems
- Overdevelopment

Movement (Pedestrian and Vehicular) / Safety and Parking

- Limited space for parking which will worsen
- Local roads do not support extra/shifted parking
- No space for a bus to stop
- No safe space for children to cross since the development of the Downsman flats in the same road. This is an accident waiting to happen.
- Traffic, congestion and parking issues will get worse with the new school opening in September 2019

Design, Scale, Mass, Character

- Inappropriate height
- Should not be higher than existing six foot fence to rear gardens

Residential Amenities

- Reduce quality of life for existing residents
- Overlooking of existing gardens and properties
- Will block light and sunlight to gardens due to height and positioning
- Loss/restriction of view
- Have a claustrophobic effect on existing home

Amenity Area

- Lack of amenity space for children who may live in the flats
- Only space is to play safely outside which does not happen
- Should be designed as a space for kids to play, provision of a proper closed bike shed
- Need for a proper area for rubbish bins
- Landscape/Ecology/Biodiversity
- Loss of trees

Other matters

- Impact on property values
- Disruption during construction
- Will affect domestic pets including rabbits and wild lizards

5. CONSULTATIONS

External

Brighton and Hove Archaeological Society: Comments.

- 5.1. The proposed development is in an area which is of extreme archaeological sensitivity. Finds from around this location have included Iron Age pottery, Roman coins and medieval features. It is also close to the site of the medieval village. The Brighton and Hove Archaeological Society would suggest that you contact the County Archaeologist for recommendations.

County Archaeologist: Comments.

- 5.2. Conditions are recommended. The proposed development lies partially within an Archaeological Notification Area defining the Deserted Medieval Village of Hangleton. Indeed, recent archaeological excavations undertaken at the nearby former pub known as 'The Downsman' have uncovered the in-situ buried remains of medieval houses (including walls).
- 5.3. The application includes an archaeological desk - based assessment of the proposed development site and acknowledges the impact that the current garages may have had on below ground archaeological deposits. Nevertheless, it concludes that "the proposed development would carry the potential to damage or destroy archaeological deposits, if present, in areas of building footprints, landscaping and service trenches" this conclusion is concurred with.
- 5.4. The area affected by the proposals should be the subject of a programme of archaeological works. This will enable any archaeological deposits and features that would be disturbed by the proposed works, to be either preserved in situ or, where this cannot be achieved, adequately recorded in advance of their loss. Advice can be provided to the applicant as to how any archaeological condition can be best fulfilled.
- 5.5. The written scheme of investigation, referred to in the recommended condition wording above, will set out the contracted archaeologist's detailed approach to undertake the programme of works and accord with the relevant sections of the Sussex Archaeological Standards (2019).

County Ecologist: Support.

- 5.6. Subject to the implementation of mitigation measures the proposals are supported. The site is not subject to any nature conservation designations and given the nature, scale and location of the proposed development, there are unlikely to be any impact on sites designated for their nature conservation interest. The site offers opportunities for enhancement. If minded to approve a condition regarding the provision of an Ecological Design Strategy (EDS) is recommended.

- 5.7. Five trees and one group of trees are scheduled for removal. The remaining trees should be retained and protected in line with BS5837:2012. The deciduous woodland adjacent to the north of the site is a Habitat of Principal Importance and should be protected during construction with strict pollution prevention controls put in place.
- 5.8. Breeding Birds: The site has the potential to support breeding birds. 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. Alternative nesting habitat should be provided.
- 5.9. Bats: Buildings and trees on site offer negligible bat roost potential but it is likely that the woodland to the north is used 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. External lighting design should therefore take account of best practice. The external lighting plans submitted with the application indicate that there will be minimal light spill onto the adjacent woodland and are therefore acceptable.
- 5.10. Other Species: The site has the potential to support hedgehogs and there are records of hedgehogs from the local area. Precautions should be taken for hedgehogs during site clearance as outlined in the Preliminary Ecological Appraisal report. There are multiple stands of Tree-of-Heaven on site; this species spreads aggressively and should be removed from site to prevent its further spread.
- 5.11. The site is unlikely to support any other notable or protected species. If protected species, or signs of their presence, are encountered during development, work should stop and advice should be sought on how to proceed from a suitably qualified and experienced ecologist.
- 5.12. Mitigation Measures/Enhancement Opportunities: In addition to the recommended mitigation measures, the site offers opportunities for enhancement including but not limited to the provision of green (biodiverse not sedum) roofs and walls, bird, bat and insect boxes and wildlife friendly planting. The Preliminary Ecological Appraisal report makes some recommendation with respect to the provision of bird and bat boxes, but

these recommendations have not been carried through to the Design and Access Statement of the Sustainability Checklist.

- 5.13. Landscaping within the site should use locally native species of local provenance and species of known wildlife value. Advice on suitable species is provided in Annex 7 of SPD11. It is also recommended that a biodiverse green roof should be provided.
- 5.14. The Sustainability Checklist states that solar PVs will be installed. Green roofs are known to improve the efficiency of photovoltaics, as well as providing other benefits including water management, reduction of heat island effect and biodiversity. To help meet Biosphere targets, the green roof should use chalk grassland species. An Ecological Design Strategy condition is recommended.

Southern Water: Comments.

- 5.15. The development is some distance from the nearest public foul sewer. The applicant should assure himself that there are adequate rights to utilise intervening private drainage systems. Otherwise a connection to the public sewerage system could be requisitioned under the terms of the Water Industry Act. A formal application would be required for the connection. Informatives are recommended.

Sussex Police: Comments.

- 5.16. No major concerns but additional measures to mitigate against any local crime trends should be considered. Expresses concern over the proposed location of the parking facilities and lack of overlooking from an active room which makes vehicles vulnerable to vehicle crime and theft. Gable ended windows can assist in providing observation over an otherwise unobserved area. As there are only two dwellings that have an active room overlooking the proposed parking court, the parking court is unobserved from the remaining properties and as such the resident have no control or surveillance over their vehicles. This may cause them to park nearer their properties within direct view. These actions have the potential to create illegal parking, obstruction of the highway and emergency routes as well as causing disharmony amongst nearby residents. From a SBD perspective, this present arrangement would not result in sufficient coverage of the parking area. It is suggested that the residential blocks are spaced further apart with the parking located in between each of the residential blocks in order to create overlooked parking from active rooms.
- 5.17. Details of communal doors and door access requirements, postal arrangements, cycle and bin storage can be found within the SBD Homes 2016 within the SBD website

Internal

Arboriculture: Approve.

- 5.18. No objection to the proposal but does have some concerns regarding the protection of trees shown to be retained on site. Should consent be granted a condition is recommended to help secure their protection and also to improve on the landscape detail that has been provided. The application is accompanied by an Arboricultural Consultants report, the content of which the Arboricultural Team concur with. The works require the removal of a short section of hedge, 4 Sycamore, 1 Ash and a small group of sumac trees. All of which are of relatively low grade and collectively of only minor local amenity value.
- 5.19. No objection is raised to the proposed development as it should have little impact on the local treescape. However, it will be necessary to insure those trees shown for retention on site are properly protected as outlined in the Ruskins Tree Consultancy Report 12/10/2018. In addition to this there are some concerns over the landscaping information submitted as this lacks detail, has only one year of maintenance outlined and has poor species selection. The space provided for soft landscaping is only just adequate but if well maintained and properly implemented would be sufficient for the site. In view of these concerns two conditions are recommended to provide greater control and improvements in the landscape design.

Children and Youth Services: Comment.

- 5.20. A contribution in respect of primary education is not being sought as there are sufficient primary places in this area of the city for the foreseeable future. A contribution in respect of secondary and sixth form education of £10,116.80 if this development was to proceed. The development is in the catchment area for Hove Park and Blatchington Mill Schools which has some surplus capacity at the moment but the numbers of pupils is increasing each year without the impact of this development and therefore it is entirely appropriate to seek a contribution in this respect.

City Clean: No Comments received at the time of writing.

City Regeneration: Comments.

- 5.21. This development, through the council's New Homes for Neighbourhoods programme, will provide 12 affordable homes on an existing site of 48 garages that have not be usable or lettable for some time due to the poor condition of the structures. This development will be a positive use of valuable housing land and will make a small contribution to addressing the council's challenging housing needs.

- 5.22. Should the application be approved, an Employment and Training Strategy will be required, with the developer committing to using an agreed percentage of local labour. It is proposed for this development, that the minimum percentage of 20% of any new roles created for the demolition (where appropriate) and construction phases of the development, should provide opportunities for the local workforce.
- 5.23. Also, if approved, in accordance with the Developer Contributions Technical Guidance, City Regeneration requests a contribution through a S106 agreement for the payment of £3,600 towards the council's Local Employment Scheme.

Planning Policy: No Comments received.

Sustainability: No Comments received.

Transport Planning: Recommend approval subject to conditions and a sustainable transport contribution.

- 5.24. It is commented that the applicant is proposing a 1.1m width footway adjacent to a 12 units residential development including accessible unit(s) which is not acceptable. It would mean that pedestrians would be unable to pass those with buggies, on scooters or wheelchair users.
- 5.25. It is advised that ideally that the proposed footway should be 2 metres in width to allow for all pedestrian movements. However, it is noted that the site is constrained in dimensions and that the road is a cul-de-sac where pedestrian movements are unlikely to be high. In this instance a footway of a minimum of 1.5m width to allow a person with a standard buggy to pass another (as per DfT's Manual for Streets) would be accepted. This will reduce the risk of pedestrians walking into the road and address concerns about the likely need for refuse and recycling collection vehicles to reverse down the street.
- 5.26. It is understood that it may not be possible to reduce the depth of the site to allow for this. A Grampian Condition is therefore recommended to secure footway widening by narrowing the carriageway. It should be noted that this will require the introduction of some waiting (parking) restrictions along the street to provide passing opportunities for vehicles. This is discussed further in the 'Vehicular Access' section.
- 5.27. Additional pedestrian improvements are also recommended in the area and these are discussed below in the Trip Generation/ Highway impact section.
- 5.28. Cycle Parking: Parking Standards SPD14 requires 1 space per flats and 1 space 3 flats for visitors. The applicant is proposing 18 spaces and this is in

line with the minimum standards. 12 are accessed from the road side and 6 from within the gardens and this is acceptable. Further details are required of stands within the communal stores and the garden stores will need to have a tarmac path approach or similar to ensure the spaces can be accessed during inclement weather. A condition is recommended to be attached. In order to be in line with Policy TR14 of the Brighton & Hove Local Plan 2005 cycle parking must be secure, convenient, well lit, well signed and wherever practical, sheltered. The Highway Authority's preference is for the use of secure stores and/or Sheffield type stands spaced in line with the guidance contained within the Manual for Streets section 8.2.22.

- 5.29. Disabled Parking: Parking Standards SPD14 requires 1 space per wheelchair accessible unit plus 50% of the minimum parking standard for ambulant disabled people & visitors. One wheel chair accessible unit is being proposed and therefore provision of 2 spaces is acceptable and complies with Parking Standards SPD14. The design as detailed is deemed acceptable.
- 5.30. Servicing & Deliveries (including goods & people pick up / drop off): Deliveries and refuse collection movements are proposed to be as existing and this is acceptable in this instance. Currently refuse for neighbouring properties are collected on street. For a new development such as this, bin storage must be provided on site and within reasonable distance to all flats. There appears to be locations that could accommodate such storage and therefore the refuse and recycling condition must be attached with details submitted and approved prior to commencement of the development. Vehicles will likely need to reverse down the street as existing since the existing turning head at the end of the cul-de-sac does not appear to be large enough for them to turn in. This underlines the need for the footway improvements discussed above.
- 5.31. Vehicular Access: The removal of the garages and forecourt hard stand drives means that motorists would not be able to pass each other when parked vehicles are present. If this proposal is approved substantive parking restrictions on Buckley Close would be required to ensure vehicles can pass each other. The following additional amendments would be required on the carriageway prior to commencement of the development:
- Uninterrupted Double Yellow Lines (DYL's) along one side of Buckley Close for its entire length;
 - Intermittent passing points/ DYL's on the opposite side to provide passing points for vehicles;
 - DYL's on the turning area at the bottom of the cul-de-sac;

- Dropped crossing points with tactile paving for pedestrians across Buckley Close. These ideally should include locations linking the site to the routes to the nearby Dyke Railway Trail.

5.32. These necessary features would:

- reduce reversing of vehicles on this residential road;
- ensure motorists can enter and exit in a forward gear; and
- reduce the safety risk to pedestrians, other motorists and road users.

5.33. All associated Traffic Regulation Order amendments will be at the expense of the applicant. The above amendments should have been submitted to the LPA/LHA at planning stage. However, in this instance we are willing to recommend a Grampian condition be attached to secure the changes before commencement (as above). The proposals must be accompanied by swept path analysis of vehicle movements to ensure that all likely vehicle movements can be accommodated. A Road Safety Audit will also be required

5.34. Car Parking: The amount of proposed on-site parking being provided is 12 car parking spaces including 2 disabled user bays. Census data indicates the likely car ownership would be on average 10 vehicles in this location (Super Output Lower Layer Census data 2001). This figure could be lower due to all residential units having only 1-2 bedrooms. The parking area proposed is therefore deemed adequate in size and design to accommodate parking associated with residents of this development.

5.35. Parking associated with visitors that may occur could take place in the car park (that is unlikely to be at capacity all of the time) or accommodated on the surrounding highway that is not within a controlled parking zone. The applicant has stated that the garages are dilapidated and are not in use, therefore their removal should not generate additional overspill onto the highway. The LHA does not consider the likely parking to be significant enough to warrant a reason for refusal in this location.

5.36. Trip Generation/Highway Impact: The 12 new units will create an increase in person trips in the vicinity of the site. Using the council's standard contributions methodology, a contribution of £10,800 is requested. The contribution has been calculated as follows:

Number of residential units * person trip rate * £200.00 * reduction factor = Contribution Formula

Number of units (12) * trips per unit (6) * contribution per trip (£200) - location-related deduction (25%) = **£10,800**

5.37. This will be spent on bus stop and footway improvements, including but not limited to:

- dropped kerbs and tactile paving across Buckley Close at its junction with Chichester Close and/or
 - n accessibility kerb at the Barnet Way eastbound bus stop.
- 5.38. These will provide step-free access from the site to the 5B bus route/ public transport. The contribution will also ensure that the development provides for the travel demand it is likely to generate, encourage sustainable modes of travel and provides for the needs of public transport users and pedestrians in accordance with Brighton & Hove City Plan Part One Policies CP7 and CP9.
- 5.39. Equalities impact: Even with the footway widening works that we recommend are secured via a Grampian condition, the footway width in front of the development will still be less than recommended in BS 8300 which provides guidance on accessible design. Whilst it will be wide enough for wheelchair users and buggy users, they may not be able to pass others at all times and so could be negatively impacted. However, we consider there to be an objective justification for this in this instance given the narrow width of the site, limited ability to narrow the carriageway and relatively low pedestrian footfall what with the site being at the edge of the city.

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 (2019).

7. POLICIES

The National Planning Policy Framework 2019 (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP7	Infrastructure and developer contributions
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

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

TR4	Travel plans
TR7	Safe Development
TR11	Safe routes to school and school safety zones
TR12	Helping the independent movement of children
TR14	Cycle access and parking
TR18	Parking for people with a mobility related disability
SU3	Water resources and their quality
SU5	Surface water and foul sewage disposal infrastructure
SU9	Pollution and nuisance control
QD5	Design - street frontages
QD14	Extensions and alterations
QD15	Landscape design
QD16	Trees and hedgerows
QD18	Species protection
QD25	External Lighting
QD27	Protection of amenity
HO5	Provision of private amenity space in residential development
H013	Accessible housing and lifetime homes
HE12	Scheduled ancient monuments and other important archaeological sites
SA5	The Setting of the National Park
SA6	Sustainable Neighbourhoods

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD06	Trees & Development Sites
SPD11	Nature Conservation and 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; its scale, the character and appearance and

relationship with the area/context; residential amenities for existing and future occupants; secure by design; transport and parking; sustainable development; ecology/biodiversity; archaeology; and the setting of the South Downs National Park.

Background

- 8.2. The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually.
- 8.3. The Council's most recent housing land supply position is published in the SHLAA Update 2018 (February 2019). The figures presented in the SHLAA reflect the results of the Government's 2018 Housing Delivery Test which was published in February 2019. The Housing Delivery Test shows that housing delivery in Brighton & Hove over the past three years (2015-2018) has totalled only 77% of the City Plan annualised housing target. Since housing delivery has been below 85%, the NPPF requires that a 20% buffer is applied to the five year housing supply figures. This results in a five year housing shortfall of 576 net dwellings (4.5 years supply). In this situation, 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).

Principle of Development

- 8.4. The site is located within the northern extremities of the residential suburban area of the city within the development boundary. It is in a location where there is access to public transport, local facilities and schools. As such, there is a presumption in favour of development that accords with the development plan and contributes to the provision of housing to meet the needs of the city.
- 8.5. Strategic Policy SO4 of City Plan Part One seeks to address the housing needs of the city and to ensure the provision of appropriate housing that meets the needs of all communities. Policy SS1 of City Plan Part One supports the sustainable redevelopment of previously-developed (brownland) sites within built up areas where put forward for an optimal viable such as housing provision. This is an important consideration given the 'natural' tight constraints on the site and land availability. The proviso within Policy SS1 is that any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed other policies and the National Planning Policy Framework (NPPF) when taken as a whole. This

position is also supported by Policy CP1 which sees an additional 1250 new homes being provided from 'windfall' sites such as this.

Affordable Housing

- 8.6. Policy CP20 requires a minimum of 30% of the units (4) for affordable housing which would be secured through a S106 Planning Agreement. In this instance all 12 units are proposed to be 'affordable' as part of the New Homes for Neighbourhoods estate regeneration programme to help tackle the shortage of affordable housing.

Housing Mix, Type and Tenure

- 8.7. National and local planning policies seek to ensure the delivery of a wide choice of high quality homes which contribute to the creation of mixed, balanced, inclusive and sustainable communities. Proposals for residential development are expected to incorporate a range of dwelling types, tenures and sizes that reflect and respond to the city's identified housing needs as required by City Plan Part One policies CP1, CP14, CP19 and CP20; Local Plan Policy HO13 and emerging policy DM1 of the City Plan Part Two.

- 8.8. Policy CP14 states that residential development should be of a density that is appropriate to the identified positive character of the neighbourhood and be determined on a case by case basis. It states development will be permitted at higher densities than those typically found in the locality where it can be adequately demonstrated that the proposal:

1. Would be of a high standard of design and would help to maintain or create a coherent townscape;
2. Would respect, reinforce or repair the character of the neighbourhood and contribute positively to its sense of place;
3. Would include a mix of dwelling types, tenures and sizes that reflect identified local needs;
4. Is easily accessible by sustainable transport or has the potential to be easily accessible;
5. Is well served by local services and community facilities; and
6. Provides for outdoor recreation space appropriate to the demand it would generate and contributes towards the 'green network' where an identified gap exists. #

- 8.9. Policy CP12 similarly promotes residential development to be of a density which is appropriate to the character of its neighbourhood. It also advises that development will be permitted at higher densities than typical of the locality if it complies with a set of criterion, and also states that in order to "make full efficient and sustainable use of the land available, new residential development...will be expected to achieve a minimum net density of 50 dwellings per hectare".

- 8.10. The proposed density of the development works out at 100dph, calculated by the number of residential units (12) divided by the size of the site (0.12 hectares). Although the area is generally of a lower density, the presence of flatted blocks to the west and south side of Buckley Close has led to the principle of higher densities can be accommodated subject to compliance with other development plan policies and in the consideration of the planning balance.
- 8.11. Policy CP19 of the Brighton & Hove City Plan seeks an appropriate mix of housing which is informed by local assessments of housing demand and need. It states that:
- Sites coming forward as 'windfall' development will be required to demonstrate that they have had regard to housing mix considerations and been informed by local assessments of demand and need.
 - All new residential development will have regard to the characteristics of existing neighbourhoods and communities to ensure that development makes a positive contribution to the achievement of mixed and sustainable communities.
- 8.12. The supporting text of policy CP19 refers to a B&HCC demographic analysis, which suggests an estimated 65% of overall housing need and demand will be for 2 and 3 bedroom properties (34% and 32% respectively), 24% for 1 bedroom properties and 11% for 4 bedroom or more properties. This advises that in terms of demand for market housing this is likely to be weighed towards 2 and 3 bedroom properties. In this case the application proposes 4 x 1 (33.3%) bed units and 8 x 2 (66.6%) bed units. Of the 4 x 1 bed units, a ground floor 1 bed unit is wheelchair accessible. Although there is a lack of 3 bed units, this is considered acceptable given the overall benefit of providing additional affordable units of residential accommodation. As such is considered to address the nature of housing needs and market demand in the City, and is therefore considered to comply with Policy CP19.
- 8.13. It is noted that the application site is a brownfield site within the city's development boundary with good access to public transport, local schools and local services, it represents an opportunity to make an efficient use of the site which is currently underused. In addition, it would also make a beneficial and suitable contribution to housing provision.

Standard of Accommodation

- 8.14. The Government's Technical Housing Standards – Nationally Described Space Standards are used to help make an assessment of an acceptable standard of accommodation for residential units. It is noted that the council

has not adopted these sizes locally but provide a comparable and an indicator that the accommodation proposed is an acceptable size. The proposed units would all meet or exceed these standards and is therefore of an acceptable standard.

- 8.15. Policy HO5 requires the provision of private useable amenity space appropriate to the scale and character of the development. In this case, all ground floor units are provided within side gardens. 3 of the first floor flats are provided with Juliet balconies. No communal amenity space is provided. The site is however, within walking distance of the Dyke Railway Trail which provides access to the South Downs National Park and Hangleton Park which is located adjacent to Hangleton Community Centre. It is therefore considered that the lack of on site provision is offset by the proximity to nearby passive and active recreation. On balance, it is therefore considered that the proposals with 50% of the units being provided with ample private gardens is acceptable and therefore accords with Policy HO5 of the Local Plan.

Design, scale and appearance:

- 8.16. National and local policies seek to secure good quality design which respects general townscape and the setting of heritage assets and is a key aspect of sustainable development. The principle of the reuse of this brownfield site, at the density proposed, is considered to be appropriate for this area. The siting, scale, massing and design of the proposed buildings has evolved from the pre-application process. Initially a scheme of 14 units was proposed along the length of the site with some parts rising to three storeys. Following pre-application advice the scale of the development was reduced to 12 units and restricted to two storeys. Due to the change in levels, only one storey would be seen from the dwellings on Chichester Close and their gardens. This is clearly shown in the sections provided in the submitted drawings
- 8.17. Together with the revisions to the design and the provision of gaps between the buildings, the scale, bulk and mass are more compatible with the context and relationship with adjacent dwellings and flats to the east (rear) and to the west on the opposite side of the road.
- 8.18. Although the buildings around the area are of a mixture of buff and red bricks, pebble-dash and white painted first floor finishes with pitched tiled roofs as the general building typology, it is considered that three separate, yet unified flat roofed buildings would not appear out of keeping with the area. The three buildings offer a contrast to the existing built form. As a counter balance, it is architecturally muted with its simple consistent detailing and pattern of fenestration. The breaks between the three buildings not only take account of the relationship with the accommodation on Chichester Close

at the higher level, but also visual relief complimenting the articulated front elevations with the recessed entrance bay.

- 8.19. The provision of solar photovoltaics to the flat roofs are welcomed. The applicant considers that there is a need for permanent fixed safety railings to be provided around not only the access hatch but the entire perimeter of the flat roofs. Apart from provision around the hatch, it is considered that the provision is excessive but also detract from the character and appearance of an otherwise acceptable development. At two storeys in height with a flat roof, as a compromise, the applicant was requested to consider the provision of collapsible safety railings with a permanent rail around the access hatch. This was not accepted and despite informal advice from Building Control that there was no requirement for such systems at a height of two-storeys. However, if there was a need for anchoring, an anchor-safe system could be provided behind the parapet. This was not accepted by the applicant. As a result, it is considered that this is a matter that can be addressed by way of an appropriately worded condition that is fair, reasonable and practicable in order to deliver a good standard of design and quality of the development. There are a number of safety systems that can be investigated to address the concerns about the visual impact of permanent railings.
- 8.20. It is considered that the development of this site offers a significant opportunity to improve the character and appearance of the site and the area and to enhance the existing urban environment. It does not mimic the existing typology but in its restrained design approach presents a form and scale of development that is considered to be acceptable, respecting the character and appearance of the area.
- 8.21. The form and scale of the development is therefore considered to be in keeping with the character of this area, and is considered to comply with saved policies QD5 and QD27 of the Local Plan and Policy CP12 of the City Plan. The Design and Access Statement submitted in support of this application provides further detail.

Neighbouring amenities

- 8.22. Adopted Local Plan Policy QD27 seek to ensure that new development provides sufficient residential amenity for new occupants but also does not adversely affect the existing levels of amenity experienced by existing residential properties. This includes where change would harm or underprovide for privacy, daylight, sunlight and outlook. Apart from windows to the stairway and landings, no windows are provided to ground or first floor flats with the majority of the windows being west facing. At the gable ends, out units are provided with windows to the north side (Block A) and south side (Block C). This arrangement seeks to ensure that the dwellings and flats of Chichester Close would not experience a loss of privacy or overlooking. A

condition is recommended that to ensure that the rear windows to the communal stairway and landings are obscurely glazed and fixed shut, particularly to the first floor.

- 8.23. The gardens to the rear of the Chichester Close properties sit at a higher level than the ground floor level of the existing garages and the proposed new development. Some of the dwellings also sit on ground raised above the garden level and as a result, there was the potential for the new development to be affected by the existing. Due to the fact that no windows are provided to the elevation facing the Chichester Close properties, this concern has been overcome. Albeit of two storeys, only a single storey would be read from the Chichester Close properties and as a result, would not appear over-dominant or overbearing. The proposed buildings sit between approximately 7.3 metres, 10.85 metres and 11 metres from the rear of dwellings fronting Chichester Close. At the northern end the dwellings sit on higher ground than the rear gardens with the new development shown in Section A – A being read at approximately 1.2 metres above garden level. At Section C – C the new development would sit at approximately 3.4 metres above garden level.
- 8.24. Given the elevated nature of the properties fronting Chichester Close and the height of the new buildings relative to existing garden and ground floor levels, it is considered that the level of shadow would not be significant relationship between existing and new would not be at a level that would cause undue harm or detriment arising from a loss of daylight or overshadowing.
- 8.25. The north and south elevations of the buildings would include windows serving the living room to each flat, to the ground and first floor. There would be no overlooking between ground floor windows due to the intervening garden fencing, the details of which would be secured by condition. At first floor level, the windows between the south elevation of Block A does not directly face the windows to the north elevation of Block B. The internal arrangements of Block B alter to include two small windows serving the kitchen and living space with the main windows to the east elevation. The opposing north elevation of Block C would contain the main living room window at first floor level.
- 8.26. Overall the proposal has sought to reduce direct overlooking. However, even with the distance between each block of approximately 7 metres, there will be a degree of mutual overlooking which is not uncommon in flatted development and it therefore not considered to be to such an extent that would detract from the overall quality of the accommodation provision.

8.27. Due to the alignment of the existing flatted blocks to the west side of Chichester Close and distances between existing and new built form, it is considered that no harm would arise to their residential amenities.

Sustainable Transport

8.28. City Plan Policy CP9 seeks to promote sustainable modes of transport and cycling and walking in particular, to reduce reliance on the private car. Local Plan Policy TR4 promotes the use of Travel Plans. Policy TR7 seeks to ensure highway safety. Development is expected to meet vehicular and cycle parking standards set out in SPD14.

8.29. SPD14 indicates that the site is located within the 'Outer Area' zone of the city where a development of this nature would generate a requirement for 1 car parking spaces per 1 and 2 bed dwellings; 1 visitor parking space per 2 dwellings; 1 disabled user parking space per wheelchair accessible units; 50% of the minimum standard for ambulant disabled people and visitors; 5% of the maximum total car parking spaces for motorcycle provision. For bicycles, the requirement would be for 1 cycle space per unit of accommodation and 1 cycle space per 3 units for visitors.

8.30. This equates to a requirement for 12 parking spaces for residents and 6 visitor parking spaces, thus a total of 18 car parking spaces. Of those 2 spaces are included for disabled users. There would be a requirement for 12 cycle spaces for residents and 4 cycle spaces for visitors, resulting in a requirement for 16 cycle spaces.

8.31. The Transport Statement that accompanied the application explains that the number of vehicles visiting the site would not be significantly increased by the provision of 12 units of accommodation which would be served by 11 parking spaces in total. No visitor car parking would be provided. 18 cycle spaces are proposed slightly exceeding the required standards. The 2 visitor cycle spaces would be provided to the side of each recessed entrance bay. Residents cycle spaces would be provided within secure stores.

8.32. Notwithstanding the lack of motorcycle bays, it is considered that the parking and cycle provision meets the requirements of adopted policy and SPD14 and is therefore acceptable. Although visitor spaces are not provided, it is the advice of the Transport team that parking associated with visitors could occur within the proposed car park that is unlikely to be at capacity all of the time or accommodated on the surrounding highway that is not within a controlled parking zone.

8.33. Concern has been concerned about the nature of the footway that is proposed in front of the development. Despite the pre-application advice that

a footway of 1.5 metres be provided with 1.2 metres being accepted over short lengths, the scheme shows a width of 1.1m for the entire length of the footway. This raises concerns for pedestrian movement and it is advised that although ideally the proposed footway should be 2 metres in width, a minimum width of 1.5m would be accepted given that the road is a cul-de-sac where pedestrian movements are unlikely to be high.

- 8.34. Having regard to Policy TR7 of the Brighton and Hove Local Plan and CP9 of CPP1, it is considered that the footway as shown is unacceptable and fails to satisfy policy requirements to provide sufficient space for users of pass without the risk of having to walk into the road. However, as the carriageway has a width of approximately 6.6 metres with on-street car parking to the west side, it is considered that a 1.5 metre footway could be provided. This arrangement would still allow cars to park to the west side with 'passing' areas accommodating refuse and recycling collection vehicles which currently reverse down the street.
- 8.35. The Transport team recommend that a Grampian condition be imposed to secure the footway widening by narrowing the carriageway and to include the introduction of some waiting (parking) restrictions along the street to provide passing opportunities for vehicles. In this instance, it is considered that such a condition would be acceptable in the interests of the safety of users of the carriageway and footway and is set out in the recommended conditions.
- 8.36. Overall, a wider footway would improve pedestrian movement and accessibility. It would also provide a safer environment for people to walk along and within as well as passive surveillance. In addition, it is considered that a contribution toward sustainable transport would provide suitable mitigation and reduce reliance on the private car.

Deliveries and Servicing

- 8.37. The Design and Access indicates that access for emergency, delivery and waste vehicles would be along the public highway with a turning head is provided at the north end of the site and end of the road. The termination at the end of Buckley Close provides an area for manoeuvring and turning which should remain free from obstruction. The submitted plans include an area to the north side of the Block A where vehicles could reverse into.
- 8.38. The Transport team acknowledge that the removal of the garages and forecourt hard stand drives means that motorists would not be able to pass each other when parked vehicles are present. As a result, there would be a requirement for substantive parking restrictions to be provided on the opposite side of Buckley Close which are clearly set out in the consultation response which will require address through a recommended condition which

would also seek to ensure that vehicles would be able to enter and exit Buckley Close in forward gear.

- 8.39. It is proposed that all refuse and recycling will be stored in communal bins placed in the carriageway as per the existing arrangement. The proposed development is likely to increase the amount of waste and to that end, the number of receptacles. Also some bins are located at the southern end of the site which would be displaced as a result of the proposed parking for the development. It is not clear if this displacement has been accounted for in addition to the increase in units and waste. In the interests of good planning and delivering quality residential developments it is considered that waste receptacles could be accommodated within the red edged site to serve the development itself. It is therefore recommended that a condition is imposed requesting details of the provision of suitable refuse/recycling storage within the site or that the increase in refuse and recycling can be adequately accommodated as per the existing arrangement without adversely affecting highway safety.

Travel Plan

- 8.40. 8.38 Although advised at the pre-application stage there may be a need for a Travel Plan, this has not been requested in the formal comments to the application. The provision of a contribution toward sustainable transport is therefore considered to be appropriate and ensures that the development would deliver safe, active and sustainable forms of travel complying with policies TR4 of the Brighton & Hove Local Plan and CP9 of the City Plan Part One.

Construction Management

- 8.41. Owing to the scale of the works and location adjacent to a bus stop and school, it is recommended that the applicant be required to complete a Construction Environment Management Plan and that this can be secured by condition. The movement of construction vehicles will be expected to avoid the peak periods and school opening and closing times.
- 8.42. It is noted that there have been a number of objections to highways and car parking, it is considered that these objections do not warrant refusal and it is acknowledged that the highways team is supportive of the scheme. Highways contributions are secured to help provide mitigation in this instance and promote sustainable modes of transport.

Arboriculture/Ecology

- 8.43. A full arboricultural survey (submitted separately as part of this planning application) has been carried out to establish the impact of the proposed development and the condition of trees on or adjacent to the site. The development would require the removal of a short section of hedge, 4

Sycamore, 1 Ash and a small group of sumac trees. All of these are of relatively low grade and collectively of only minor local amenity value. The Council's Arboriculturist agrees with this position and does not object to the removal of the trees that are constrained by the garages, boundary wall and concrete surfaces. Those trees within the application site and to the southern end are indicated for removal. Conditions are recommended for the protection of trees to be retained during construction including the deciduous woodland adjacent to the north of the site is a Habitat of Principal Importance.

- 8.44. The proposed planting, if properly managed, would provide a mitigation. Along with the provision of more green spaces within the development in the form of private gardens, the biodiversity value of the site would be improved. Additional opportunities for the improvement of the ecological value of the site include the control of demolition and removal of scrub/trees outside of bird nesting and breeding season. Where not practicable it is recommended that 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. Alternative nesting habitat should be provided. Due to the fact that the woodland to the north has the potential for bat roosts and foraging, artificial and external light should be controlled.
- 8.45. The submitted information has identified that there is potential to support hedgehogs and there are records of hedgehogs from the local area. Precautions should be taken for hedgehogs during site clearance as outlined in the Preliminary Ecological Appraisal report. There are multiple stands of Tree-of-Heaven on site; this species spreads aggressively and should be removed from site to prevent its further spread.
- 8.46. As the site offers opportunities for ecological enhancement, in addition to tree protection measures, landscaping conditions, the County Ecologist recommends that an Ecological Design Strategy (EDS) is provided including mitigation measures such as Mitigation should also include the provision of the provision of bird and bat boxes and can be secured by condition. Given the improved greening of the site, it is considered that this, along with the accommodation of locally native species of local provenance and species of known wildlife value that the ecological value of the site will be improved.
- 8.47. Given the presence of the nature improvement area to the west and north and the presence of mature trees to the north and west, it is considered that the loss of the Category C trees is outweighed by the benefits that would be derived from the wider public benefits to be gained from the provision of 12 affordable units of accommodation for rent.

Lighting

8.48. The provision of lighting seeks to provide a balance between the need to provide safe and secure developments but also to ensure that the ecology of the site and area is protected and at the same time adhering to the Dark Skies requirements of the South Downs National Park and Biosphere status. The position of the luminaires has been determined in order to provide illumination to the areas required and limit the lighting to rear properties or other areas. The positioning of the luminaires has been considered, a reduced/minimal spacing has been adopted, this is at the lower thresholds to the relevant British Standard; which assists the ecology requirements for the site. Therefore the application proposes external lighting to:

- Parking area towards the south of the site
- Allocated turning point towards the North

8.49. The lighting design has been undertaken in line with considering the following:

- British standard BS 5489-1-2013: Practice for design of road lighting
- ILP Guidance note 08/18 regarding “bats artificial lighting in the UK”.
- Ecology appraisal report provided by BJC consultancy Ltd dated 16th of October 2018.
- To reduce the impact of the artificial lighting installation and minimise upward light

8.50. LED Post top luminaires (5mtrs Column Mounted) minimal upward light. Mounting locations as shown. The selected fitting type and lumen (output) package has been selected to reduce the impact of the artificial lighting installations.

8.51. There is a balance against the requirement to provide safety/security illumination and the ecology of the site. The external lighting has been provided to the areas of parking and vehicle turning within the development only.

Sustainability:

8.52. 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. The application was accompanied by a Sustainability Checklist setting out the intention to achieve the required reduction in carbon emissions against Part L of the Building Regulations and would include low and zero carbon technologies but no further information is provided despite the indication of solar photovoltaic panels to the flat roofs. No post occupancy evaluation is proposed. Water efficiency restrictions of 110

litres/person/day would be included and would be the subject of an appropriate planning condition.

- 8.53. It is indicated that sustainable drainage techniques would be incorporated into the development and further details are provided in a separate Sustainable Drainage Report prepared by HOP Consulting Civil and Structural Engineers. Surface water runoff from the existing site and highway is directed to soakaways located in the highway via gullies. Rainwater is directed to the rear of the garages by the sloping roofs. Surface water management is proposed through infiltration methods using soakaways and the report provide details of the size, position and layout of the soakaways to manage surface water which is to be developed further during the detailed design stage.
- 8.54. The existing private foul sewer that runs below the flats on the other side of Buckley Close subject to approval by Southern Water which has been noted.
- 8.55. The report has identified measures that reduce the level of flooding risk to the development and ensures the surface water runoff is mitigated through the use of infiltration SuDS. This report shows that the proposals for the redevelopment of the existing garages at Buckley Close. The development at Buckley Close can be successfully implemented and managed sustainably and that there should be no increase in risk to future users and neighbouring properties in regard to foul or surface water flooding over the expected lifetime of the development.

Setting of the South Downs National Park (SDNP)

- 8.56. Policy SA5 of the Local Plan seeks to ensure that development does not detract from the setting of the South Downs National Park (SDNP) and is aligned with the objectives of the NPPF. The subject site is viewed in conjunction with the existing built form in Chichester Close and Buckley Close within a 20th century suburban landscape which is defined 'Downland Fringe' as referred to in the Brighton Urban Characterisation Study. The topography of the northern fringe of the Hangleton Estate Character Area follows the rises and falls of the South Downs. Despite being on high ground, views of the development itself would be limited from the SDNP with attention being drawn to the dwellings of Chichester Close and the flatted blocks to the west and downward slope of Buckley Close due to their distinctive alignment.
- 8.57. Where limits views, if any, are achievable, it is considered that there would be no harm to the visual character and appearance of the SDNP. The net increase in height above the existing single storey garages would not draw attention to their presence and would not read as being out—of-keeping with this existing suburban landscape. The 'cut' accommodating the A27 is well-

established dense vegetation which softens and filters views of this suburban area from high ground within the SDNP. The proposed development would not be readily apparent from the SDNP and would accord with national and local policy requirements.

Heritage Assets

- 8.58. The presence of an Archaeological Notification Area over part of the site defines the Deserted Medieval Village of Hangleton. As such is given material weight in the decision making process. Policy CP15 of City Plan Part One seeks to ensure that the city's heritage assets and the historic environment are conserved and enhanced in accordance with identified levels of significance in accordance with the NPPF.
- 8.59. The County Archaeologist draws attention to the fact that recent archaeological excavations undertaken at the nearby former pub known as 'The Downsman' uncovered the in-situ buried remains of medieval houses (including walls). Concurring with the archaeological desk - based assessment, it is acknowledged that the current garages may have had on below ground archaeological deposits. Nevertheless, it is considered that "the proposed development would carry the potential to damage or destroy archaeological deposits, if present, in areas of building footprints, landscaping and service trenches" this conclusion is concurred with. Therefore and in order to address the requirements of Policy CP12 and Section 16, NPPF (2019), appropriate conditions should be imposed to secure a programme of archaeological works including a written scheme of investigation.

Secure by design

- 8.60. National and local development plan policies seek to ensure that the potential for crime is designed out at the design and planning stages of a development. Attention has been drawn to the limited overlooking of the proposed car parking area from the proposed development. Whilst it would have been more appropriate for some car parking to be provided at the northern end of the site, this would have removed the turning space shown on the submitted plans. Subject to the provision of suitable lighting and as given the likely increase in footfall, it is considered that natural surveillance would be enhanced.
- 8.61. The submitted plans include an access to the rear of all buildings which has been indicated as a maintenance requirement. In order to prevent unimpeded access and potential security concerns given the lack of overlooking and surveillance, a condition is recommended to include gates with security locking mechanisms to prevent access between each building. Details would be required to be agreed before first occupation.

9. CONCLUSION

- 9.1. The scheme is in general accordance with the relevant local and national planning policies and guidance and is in accordance with the presumption in favour of sustainable development, as set out in the NPPF. As the garages are underused and in a poor state, it is considered that the proposal represents an efficient use of the site which would provide much needed affordable rented accommodation. The density proposed is balanced between the lower scale two-storey dwellings, some being flats to Chichester Close and the existing flatted blocks to Buckley Close.
- 9.2. The informal concerns of the Transport Team have been acknowledged and as a result, the delineation of bays on the west side of Buckley Close have been deleted. Specific conditions are recommended to seek to address the need for a wider pavement in front of the development for its length to improve pedestrian movement and safety. In the interests of pedestrian safety, it is recommended that notwithstanding the details already submitted, a condition is imposed requiring revised details to be to be agreed prior to the commencement of above ground construction works.
- 9.3. The proposal provides limited information on sustainable principle but indicates the intention to achieve the required reduction in carbon emissions against Part L of the Building Regulations and would include low and zero carbon technologies, such as photovoltaics to the flat roofs of each building. Although limited in terms of details and information, the development will need to comply with Part L of the Building Regulations which would address thermal performance and U-values.
- 9.4. It is considered that the proposal would deliver substantial public benefit, notably it would make effective and efficient use of an underused brownfield in a location that is considered to have access of local facilities and the public transport network. The proposal would provide affordable rented accommodation which is given significant weight in the planning balance.
- 9.5. Redevelopment of sites such as this continue to come forward and are categorised as 'windfall' sites and make a valuable contribution to the provision of housing and in this case affordable housing to rent. Therefore and on balance, it is considered that the merits of the proposal including the visual enhancement of the area, the provision of affordable accommodation which constitute wider public benefits, outweigh the perception of harm raised and subject to the use of appropriate conditions and a S106 agreement securing contributions toward education and sustainable transport would also seek to offset the need arising from the development.

10. EQUALITIES

- 10.1. 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 with 2 disabled parking spaces.
- 10.2. The ability to provide an additional footpath would assist in improving pedestrian movement and safety and is a matter that is the subject of a recommended condition to ensure its provision. Although this would be less than recommended in BS 8300 which provides guidance on accessible design there is an objective justification for a footway width of 1.5m in this instance given the narrow width of the site, limited ability to narrow the carriageway and relatively low pedestrian footfall what with the site being at the edge of the city.

11. DEVELOPER CONTRIBUTIONS

- 11.1. S106 Agreement heads of terms are set out in Section 1.
- 11.2. In the event that the 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 appropriate mitigation of the transport impacts of the development contrary to policies TR7 of the Brighton & Hove Local Plan and CP7 and CP9 of the Brighton and Hove City Plan Part One.
 2. The proposed development fails to provide adequate travel plan measures to encourage use of sustainable transport modes and therefore fails to address the requirements of Policies CP7 and CP9 of the Brighton and Hove City Plan Part One.
 3. The proposed development fails to provide an Employment and Training Strategy specifying how the developer or their main contractors will provide opportunities for local people to gain employment or training on the construction phase of the proposed development contrary to policy CP7 of the Brighton and Hove City Plan Part 1 and the City Council's Developer Contributions Technical Guidance.
 4. The proposed development fails provide a financial contribution towards the City Council's Local Employment Scheme to support local people to employment within the construction industry contrary to policy CP7 of

the Brighton and Hove City Plan Part 1 and the City Council's Developer Contributions Technical Guidance.

5. The proposed development fails to provide a financial contribution towards the improvement and expansion of capacity of local schools required contrary to policy CP7 of the Brighton and Hove City Plan Part 1 and the City Council's Developer Contributions Technical Guidance.
6. The proposed development fails to provide affordable housing contrary to policy CP20 of the Brighton and Hove City Plan Part 1.

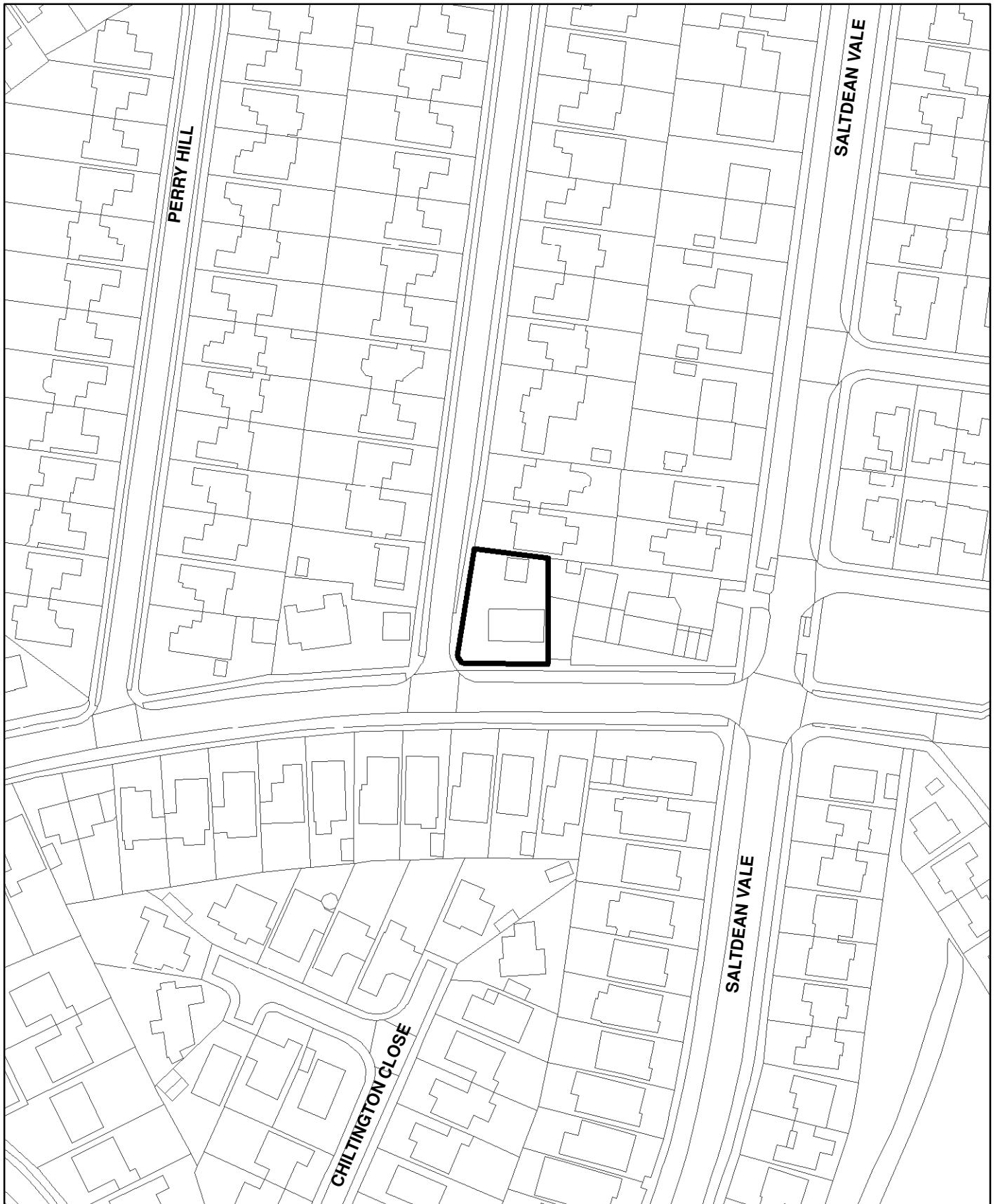
ITEM D

**93 Lustrells Crescent
BH2018/00312**

Outline Application All Matters Reserved

DATE OF COMMITTEE: 3 April 2019

BH2018_00312 93 Lustrells Crescent



Scale: 1:1,250

No:	BH2018/00312	Ward:	Rottingdean Coastal Ward
App Type:	Outline Application All Matters Reserved		
Address:	93 Lustrells Crescent Saltdean Brighton BN2 8FL		
Proposal:	Outline application with all matters reserved for the demolition of existing dwelling and erection of 2.no dwellings (C3).		
Officer:	Charlotte Bush, 292193	tel:	Valid Date: 02.02.2018
Con Area:		Expiry Date:	30.03.2018
Listed Building Grade:		EOT:	
Agent:	Agora Chartered Architects LLP 12 Gloucester Mews Gloucester Road Brighton BN1 4BW		
Applicant:	Mr Tony Antoniadis 56 Old Steine Brighton BN1 1NH		

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	001		31 January 2018
Proposed Drawing	5100 A	Site plan A	7 September 2018
Proposed Drawing	5111 A	Site Plan B	7 September 2018
Proposed Drawing	5112 A	Site Plan C	7 September 2018
Proposed Drawing	5311	Elevations option 2	7 September 2018
Proposed Drawing	5312	Elevations option 3	7 September 2018
Proposed Drawing	5310	Elevaation option 1	7 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.

- a) Details of the reserved matters set out below ("the reserved matters") shall be submitted to the Local Planning Authority for approval within three years from the date of this permission:
 - (i) layout;
 - (ii) scale;
 - (iii) appearance;
 - (iv) access; and
 - (v) landscaping.
- b) The reserved matters shall be carried out as approved.
- c) Approval of all reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 (as amended) of the Town and Country Planning Act 1990.

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

- a) samples of all brick, stone/flint and tiling
- 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

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

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

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

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

- 6. The residential units hereby approved shall not be occupied until they have achieved an energy efficiency standard of a minimum of 19% CO₂ improvement over Building Regulations requirements Part L 2013 (TER Baseline).

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

7. The residential units hereby approved shall not be occupied until they have achieved a water efficiency standard using not more than 110 litres per person per day maximum indoor water consumption.
Reason: To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton & Hove City Plan Part One.
8. Prior to first occupation of the development hereby permitted a scheme for the storage of refuse and recycling shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in full as approved prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.
Reason: To ensure the provision of satisfactory facilities for the storage of refuse and to comply with policy QD27 of the Brighton & Hove Local Plan.
9. The dwelling 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.
10. Any new/extended crossovers and accesses shall be constructed prior to the first occupation of the development hereby permitted.
Reason: In the interests of highway safety and to comply with policies TR1 and TR7 of the Brighton & Hove Local Plan.
11. 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 City Plan Part One.
12. Prior to first occupation of the development hereby permitted a plan detailing the positions, height, design, materials, type and construction method including of any mechanisms that might make them temporary and movable or temporary and removable of all existing and proposed boundary treatments shall have been submitted to and approved in writing by the Local Planning Authority and the Highway Authority. The boundary treatments shall be provided in accordance with the approved details prior to first occupation of the development and shall thereafter be retained at all times.
Reason: In the interests of highway safety and to enhance the appearance of the development in the interest of the visual and residential amenities of the

area and to comply with policies CP9, CP12, TR7, TR14, QD15, QD27 and HE6 of the Brighton & Hove Local Plan and City Plan

13. Vehicle parking areas shall not be used otherwise than for the parking of private motor vehicles and motorcycles belonging to the occupants of and visitors to the development hereby approved.

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

14. 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 855837:2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AM5) shall be submitted to and approved in writing by the Local Planning Authority.

Specific issues to be dealt with in the TPP and 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 specification for protective fencing to safeguard trees on site and the adjacent highway sycamore tree during both demolition and construction phases and a plan indicating the alignment of the protective fencing.
- e) a specification for scaffolding and ground protection within tree protection zones.
- f) 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
- g) storage of materials, fuels and waste as well concrete mixing and use of fires close to trees on site and the highway sycamore tree

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

Reason: Required prior to commencement of development 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 SPD 06, QD 16 (Trees and Hedgerows) and pursuant to section 197 of the Town and Country Planning Act 1990

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

Reason: The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and to the character of the area and for this reason would wish to control any future development to comply with policies HE6 and QD27 of the Brighton & Hove Local Plan and 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. If the development requires vehicle crossovers which require alterations and amendments to areas of the public highway, all necessary costs including any necessary amendments to a Traffic Regulation Order (TRO), the appropriate license and application fees for the crossing and any costs associated with the movement of any existing street furniture will have to be funded by the applicant. Although these works are approved in principle by the Highway Authority, no permission is hereby granted to carry out these works until all necessary and appropriate design details have been submitted and agreed. The crossover is required to be constructed under licence from the Highway Authority. The applicant must contact the Streetworks Team (permit.admin@brighton-hove.gov.uk 01273 293366) at their earliest convenience to avoid any delay and prior to any works commencing on the adopted (public) highway.
3. The applicant is advised to contact the Council's Streetworks team (permit.admin@brighton-hove.gov.uk 01273 293366) at their earliest convenience to avoid delay and obtain all necessary highway approval including design, materials and construction method from the Highway Authority prior to any works commencing on and adjacent to the adopted (public) highway.
4. 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

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The application relates to a mid-20th century detached bungalow, rectangular in footprint with a pitched and gabled roof. It occupies a corner plot at the junction of Lustrells Crescent and Ridgewood Avenue, and has a detached garage to the north.
- 2.2. To the immediate east of the site is the grade II listed former Newlands Barn, now converted to dwellings as numbers 95 Lustralls Crescent and 123 Saltdean Vale, of mid to late 19th century date in coursed flint with red brick

dressings and roof of plain clay tiles. The main barn (now two storey with modern window openings) has an off-centre waggon entrance on east side and there is a separate lower range to the east of this. It includes some original flint boundary walling on Lustrells Crescent.

- 2.3. Outline permission is sought for the demolition of the existing bungalow and sub-division of the plot in order to facilitate the erection of two dwellinghouses. The principle of an additional dwelling on the plot is considered under this application; all other matters, which include access, appearance, landscaping layout and scale, are reserved for further approval.

3. RELEVANT HISTORY

- 3.1. PRE2017/00145 - Pre-application advice to demolish the existing detached bungalow and garage and erect 2 x detached 3 bedroom dwellings with off street parking.
- 3.2. BH2017/00294 - Outline application with all matters reserved for the demolition of existing house and garage and erection of 2no detached 3 bedroom dwellings with garages and sheds. Withdrawn
- 3.3. BH2016/02394 - Extension and alteration of existing bungalow to create a four bedroom dwelling. Refused 25.08.2016

4. REPRESENTATIONS

- 4.1. Seven (7) letters have been received objecting to the proposed development for the following reasons:
- Proposed scheme is not in keeping with the local area
 - Loss of daylight to neighbouring properties
 - Loss of privacy and increased noise to neighbouring properties
 - Impact on historic neighbouring property
 - Parking
 - The current bungalow is in keeping with the other properties in the road.
 - The poor state of repair of the existing property is the owner's responsibility and they should make repairs.
 - The height of the new dwellings is in appropriate
 - The plot is only big enough for 1 dwelling
 - Impact on trees
 - Impact on biodiversity

5. CONSULTATIONS

Arboriculture: No Objection

- 5.1. The garden supports an attractive evergreen Magnolia plus an Ash some Mature Goat Willow along with a good mix of mature shrubs. These combined produce an interesting mature garden which contributes to the local street scene.
- 5.2. The proposed works now include the removal of the magnolia tree but seem to retain the other trees on the site. It is a shame to lose the magnolia but development should not unduly threaten the remaining trees on site as long as they are adequately protected. Furthermore, whilst the trees are clearly attractive they do not in our view warrant protection with a TPO as the amenity afforded is only local to that area.
- 5.3. However, there is a large mature sycamore tree that grows off site and is within the publically maintained highway. This is one of many mature trees that form an important avenue of mature highway trees from East to west of the site in Lustrells Avenue. A proposal for a driveway connecting the proposed eastern property with the highway has been included within the development proposals.
- 5.4. The sycamore is healthy and in a fair condition with a lengthy useful life expectancy.
- 5.5. The proposed driveway is within a few metres of the mature trees stem will require the excavation and probable removal of structural roots and rooting area, this inappropriate loss of roots and rooting volume which will be detrimental to the health of the tree and would in all likely hood result in the loss of the tree and subsequent removal at public expense, which should be avoided.
- 5.6. It is for the damage to the rooting system and inevitable loss of this mature highway tree due the additional driveway that the arboricultural team recommend refusal for this application.

Further Arboriculture comments received in response to amended plans dated 07/09/2018

- 5.7. The proposed works now include the removal of the magnolia tree but seem to retain the other trees on the site.
- 5.8. A previous proposal was objected to by the arboricultural team due to the damage that would be caused to a mature highway sycamore tree by the installation of a vehicle crossover and associated drive. The council has received three additional plans for the two proposed properties.
- 5.9. Option A continues with the front driveway proposal to unit 2 and this will result in the loss of the highway sycamore tree. Four replacement cherry trees have been suggested as replacements and whilst this is a generous offer, the council would object to this proposal. The sycamore is mature, in good health and has many more years to contribute to the local area. The crown volume of the sycamore tree will not be reached by the cherry trees for many years. In addition the planting would upset the continuity of the present

street scene and cherry trees are a short term species that are not salt tolerant in this exposed location close to the sea.

- 5.10. Option B and Option C appear to be very similar in landscape terms and the parking has been moved to the rear of both properties. This would lead to the loss of the magnolia in the rear garden but would retain the important highway sycamore tree at the front of unit 2.
- 5.11. The arboricultural team would object to Option A.
- 5. However, the arboricultural team would not object to Option B or C received 7th September subject to a tree protection condition to protect the trees within the site and the highway sycamore tree that will be outside unit 2.

Heritage: No Objection

- 5.12. The existing bungalow is of no architectural or historic interest in itself but is fairly characteristic of the area and in its scale and siting has a neutral impact on the setting of the listed barn. Of the two proposed houses the westernmost house, which is 2 and half storeys, would be of notably greater height than the surrounding housing in the area and would, crucially, would be of significantly greater height than the main 2 storey barn. Additionally this house would be set well forward of the barn and further forward than the existing house. This would harmfully obscure views of the barn from the west along Lustrells Crescent whilst from the east the new houses would rise up dominantly behind the barn. The size of the proposed footprints combined mean that, although this is a large corner plot, the houses would appear somewhat cramped on the site. In design terms the proposed roofs are much steeper than typically found in the area and notably steeper than the main barn, further contributing to making the new houses appear overly intrusive.
- 5.13. Overall whilst there is no objection in principle to two new houses on this site, for the above reasons it is considered that the proposal as submitted would fail to preserve the setting of the listed building.

Further Heritage comments received in response to amended plans dated 07/09/2018

- 5.14. The amended plans show three options with revised and reduced footprints and revised elevations. The plan marked Option C is considered to be acceptable with regard to its impact on the setting of the adjacent listed (former) barn complex. The building line on Lustrells Crescent would be appropriately well set back from the front boundary and aligned with the corner of number 95, with a common building line, whilst the car parking would be set discreetly at the rear of the site. This option would satisfactorily maintain views of the former barn complex and retain a sufficient sense of spaciousness of the existing corner plot. The setting of the listed building would be preserved.
- 5.15. All of the three elevation options are considered to be acceptable in terms of the scale and design approach to the houses, including the revised roof pitches. It is noted that design will be a reserved matter but the elevation

detail shown in Option 1 is considered to be the most sympathetic to the listed building.

Sustainable Transport: No objection

- 5.16. The applicant is proposing to extinguish 2 existing pedestrian accesses onto the adopted (public)highway (one on Lustrells Crescent and the other on Ridgewood Avenue) and open 2 new pedestrian accesses (both on Lustrells Crescent) and for this development this is deemed acceptable.
- 5.17. The existing pedestrian access on Ridgewood Avenue has already been temporarily blocked off. The Boundary Treatments including Walls, Fences, Railings, Bollards, Doors and Gates condition and informative should be attached to any permission granted to ensure that the gaps in the walls are infilled with appropriate walling and fencing above.
- 5.18. Although footways in the vicinity of the site have been improved over the years by developer contributions, obligations and government funds there are still junctions along Saltdean Vale that for the applicant's benefit need footway improvements (dropped kerbs in particular) to extend the transport network that policy allows the Highway Authority to request. Also, there are accessible bus stops in the vicinity of the site but mobility scooters are not permitted on buses (due to risks in an accident) hence the further importance of dropped kerbs for this growing mode of transport.
- 5.19. For this development of 2 residential units with 2 and 3 beds the minimum cycle parking standard is 3 cycle parking spaces in total (3 for residential units and 0 visitor spaces). The applicant has offered to install cycle stores at the site in the Design and Access Statement however there is a lack of any detail. Therefore cycle parking is requested by condition.
- 5.20. Cycle parking must be secure, convenient (including not being blocked in a garage for cars and not being in a rear garden), well lit, well signed, near entrances and wherever practical, sheltered. The Highway Authority would not approve vertical hanging racks as they are difficult for some people to use and therefore not considered to be policy compliant. As an alternative the Highway Authority approves the use of covered, illuminated, secure Cycle Works Josta 2 tier cycle rack(s) that will store one cycle above another Also, the Highway Authority approves the use of covered, illuminated, secure Sheffield type stands spaced in line with the guidance contained within the Manual for Streets section 8.2.22 or will consider other proprietary forms of covered, illuminated secure cycle storage where appropriate.
- 5.21. The site is outside of a controlled parking zone so there is free on-street parking available. There are also opportunities, if somewhat limited, in the form of free on-street disabled parking bays in the vicinity of the site for disabled residents and visitors to park when visiting the site by car. Blue Badge holders are also able to park, where it is safe to do so, on double yellow lines for up to 3 hours in the vicinity of the site. Therefore in this instance the Highway Authority would not consider the lack of dedicated, for sole use only on-site disabled car parking to be a reason for refusal.

- 5.22. The applicant is not proposing any significant alteration to their current servicing and delivery arrangements to this site which is deemed acceptable.
- 5.23. The applicant is proposing changes to the existing vehicle access arrangements onto the adopted (public) highway on Ridgewood Avenue and Lustrells Crescent and for this development this is deemed acceptable in principle. The New/extended crossover condition and informative should be attached to any permission granted to seek approval for a (detailed) licence from the Highway Authority to make any necessary changes to the existing vehicle access arrangements onto the adopted (public) highway.
- 5.24. Also the driveway and hardstanding materials should be porous and/or permeable and no surface water should run-off onto the adopted (public) highway therefore we seek amendments to the planning application to that effect to avoid refusal (policies TR7 Safe Development, SU3 Water Resources and their Quality and SU5 Surface Water run-off and Flood Risk).
- 5.25. SPD14 states that the maximum car parking standard for 2 and 3 plus bedroom dwellings within the Outer Area is 1 space per dwelling plus 1 space per 2 dwellings for visitors. The applicant is proposing 2 car parking spaces for each of the 2 and 3 bedroom properties within the Outer Area.
- 5.26. For this development of 2 residential units the maximum car parking standard is 3 spaces (1 per unit and 1 visitor space). Therefore the proposed level of car parking (four spaces) is not in line with the maximum standards and therefore we would seek amendments to this application to avoid refusal (policy SPD14 Parking Standards). A suggestion would be to replace one of the proposed two car parking spaces off Lustrells Crescent with a cycle store for that dwelling.
- 5.27. Also the site is located outside a Controlled Parking Zone (CPZ) and therefore this site should not be made "car free" by restriction of parking permits by the Planning Case Officer as there is no CPZ and waiting list to cause a restriction.
- 5.28. There is not forecast to be a significant increase in vehicle trip generation as a result of these proposals therefore any impact on carriageways will be minimal and within their capacity so the application is deemed acceptable and developer contributions for carriageway related improvements will not be sought.
- 5.29. It is likely that the increase in dwellings will result in an increase in pedestrian and mobility and visually impaired trip generation. In order to ensure that the proposed development provides for the transport demand it generates and the needs of pedestrians and the mobility and visually impaired, a developer obligation is requested by way of a Developer Obligation (Grampian condition) and a Developer Obligation (Grampian condition) informative in accordance with policies TR7, TR11 and TR 12 of the Brighton & Hove Local Plan and CP9 of the City Plan Part One.

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
CP7	Infrastructure and developer contributions
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP12	Urban design
CP13	Public streets and spaces
CP14	Housing density
CP15	Heritage
CP19	Housing mix

Brighton & 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
QD15	Landscape design
QD16	Trees and hedgerows
QD18	Species protection
QD27	Protection of amenity

HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes
HE3	Development affecting the setting of a listed building

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD06	Trees & Development Sites
SPD09	Architectural Features
SPD11	Nature Conservation & Development
SPD12	Design Guide for Extensions and Alterations
SPD14	Parking Standards

8. CONSIDERATIONS & ASSESSMENT

- 8.1. The main considerations in the determination of this application relate to the principle of the development of the site and the impact of the proposed dwellings on the character and appearance of the adjoining grade II listed building, the street and the surrounding area. The standard of accommodation, access, sustainability, impact on street trees, and impact on neighbouring amenity and transport are also material considerations.

Principle of Development:

- 8.2. The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually.
- 8.3. The Council's most recent housing land supply position is published in the SHLAA Update 2018 (February 2019). The figures presented in the SHLAA reflect the results of the Government's 2018 Housing Delivery Test which was published in February 2019. The Housing Delivery Test shows that housing delivery in Brighton & Hove over the past three years (2015-2018) has totalled only 77% of the City Plan annualised housing target. Since housing delivery has been below 85%, the NPPF requires that a 20% buffer is applied to the five year housing supply figures. This results in a five year housing shortfall of 576 net dwellings (4.5 years supply). In this situation, 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 proposal is for two detached dwelling, the height and scale of each dwelling would be determined under reserved matters.
- 8.5. As a principle of development, residential development on a residential site would be appropriate, the specific impacts must however be considered as to whether the development is appropriate and whether harm would be caused.

Site Capacity/Streetscene:

- 8.6. The application site currently measures 21m wide. The scheme would divide the plot in two. The plots along the northern side of Lustrells Crescent are wide corner plots with irregular shaped structures. The plots on the southern side of the road measure an average of 11.3m wide. The plots to the rear of the site on Ridgewood Avenue measure approximately 11.8m wide. The houses on the southern side of Lustrells Crescent and Ridgewood Avenue are built to take advantage of the length of the plots and are built close to the side boundaries.
- 8.7. By dividing the application site in two, the plot to build ratio is likely to be similar to the plot to build ratio of the southern side of Lustrells Crescent and Ridgewood Avenue, with similar spacing between the buildings. As such, the division of the plot and alignment of two buildings on the application site would not be out of keeping with the prevailing character of the area. It is considered that it would therefore be possible to provide two reasonable sized dwellings with a good standard of living accommodation and private amenity space for future occupants.
- 8.8. The predominant material in the local vicinity is brick. However, the neighbouring listed building is finished in flint with brick quoining details. The use of materials should be complementary to the listed building so not to detract from it, and this would be covered under reserved matters and the use of materials could be secured by condition.
- 8.9. Over extension of properties on the site would have a negative effect on appearance of the dwellings and alter the plot to build ratio away from the prevailing character of the area. Additionally, further extensions could also encompass important amenity space for future occupants. The two dwellings should also be subservient to the listed building and future extensions may jeopardise this. Permitted development rights for extensions, roof alterations and porches is therefore removed by condition to ensure that future development on the site is considered by the Local Planning Authority to ensure that it is appropriate.

Impact on Amenity:

- 8.10. 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.
- 8.11. The properties most likely to be affected by any new dwellings on this site are 6 Ridgewood Avenue and 95 Lustrells Crescent and 123 Saltdean Vale.
- 8.12. No. 6 Ridgewood Avenue is a single storey bungalow situated approximately 1m from the shared boundary with the application site. The dwelling has two side windows and glazed door facing onto the application site. However, these apertures are obscured by an existing high wall and fence measuring

approximately 2m high. It is unlikely that there would be a significant loss of light, loss of privacy, increased overshadowing or sense of enclosure to the occupants of No. 6 Ridgeway Avenue as a result of an appropriately designed and scaled dwelling.

- 8.13. No.95 Lustrells Crescent is a converted barn with rooflights facing onto the application site. At its closet point, No.95 is situated 5.6m from the shared boundary, extending to 7m. At its closet point, No. 123 Saltdean Vale is situated 7.2m from the shared boundary extending to 8.5m. These distances are considered sufficient to limit any additional sense of enclosure created by an additional dwelling if appropriately scaled.
- 8.14. Any views of the ground floor windows and doors of No. 95 and No.123 would be obscured by the existing boundary wall, and the first floor windows are rooflights offering limited views of the occupants.
- 8.15. It is acknowledged that there may be some additional overlooking. However, this is not unusual in a residential area and the impacts would be dependent on the details which would be considered in a future application for reserved details.
- 8.16. Whilst the proposal would result in an intensification of the use of the site it is not considered that this would be likely to result in any significant harm with regards to noise and disturbance given the relationship with neighbouring properties within the immediate vicinity of the site.

Sustainable Transport:

- 8.17. Access to the site would be considered under reserved matters. However, indicative drawings have demonstrated that it would be possible to access one plot from Lustrells Crescent and the other from Ridgewood Avenue without causing highway safety concerns.
- 8.18. Similarly, a net increase of one dwelling would not lead to a significant increase in vehicle trip generation therefore any impact on carriageways will be minimal and within their capacity.
- 8.19. Details relating to aspects such as secure cycle parking; porous/permeable hardstanding materials and controlling any new/extended crossover can be secured by condition.

Sustainability:

- 8.20. Policy CP8 of the Brighton & Hove City Plan Part One require 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 can be secured by condition.

9. EQUALITIES

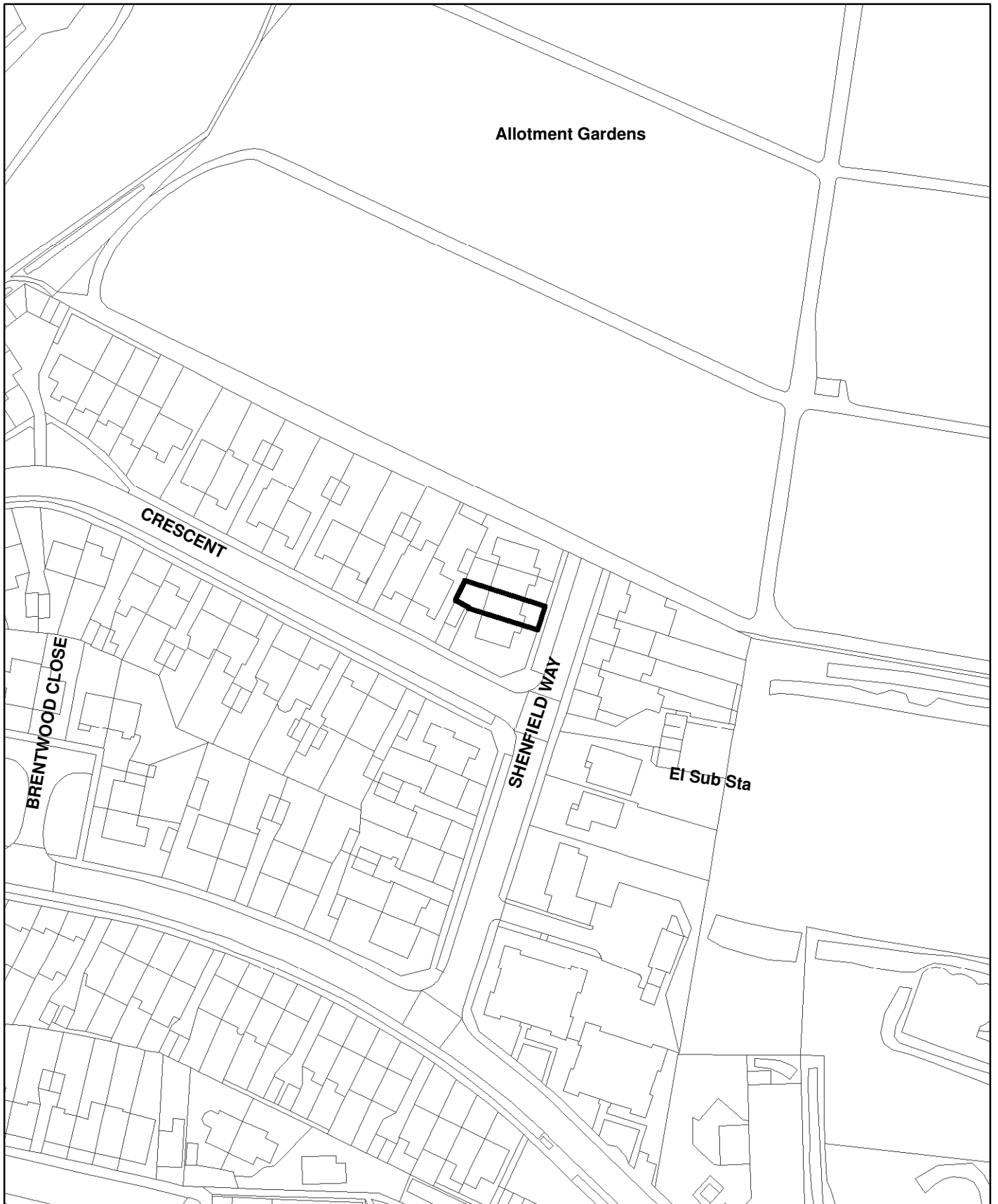
None identified

ITEM E

**17 Shenfield Way
BH2017/01795
Full Planning**

DATE OF COMMITTEE: 3 April 2019

BH2017_01795 17 Shenfield Way



Scale: 1:1,250

<u>No:</u>	BH2017/01795	<u>Ward:</u>	Hollingdean And Stanmer Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	17 Shenfield Way Brighton BN1 7EX		
<u>Proposal:</u>	Change of use from residential dwelling (C3) to three bedroom small house in multiple occupation. (C4) (Retrospective)		
<u>Officer:</u>	Charlotte Bush, 292193	tel: <u>Valid Date:</u>	25.05.2017
<u>Con Area:</u>		<u>Expiry Date:</u>	20.07.2017
<u>Listed Building Grade:</u>		<u>EOT:</u>	
Agent:			
Applicant:	Mr Preetesh Shah 132 Osborne Road Brighton BN1 6LU		

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 Plan			25 May 2017
Proposed Drawing	GROUND FLOOR PLAN - NO ALTERATIONS		25 May 2017
Proposed Drawing	FIRST FLOOR PLAN - NO ALTERATIONS		25 May 2017

2. The development hereby approved shall only be occupied by a maximum of four (4) persons.
Reason: To ensure a satisfactory standard of accommodation for future occupiers and to comply with policy QD27 of the Brighton & Hove Local Plan
3. No extension, enlargement, alteration or provision within the curtilage of the dwellinghouse as provided for within Schedule 2, Part 1, Classes A, B and C of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.

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

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

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

5. The lounge and kitchen/diner as detailed on plan 'ground floor plan - no alterations' received on the 25/05/2017 shall be retained as communal space at all times and shall not be used as bedrooms.

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

Informatives:

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

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The application relates to a two-storey middle terrace house on the western side of Shenfield Way which is a small cul-de-sac.
- 2.2. The property is not located in a conservation area. However, there is an Article Four Direction present which removes permitted development rights to change from C3 single dwelling house to C4 small house of multiple occupation and Sui Generis (large HMO) without planning permission.
- 2.3. The application is for a retrospective change of use from a 3 bedroom residential dwelling (C3) to three bedroom small house in multiple occupation. (C4).

3. RELEVANT HISTORY

- 3.1. 2018/01399/HMOADD/PS - 01.03.2018 Additional Licence
- 3.2. Enforcement enquiry ENF2017/00181 - Unauthorised HMO C4

3.3. 2016/03247/HMOADD/PS - 16.06.2016 Additional Licence

4. REPRESENTATIONS

4.1. Thirteen (13) letters have been received objecting to the proposed development for the following reasons:

- Increased noise
- Increased volume of cars and existing lack of parking
- Antisocial behaviour
- Family house not suitable for a HMO as it only has one bathroom and toilet
- Additional refuse
- Too many students in the area
- Students don't look after the houses
- Family houses becoming unaffordable
- Local facilities, such as the primary school are suffering as families can't afford to live in the area anymore
- There is plenty of student accommodation being built on campus and elsewhere in the city

4.2. One (1) letter has been received supporting the proposed development for the following reasons:

- The house has 3 large bedrooms which each fit double beds.
- The kitchen and communal space is very spacious.
- Multiple occupancy doesn't necessarily mean loud students or antisocial tenants

5. CONSULTATIONS

Planning Policy: Comment

5.1. Policy comments not required

Sustainable Transport: No objection

5.2. No car parking is shown as part of this planning application. 2011 Census data for the ward does not indicate that car ownership amongst residents of Houses in Multiple Occupation (HMO) is substantially higher than the general population or that every occupant is likely to own a car. On this basis, it is not considered that on-street parking demand generated by the proposed 3 bedroom HMO would be significantly above the permitted use or amount to a severe impact upon surrounding streets. Refusal would therefore not be deemed to be warranted on these grounds under the National Planning Policy Framework.

5.3. No cycle parking is indicated as part of this planning application. For a small house in multiple occupancy, SPD14 requires cycle parking to be provided at

a rate of 1 space per 2 bed spaces; therefore, a minimum of 2 cycle parking spaces should be provided for this property. It is recommended that this be secured by condition.

- 5.4. In order to comply with Brighton & Hove Local Plan policy TR14, cycle parking should be secure, convenient to access and, wherever possible, covered.
- 5.5. It is not anticipated that the development will generate a significant uplift in trips and the Highway Authority has no objection in this regard.

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
CP8	Sustainable buildings
CP9	Sustainable transport
CP19	Housing mix
CP21	Student housing and Housing in Multiple Occupation

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

TR4	Travel plans
TR7	Safe Development
TR14	Cycle access and parking
SU9	Pollution and nuisance control
SU10	Noise Nuisance
QD27	Protection of amenity

8. CONSIDERATIONS & ASSESSMENT

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

8.2. The applicant has provided further information regarding the property:

- The property has been let to 2 professional couples since June 2016 without issue.
- We sought to let the property out to a family however there was no interest for two months so we applied for HMO a licence (and planning permission).
- The property does have 3 double bedrooms and has been occupied without issue by 4 people.
- There are stipulations in the tenancy agreement that ensures the tenants respect neighbours and the local environment and care for the property both inside and outside.

Principle Of Development:

8.3. The application is for change of use from a 3 bedroom single dwellinghouse to a three bedroom C4 small HMO for up to 4 individuals who share basic amenities including a kitchen and bathroom.

8.4. Policy CP21 of the Brighton and Hove City Plan Part One specifically addresses the issue of changes of use to either class C4, a mixed C3/C4 use or to a sui generis House in Multiple Occupation and states that:

8.5. 'In order to support mixed and balanced communities and to ensure that a range of housing needs continue to be accommodated throughout the city, applications for the change of use to a Class C4 (Houses in multiple occupation) use, a mixed C3/C4 use or to a sui generis House in Multiple Occupation use (more than six people sharing) will not be permitted where:

8.6. More than 10 per cent of dwellings within a radius of 50 metres of the application site are already in use as Class C4, mixed C3/C4 or other types of HMO in a sui generis use.'

8.7. A mapping exercise has taken place which indicates that there are 18 neighbouring residential properties within a 50m radius of the application property. One (1) neighbouring property has been identified as being in HMO use within the 50m radius. The percentage of neighbouring properties in HMO use within the radius area is thus 5.55%.

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

Design and Appearance:

- 8.9. No external alterations are proposed.

Standard of Accommodation:

- 8.10. Policy QD27 of the Brighton and Hove Local Plan aims to secure a good standard of living accommodation for current and future occupiers. Accommodation should therefore provide suitable circulation space within bedrooms once the standard furniture for an adult has been installed (such as a bed, wardrobe and desk), as well as good access to natural light and air in each bedroom. The communal facilities should be of a sufficient size to allow unrelated adults to independently cook their meals at the same time, sit around a dining room table together, and have sufficient space and seating to relax in the communal lounge.
- 8.11. The 'Nationally Described Space Standards' were introduced by the Department for Communities and Local Government in 2015 to establish acceptable minimum floor space for new build developments. Although these space standards have not been formally adopted into the Brighton and Hove City Plan and relate to new build developments, they provide a useful guideline on acceptable room sizes that would offer occupants useable floor space. The 'Nationally Described Space Standards' establishes the minimum floor space for a single bedroom as measuring at least 7.5m², and a double bedroom should measure at least 11.5m².
- 8.12. The ground floor accommodation comprises:
Kitchen measuring 18.1m²
Lounge measuring 18.8m²
Storage cupboard
- 8.13. The first floor accommodation comprises:
Bedroom measuring 11.3m² (including built in wardrobe)
Bedroom measuring 8.2m²
Bedroom measuring 9.6m²
- 8.14. The communal space is considered adequate for the occupants to comfortably relax, dine and socialise in.
- 8.15. Two bedrooms would be of a sufficient size for single occupancy only. The main bedroom, measuring 11.3m², is marginally below the minimum space standards for a double bedroom by 0.2m². Given that this is a very small amount and the overall space provided by the property is considered to be a good standard, and this bedroom would provide a reasonable standard of accommodation for two people, it is considered acceptable.
- 8.16. Due to the limited size of the other two bedrooms, the maximum occupancy could be limited to four persons which could be secured by condition to

ensure a good standard of living accommodation and compliance with policy QD27 of the Brighton & Hove Local Plan.

Impact on Amenity:

- 8.17. 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.
- 8.18. Whilst the development could result in up to 4 unrelated persons residing within the property, any direct increased impact to adjoining occupiers in regards to noise and disturbance is unlikely to be of a magnitude which would warrant the refusal of planning permission.

Sustainable Transport:

- 8.19. No car parking is shown as part of this planning application. However, it is not considered that on-street parking demand generated by the proposed 3 bedroom HMO would be significantly above the permitted use or amount to a severe impact upon surrounding streets.
- 8.20. A minimum of 2 cycle parking spaces should be provided for this proposal. This can be secured by condition.
- 8.21. It is not anticipated that the development will generate a significant uplift in trips.

9. EQUALITIES

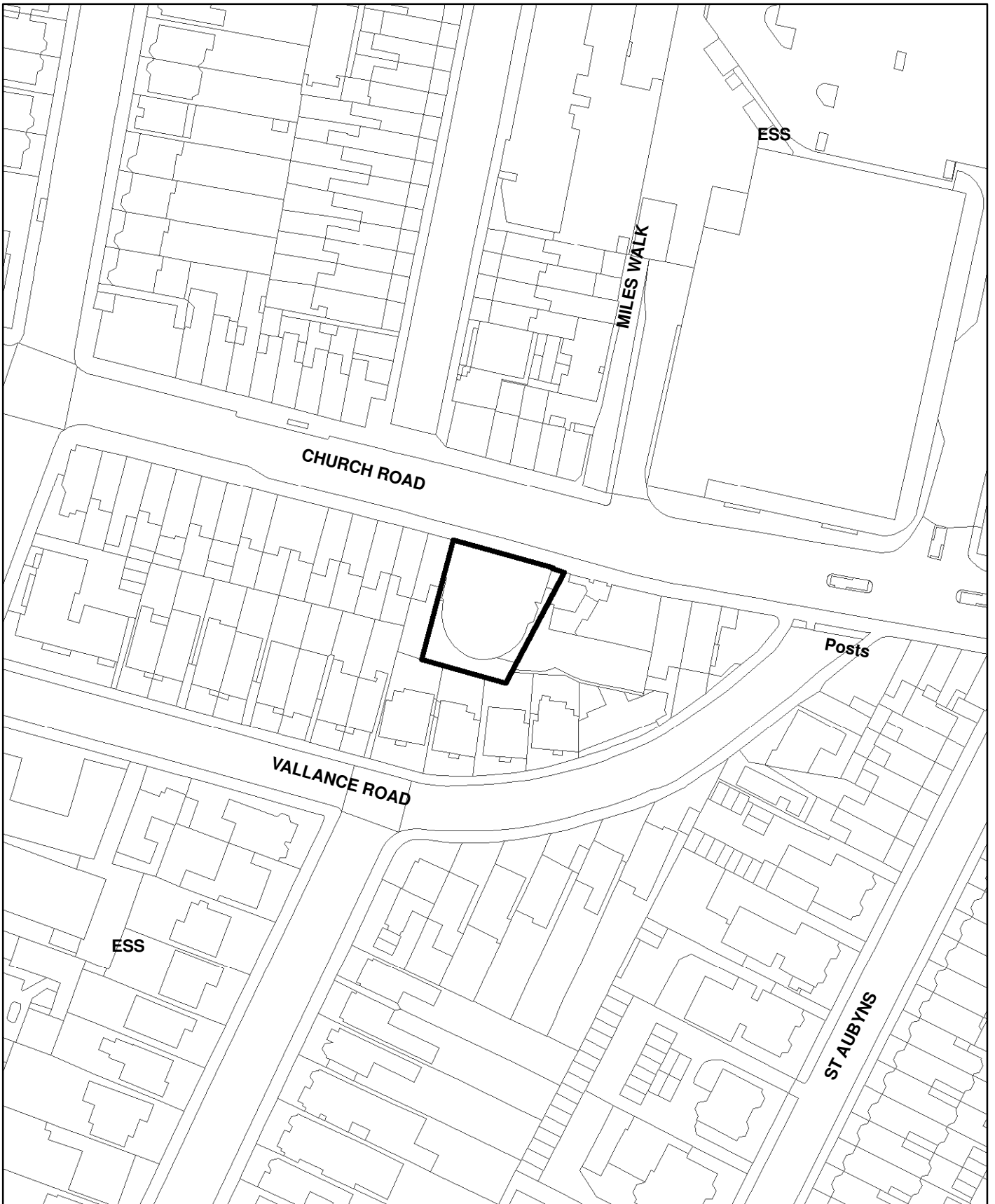
None identified

ITEM F

**Hove Central Library
BH2018/03896
Listed Building Consent**

DATE OF COMMITTEE: 3 April 2019

BH2018_03896 Hove Central Library



N



Scale: 1:1,250

No:	BH2018/03896	Ward:	Central Hove Ward
App Type:	Listed Building Consent		
Address:	Hove Central Library 182 - 186 Church Road Hove BN3 2EG		
Proposal:	Alterations to entrance lobby to install access control system including exit button and associated works.		
Officer:	Nicola Van Wunnik, tel: 294251	Valid Date:	25.01.2019
Con Area:	Old Hove	Expiry Date:	22.03.2019
Listed Building Grade:	Listed Building Grade II		
Agent:			
Applicant:	Mrs Louise Sugden	Jubilee Library	Jubilee Street Brighton BN1 1GE

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** Listed Building Consent subject to the following Conditions and Informatives.

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

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

Informatives:

1. This decision is based on the drawings listed below:

Plan Type	Reference	Version	Date Received
Other	Door Release Details		24 January 2019
Other	Controller Box Details		24 January 2019
Other	Fused Spur Details		24 January 2019
Other	Location of Items		20 December 2018
Other	Location of Door Bolts		20 December 2018
Other	Location of Exit Buttons		26 February 2019
Report/Statement	Details and Specifications		20 December 2018
Other	Email Confirming Works		26 February 2019
Proposed Drawing			20 December 2018
Location Plan	HL-001		20 December 2018

2. SITE LOCATION & APPLICATION DESCRIPTION

2.1. This is a grade II listed building in the Old Hove Conservation Area. This building continues to be used for its original purpose as a public library and as such has a highly visible interior. The lower ground floor of the library is

currently being converted into a children's day nursery and the ground floor of the library includes a cafe area. Due to the changing nature of its use, alterations to the existing access system are required.

- 2.2. Listed building consent is sought for the installation of an access control system including exit buttons to the interior of the library entrance.

3. RELEVANT HISTORY

- 3.1. **BH2018/01123** - Alterations to rear garden area incorporating new steps, handrail and landing and addition of insulation and plasterboard to existing screen of w.c window for use by children's day nursery. Approved 11/06/2018
- 3.2. **BH2018/00469** - Internal alterations to lower ground floor & external alterations to rear ground floor including construction of new wall with balustrade, landscaping & associated works to facilitate the conversion to children's day nursery (D1). Approved 12/06/2018
- 3.3. **BH2017/03940** - Installation of ventilation grille to rear elevation. Internal alterations to layout to facilitate the creation of new staff work rooms at ground floor & first floor levels, new toilet facilities to lower ground floor and associated alterations including new surface mounted waste pipe to basement - Approved 20/03/2018

4. REPRESENTATIONS

None received.

5. CONSULTATIONS

5.1. Heritage:

This proposal involves the fixing of a number of utilitarian items (required for safety purposes) to the interior of this entranceway, and also the adaptation of the historic doors with a new bolt arrangement.

- 5.2. This equipment will have an impact on the building due to its modern functional appearance, some of which by its nature needs to be clearly visible.

- 5.3. It is clear that where possible discrete positions have been identified, and the locations and fixings have taken into account the need for reversibility. For these reasons and with the viability of the building in its current use in mind the Heritage Team does not propose to object to this application.

6. MATERIAL CONSIDERATIONS

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

7. **POLICIES**

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP15	Heritage

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

HE1	Listed Building Consent
HE6	Development within or affecting the setting of conservation areas

Supplementary Planning Guidance:

SPGBH11	Listed Building Interiors
---------	---------------------------

Supplementary Planning Documents:

SPD09	Architectural Features
-------	------------------------

8. **CONSIDERATIONS & ASSESSMENT**

- 8.1. The main considerations in the determination of this application relate to whether the proposed alterations would have a detrimental impact on the character, architectural setting and significance of the grade II listed building and the wider Old Hove Conservation Area.
- 8.2. The proposal involves the installation of a number of fixings inside the entranceway, including exit buttons and a new bolt arrangement to the existing doors. The purpose of these alterations is to allow the nursery and other out of hours users, safe emergency access from the building once the library is closed

- 8.3. The Heritage team have confirmed that the proposed works would not harm the historic character or appearance of the grade II listed building or wider conservation area in accordance with policies HE1 & HE6 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.

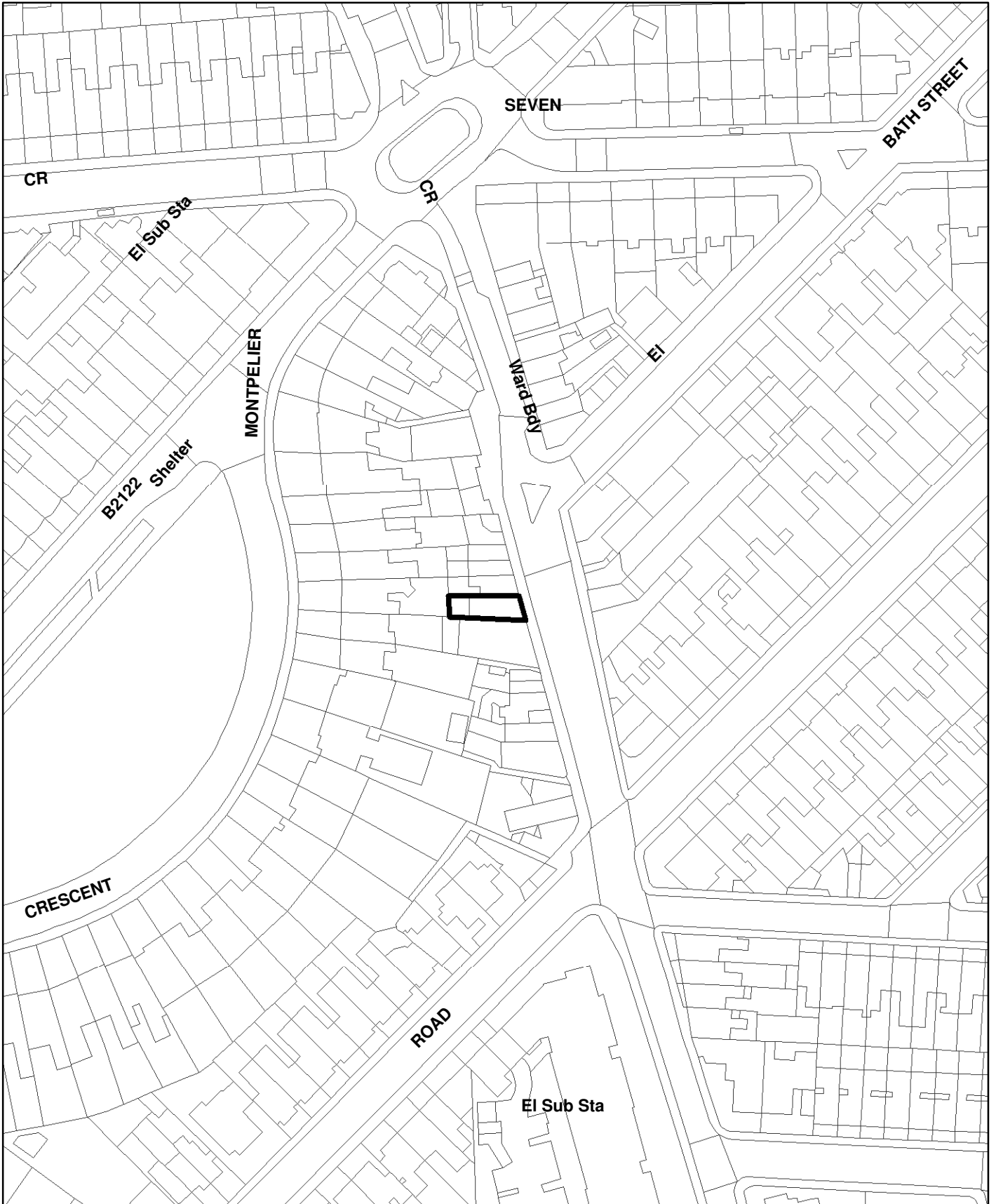
9. EQUALITIES
None identified.

ITEM G

**99 Dyke Road
BH2018/01965
Full Planning**

DATE OF COMMITTEE: 3 April 2019

BH2018_01965 99 Dyke Road



Scale: 1:1,250

<u>No:</u>	BH2018/01965	<u>Ward:</u>	Regency Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	99 Dyke Road Brighton BN1 3JE		
<u>Proposal:</u>	Change of use from two bedroom flat (C3) to yoga studio with therapy treatment rooms (D2) with opening hours of 10am - 6pm Monday to Friday.		
<u>Officer:</u>	Michael Tucker, 292359	tel:	<u>Valid Date:</u> 23.07.2018
<u>Con Area:</u>	Montpelier & Clifton Hill	<u>Expiry Date:</u>	17.09.2018
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	20.02.2019
<u>Agent:</u>	Mr Antony Causton 101 Dyke Road Brighton BN1 3JE		
<u>Applicant:</u>	Mr Antony Causton 99 Dyke Road Brighton BN1 3JE		

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

1. RECOMMENDATION

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

1. Policy HO8 seeks to retain housing and states that proposals involving the net loss of units of residential accommodation will not be supported unless exceptional circumstances can be demonstrated. The application has failed to demonstrate that any of these exceptional circumstances have been met and the proposed change of use is therefore contrary to policy HO8 of the Brighton and Hove Local Plan.

Informatives:

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

Plan Type	Reference	Version	Date Received
Floor Plans Proposed	A.002		23 July 2018

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The application relates to a three-storey terraced property on the west side of Dyke Road. The ground floor is in use as a yoga clinic (D2), while the first and second floors are configured as a two-bedroom flat (C3). The upper floors have been vacant for some years.

3. SITE LOCATION & APPLICATION DESCRIPTION

- 3.1. The application relates to a three-storey terraced property on the west side of Dyke Road. The ground floor is in use as a yoga clinic (D2), while the first and second floors are configured as a two-bedroom flat (C3). The upper floors have been vacant for some years. The property is adjacent to "The Cow" public house on its southern side (with customer facilities at first floor level) and a convenience store with residential at first floor on its northern side.
- 3.2. Planning permission is sought to change the use of the first and second floors from residential (C3) to pilates/yoga/Counselling treatment rooms (D2), representing an extension of the floorspace available to Reach Physiotherapy currently on the ground floor of the premises.
- 3.3. The applicant has advised that the use of the current operation and premises has now intensified to the point where expansion or relocation is now necessary and, whilst the operation continues to offer and support its local community through the treatments it offers it is keen to remain in the present location and therefore the expansion of the clinic into the floors above is proposed. The proposal includes provision of space to offer exercise classes and counselling services to the local population.
- 3.4. Reach Physiotherapy provides physiotherapy treatment, massage, exercise classes and acupuncture to a full cross section of the local community and has been operating from the above site for some years and also providing some additional treatments and some free classes in a nearby church hall.

4. RELEVANT HISTORY

None identified.

5. REPRESENTATIONS

- 5.1. Two (2) letters have been received from the same individual (September and November 2018), objecting to the proposal for the following reasons:
- Insufficient consultation and civil matters relating to tenancy
- 5.2. The application was re-advertised in February 2019 following the receipt of further information from the applicant. No further public responses have been received.

5.3. **Councillor Tom Drutt** has written to support the proposal. Comments attached.

6. CONSULTATIONS

6.1. **Private Sector Housing:** No comment

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

6.3. **Sports Facilities and Development:** No comment received

6.4. **Economic Development:** No objection
City Regeneration fully supports this application.

6.5. **Housing Strategy:** No comment received

6.6. **Planning Policy:** Objection
The proposed development is contrary to Policy HO8 of the Brighton and Hove Local Plan.

6.7. **Sustainable Transport:** No objection
Recommended approval.

7. MATERIAL CONSIDERATIONS

7.1. 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

7.2. 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);

7.3. 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.

8. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP2	Sustainable economic development
CP3	Employment land
CP9	Sustainable transport

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
HO8	Retaining Housing
HO19	New community facilities
HO20	Retention of community facilities
HE3	Development affecting the setting of a listed building
HE6	Development within or affecting the setting of conservation areas

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD14	Parking Standards

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the principle of the proposed change of use, the impact of the proposal on neighbouring amenity and transport.

Principle of Development:

- 9.2. The proposal would involve the change of use of the first and second floors of the building from a C3 unit to additional floor space of D2 (yoga/pilates studio and therapy rooms) in connection with the current ground floor use of the building. The proposal would, however, result in the enlargement of an existing D2 unit providing yoga therapy services to members of the public and would provide an additional 82sqm of employment floorspace. The proposal would also bring the currently derelict first and second floors of the building back into an active use. In this regards the provision of additional community facilities is supported subject to all other material considerations.
- 9.3. Policy HO8 of the Brighton and Hove Local Plan seeks to protect existing residential uses from loss and sets out five criteria by which the loss of existing residential accommodation would be acceptable.
- 9.4. *"Planning permission will not be permitted for proposals involving a net loss of units of residential accommodation unless one or more of the following exceptional circumstances applies:*

- a. *The residential accommodation is classified as unfit for human habitation and it can be demonstrated that it cannot be made fit for habitation;*
 - b. *A separate access to the residential accommodation is impracticable;*
 - c. *Where it can be demonstrated that the change of use is the only practicable way of preserving the existence or special architectural or historic character of a listed building or other building of architectural or historic interest;*
 - d. *Where the proposal would result in a net gain in units of affordable housing; or*
 - e. *Where previous use of a building would be a material consideration.*
- 9.5. On the site visit it was noted that the property was in a poor state of repair, however, it is considered that renovation of the property subject to the financial investment would be possible and as such circumstance a. is not met. No evidence has been provided to formally advise that the property is incapable of being restored to a state fit for human habitation and therefore circumstance a is not met.
- 9.6. There exists a separate access from street level into the residential unit. Circumstance b. is not met.
- 9.7. The building is not listed nor is it of special architectural or historic interest. Circumstance c. is not met.
- 9.8. There would not be a net gain in units of affordable housing. Circumstance d. is not met.
- 9.9. No planning history has been identified, suggesting that the upper floors have been in their current C3 use for a significant period of time. Circumstance e. is not met.
- 9.10. The applicant has therefore not sufficiently demonstrated that the proposal is in accordance with retained policy HO8 of the Brighton and Hove Local Plan.
- 9.11. The Council's most recent housing land supply position is published in the SHLAA Update 2018 (February 2019). However, the figures presented in the SHLAA are subject to the results of the Government's Housing Delivery Test which has not yet been published. The SHLAA shows a marginal five year housing surplus (5.1 years supply) if a 5% buffer is applied. However, the NPPF indicates that if the Housing Delivery Test shows that delivery over the past three years (2015-2018) has been under 85% of the adjusted City Plan housing requirement, then a 20% buffer should be applied to the five year supply figures. This would result in a five year housing shortfall (4.5 years supply).
- 9.12. The council's own informal assessment is that housing delivery over the 2015-2018 period has been less than 80% of the required City Plan figure. Therefore, for planning policy purposes, it should be assumed that the council cannot demonstrate a five year housing land supply. In that situation,

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).

- 9.13. On balance and in view of the housing needs of the city, the aforementioned conflict with policy HO8 is considered to outweigh the identified benefits of the proposal, and the proposal is therefore considered to be unacceptable in principle.

Design and Appearance:

- 9.14. No external works are proposed and the proposal is therefore considered not to harm the character and appearance of the Montpelier and Clifton Hill Conservation Area, or the setting of the nearby listed buildings.

Impact on Amenity:

- 9.15. The proposed change of use from C3 to D2 has the potential to generate additional noise disturbance to neighbouring properties during the operating hours of the clinic, which have been stated by the applicant to be between 10:00am and 18:00 however it is considered that suitable conditions could be attached to minimise the impact of the proposal on neighbouring amenity and to ensure any future use of the building was appropriately controlled.
- 9.16. No alterations are proposed to the fenestration of the building and so there is not likely to be a resultant increase in harmful overlooking.

Sustainable Transport:

- 9.17. The proposed change of use is not likely to result in a significant increase in trip generation.
- 9.18. No car parking is proposed. The site is located within CPZ Y and therefore any parking demand the proposed change of use would create can be managed.
- 9.19. No cycle parking is proposed, which is contrary to SPD14, however, the constraints of the site and the availability of public cycle parking in the vicinity mean that this is considered not to warrant refusal of the application.

Conclusion:

- 9.20. It is considered that subject to appropriate conditions the proposal would not harm local amenity nor be development out of character with the streetscene and local area. The development would provide an additional health and wellbeing resource within a sustainable location and is considered to be beneficial, however, the proposal does involve the loss of a unit of residential accommodation contrary to policy H08. The loss of residential is not considered to be outweighed by the benefits of the proposal and refusal is therefore recommended.

10. EQUALITIES
None identified.

Cllr. Tom Druitt

BH2018/01965 - 99 Dyke Road

20/03/19:

I'd like to support Antony's application as

- a) the flat has not been lived in for over two years, it is not in a condition to be lived in, and the cost of making it fit for purpose is not economic; therefore there is no loss to housing from its conversion; and
- b) just down the road the old HMRC offices are being converted to flats; this adds a lot more housing to the local area and mitigates many times over the loss of one (uninhabitable) flat.

06/03/19:

First, I would like to state that I am in favour of this site being redeveloped. It is currently an eye sore and badly needs redevelopment. However, balancing all the different considerations I would ask that you reject this scheme.

Recently, other sites nearby have been developed as purpose built student accommodation on the Lewes Road and I haven't put any objections in as it is my view those sites were not suitable for permanent accommodation (situated right on the main road on small sites and not impinging on residents amenities).

However it is my view that this site is best developed for permanent homes rather than for students. It has space for decent sized units and I believe a profitable business plan could be made to achieve a significant level of affordable housing as well.

Whilst I do think that the applicants have done an excellent job of engaging the community and councillors and have modified their designs as a result of this feedback, residents still believe the loss of amenity in terms of height and risk of overlooking into their homes is high.

Whatever is developed here in a very confined one way street with access to a primary school and two wheelchair users already resident on this street, must have accompanying plans using the s 106 to completely redesign the current layout and make it safer for the users of the street.

The applicants have ensured there is space for inevitable deliveries and move in and out of tenants but the parking is still potentially too limited. Equally, it is my view the rest of the street would not be safe with increased deliveries/ taxis and general access traffic without a really intensive redesign especially to keep the very young children who access the school safe. The nursery age is 3 years old.

What is good about the design is the thought about impact on the school and the introduction of a green wall which has been used in Tower Hamlets to improve playground air quality. I would like to see both primaries on the Lewes Road corridor at Lewes Road level have these as we know air quality due to the "bowl" geography is an issue. These schools in my ward are St Martins (adjacent to the development) and Fairlight) a few streets along.

The applicants have reduced the height and sense of overbearing of the building but as you can see from the feedback from residents - in terms of design they still consider it too high and too close to their current boundaries.

I hope this letter is useful in terms of making the decision on this application.

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, SNCI 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.	Application BH2018/02629 under consideration.
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.
	Court Farm, King George VI Avenue, Hove	Hangleton & Knoll	Development of the site for a new care facility, comprising two care homes of 68 bedrooms and 36	History: Permission was granted for a C3 residential scheme in March 2017 for 69 flats.

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.

			bedrooms respectively, together with associated communal spaces, back of house and service areas, car and cycle parking, landscaping and planting (Use Class C2).	The current pre-app scheme was presented to the Design Panel on 26/02/19.
	Vantage Point and Circus Parade, New England Street/New England Road/Elder Place, Brighton	St Peter's & North Laine	Mixed use office-led redevelopment, incl residential, retail, dance studio, student flats, car park, public realm improvements.	Presented at Design Review Panel 04/7/18, amended and then re-presented on 30/10/18. LPA provided written feedback 04/10/18 and discussions on-going.

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

PLANNING COMMITTEE

Agenda Item 137 Brighton & Hove City Council

NEW APPEALS RECEIVED

<u>WARD</u>	HANOVER AND ELM GROVE
<u>APPEALAPPNUMBER</u>	BH2017/01771
<u>ADDRESS</u>	Elim Court 10 Wellington Road Brighton BN2 3AA
<u>DEVELOPMENT DESCRIPTION</u>	Erection of additional storey to create 5no additional flats (C3).
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	14/03/2019
<u>APPLICATION DECISION LEVEL</u>	Not Assigned

<u>WARD</u>	HANOVER AND ELM GROVE
<u>APPEALAPPNUMBER</u>	BH2018/03548
<u>ADDRESS</u>	2A Arnold Street Brighton BN2 9XT
<u>DEVELOPMENT DESCRIPTION</u>	Erection of a rear dormer and 2no roof lights to the front slope.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	14/03/2019
<u>APPLICATION DECISION LEVEL</u>	Not Assigned

<u>WARD</u>	HANOVER AND ELM GROVE
<u>APPEALAPPNUMBER</u>	BH2018/03754
<u>ADDRESS</u>	46 Whippingham Road Brighton BN2 3PG
<u>DEVELOPMENT DESCRIPTION</u>	Change of use from six bedroom small house in multiple occupation (C4) to seven bedroom house in multiple occupation (Sui Generis). (Retrospective).
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	15/03/2019
<u>APPLICATION DECISION LEVEL</u>	Delegated

<u>WARD</u>	HOLLINGDEAN AND STANMER
<u>APPEALAPPNUMBER</u>	BH2018/00265
<u>ADDRESS</u>	Unit 1 Pavilion Retail Park Lewes Road Brighton BN2 3QA
<u>DEVELOPMENT DESCRIPTION</u>	Display of 5no internally illuminated Fascia signs, 2no non-illuminated Vynl signs and 2no internally illuminated post and signage panels.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	15/03/2019
<u>APPLICATION DECISION LEVEL</u>	Delegated

WARD **HOLLINGDEAN AND STANMER**
APPEALAPPNUMBER BH2018/02448
ADDRESS 51 And 53 Wolverstone Drive Brighton BN1 7FB
DEVELOPMENT DESCRIPTION Demolition of existing garage and erection of single storey outbuilding for ancillary accomodation.
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 15/03/2019
APPLICATION DECISION LEVEL Delegated

WARD **HOVE PARK**
APPEALAPPNUMBER BH2018/02327
ADDRESS 29A Orchard Gardens Hove BN3 7BH
DEVELOPMENT DESCRIPTION Erection of a single storey rear extension. Roof alterations incorporating installation of 5no rooflights and a rear balcony
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 11/03/2019
APPLICATION DECISION LEVEL Delegated

WARD **MOULSECOOMB AND BEVENDEAN**
APPEALAPPNUMBER BH2018/03039
ADDRESS First Floor Flat 22-23 Coombe Terrace Brighton BN2 4AD
DEVELOPMENT DESCRIPTION Conversion of existing first floor flat to form 2no one bedroom flats (C3).
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 05/03/2019
APPLICATION DECISION LEVEL Delegated

WARD **NORTH PORTSLADE**
APPEALAPPNUMBER BH2018/02643
ADDRESS 62 North Lane Portslade BN41 2HG
DEVELOPMENT DESCRIPTION Part demolition of existing conservatory and erection of single storey rear extension. Erection of single storey front extension and associated alterations.
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 13/03/2019
APPLICATION DECISION LEVEL Delegated

WARD **PATCHAM**
APPEALAPPNUMBER BH2018/01962
ADDRESS 140 Carden Avenue Brighton BN1 8NH

<u>DEVELOPMENT DESCRIPTION</u>	Demolition of existing 1no three bedroom dwelling (C3) and erection of 2no one bedroom flats and 3no two bedroom flats (C3).
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	14/03/2019
<u>APPLICATION DECISION LEVEL</u>	Not Assigned

WARD

WISH

APPEALAPPNUMBER

ADDRESS

Unit 1 Saxon Works 22 Olive Road Hove BN3 5LE

DEVELOPMENT DESCRIPTION

Appeal against

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

14/03/2019

APPLICATION DECISION LEVEL

Not Assigned



**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:	ENF2017/00329
Description:	Change of Use from wholesale/retail to takeaway.
Decision:	Enforcement application
Type of Appeal	Public Inquiry against material change of use
Date:	07/08/2019
Site Location:	Unit 1 Saxon Works, 22 Olive Road, Hove, BN3 5LE

APPEAL DECISIONS

	Page
A – 1 BRISTOL STREET, BRIGHTON, - EAST BRIGHTON	231
<p>Enforcement Appeals against (A) breach of planning control, without planning permission, a material change of use from a dwelling house (C3)/House in Multiple Occupation (C4) to a 7 bedroom large House in Multiple Occupation (Sui Generis) and (B) breach of planning control erection of a single storey rear extension, rear dormer and 2 no front roof lights to facilitate unauthorised change of use from HMO (C4) to HMO (Sui Generis). (A) APPEAL DISMISSED, APPEAL (B) ALLOWED – following corrections to the enforcement notice.</p>	
B – 3 BRISTOL STREET, BRIGHTON – EAST BRIGHTON	241
<p>Enforcement Appeal against breach of planning control, without planning permission, a material change of use from a dwelling house (C3)/ House in Multiple Occupation (C4) to 7 bedroom large House in Multiple Occupation. APPEAL DISMISSED (delegated decision)</p>	
C – SITE AT 33-34 GLOUCESTER ROAD, BRIGHTON – ST PETER’S & NORTH LAINE	247
<p>Enforcement Appeal against breach of planning control, without planning permission the erection of a plastic roof canopy to the rear of the building. APPEAL DISMISSED and the enforcement notice upheld with a variation as set out in the formal decision.</p>	
D – FLAT 2, 3 ST AUBYN’S, HOVE – CENTRAL HOVE	253
<p>Application BH2018/00301 – Appeal against refusal to grant planning permission for single storey extension to courtyard garden connected to non original kitchen addition. APPEAL DISMISSED (delegated decision)</p>	

E – 226 HANGLETON ROAD, HOVE – HANGLETON & KNOLL 257

Application BH2018/02421 – Appeal against refusal to grant planning permission for roof and dormer extension forming additional bedroom/en-suite accommodation, including internal alterations.

APPEAL DISMISSED (delegated decision)



Appeal Decisions

Site visit made on 28 January 2019

by Diane Fleming BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 March 2019

Appeal A, Ref: APP/Q1445/C/18/3195789

1 Bristol Street, Brighton BN2 5JT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by D B Sussex Investments Ltd against an enforcement notice issued by Brighton & Hove City Council.
 - The enforcement notice (Notice A) was issued on 9 January 2018.
 - The breach of planning control as alleged in the notice is without planning permission, a material change of use from a dwelling house (C3)/House in Multiple Occupation (C4) to a 7 bedroom large House in Multiple Occupation (Sui Generis).
 - The requirements of the notice are to cease the use of the property as a House in Multiple Occupation (Sui Generis).
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
-

Appeal B, Ref: APP/Q1445/C/18/3199883

1 Bristol Street, Brighton BN2 5JT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Ms Laura Dwyer-Smith against an enforcement notice issued by Brighton & Hove City Council.
 - The enforcement notice (Notice B) was issued on 19 February 2018.
 - The breach of planning control as alleged in the notice is without planning permission, erected a single storey rear extension, rear dormer and 2 No front roof lights to facilitate unauthorised change of use from HMO (C4) to HMO (Sui Generis).
 - The requirements of the notice are to remove the rear dormer.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.
-

Decisions

Appeal A

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

2. It is directed that the enforcement notice be corrected by:
 - The deletion of the words "material change of use" in the title to the notice;

- The deletion of the words in the allegation and the substitution with “Without planning permission, the erection of a single storey rear extension, a rear dormer extension and one front roof light”;
- The deletion of ten years and the substitution of four years within paragraph 4.1 of the notice; and
- The deletion of paragraphs 4.3 and 4.4.

Subject to these corrections the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the erection of a single storey rear extension, a rear dormer extension and one front roof light.

Preliminary Matters

3. No 1 Bristol Street is an end of terrace property. It adjoins No 3 Bristol Street where the Council have also issued a notice alleging a material change of use to a large HMO. An appeal¹ has been made in respect of this notice which is the subject of a separate decision.
4. At the site visit I saw that there were seven bedrooms within the building, all of which appeared to be occupied, although I was only able to access six of them. There were also two bathrooms and an extension to the open plan kitchen area that included two sofas, a fridge freezer and a coffee table.

Notice B

5. A notice must enable every person who receives a copy to know exactly what in the Council’s view constitutes the breach of planning control. It is not clear in this instance as the notice is headed “Material Change of Use” but the allegation refers primarily to operational development, which facilitates a material change of use to a large HMO. Also, the reasons for issuing the notice state that the breach has occurred within the last ten years, rather than four years, and refer to harm from the operational development as well as the material change of use. In addition, the only requirement is to remove one aspect of the alleged operational development. This suggests the Council would be under enforcing in respect of the material change of use as well as in respect of the single storey extension and the roof light.
6. I do not believe under enforcing in respect of the use was the Council’s intention as Notice B was the second notice issued in respect of this property. Notice A, issued the previous month, dealt with the alleged material change of use to a large HMO. It is clear from the appellants’ submissions for both appeals that they understand there are two breaches of planning control, namely a material change of use and operational development. The latter is stated by the Council to have taken place less than four years before Notice B was issued and this is not disputed by the appellants.
7. As such, I find that Notice B could be corrected and varied to deal explicitly with the alleged operational development, which would bring clarity to the notice overall and would not cause injustice to either party. In particular, it is necessary to clarify the terms of the deemed application under section 177(5)

¹ Ref APP/Q1445/C/18/3195793

of the 1990 Act as amended. I will deal with Appeal B on the basis of the corrected notice.

Appeal B, ground (c)

8. This ground of appeal is that the matters alleged in the notice do not constitute a breach of planning control. In this case the appeal is limited to the rear dormer extension. A breach of planning control comprises the carrying out of development without the required planning permission. Under a ground c) appeal the onus of proof is on the appellant to show that there has not been a breach of planning control.
9. There is no dispute that the rear dormer extension comprises development within the meaning of section 55 of the Act for which section 57 says planning permission is required. The appellant submits that the extension benefits from the permission granted by Article 3 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO). Article 3 grants planning permission for classes of development in Schedule 2 to the GPDO and Part 1 to Schedule 2 addresses development within the curtilage of a dwelling house. In addition, the appellant refers to advice issued to Inspectors by The Planning Inspectorate in 2014 that states HMOs, both those that fall within Use Class C4², known as small HMOs, and large sui generis HMO uses, benefit from permitted development (PD) rights provided the use of the property is considered to be as a dwelling house. Moreover, the Council's website confirms that it has adopted this approach.
10. The works for the extension began in January 2016, according to Building Control records, and a completion certificate was issued in July 2016. The layout and use of the property as a large HMO was first noted by the Council in May when an officer saw there were seven bedrooms of which five were occupied. A tenant told the officer that the rooms were available through the Brighton Accommodation Agency and that two were available to rent. Then in June 2017 Council Tax records show occupation by seven persons. The appellant does not take issue with this evidence from the Council but claims that the property was in use as a C4 HMO when the extension was built. As the use of the property had the character of a dwelling house the extension therefore benefits from PD.
11. The Council's position is that the extension was built to facilitate a material change of use to a large HMO and was part and parcel of a single operation to convert the property. As such, it does not benefit from PD. Their timeline of events provides support for this position. After work began on the extension an application was submitted on 5 February 2016 for a new HMO licence for seven people and in June 2016 the HMO licence was issued with a commencement date of 23 June 2016.

Assessment

12. In the first instance, the advice issued to Inspectors is to help Inspectors determine appeals effectively and with consistency. It does not constitute Government policy or guidance and it does not seek to interpret Government policy or legislation.

² Town and Country Planning (Use Classes) Order 1987 C4 Houses in Multiple Occupation

13. Secondly, it is not a condition of qualifying for Part 1 PD rights that a dwelling house is of a particular type or used in accordance with Use Class C3 Dwellinghouses. The advice states that it is *likely* (my emphasis) that a dwelling house in use as a small HMO would fit within the GPDO definition and benefit from PD rights. With regard to larger HMOs, it is a matter of fact and degree as to whether they meet the definition of a dwelling house for Part 1 purposes. The distinctive characteristic of a dwelling house is its ability to afford to those who use it the facilities required for day to day private domestic existence. Provided that the premises are in use as a dwelling house, PD rights would *normally* apply to large HMOs.
14. However, it is my view that the extension would only benefit from PD if it was solely to enlarge the dwelling house. From the timeline of events, and the three sets of plans³ enclosed with the Council's statement, this would not appear to be the case; rather the extension formed part of a project, which included physical works, in order to achieve a material change of use to a large HMO.
15. Prior to the works taking place the layout of the property is shown as a lounge, dining room and kitchen on the ground floor with three bedrooms and a bathroom on the first floor. The annotation on this drawing is "AS surveyed...October 2015".
16. The first HMO licence for the property was given in 2008 and permitted a maximum of five people. This appears to be consistent with the 2015 layout of the property as the lounge could have been used as a bedroom and the first floor front bedroom was large enough to be occupied by two people. It is unlikely that the dining room was used as a bedroom as this provided access to the kitchen. Whilst there may have been subsequent HMO licences it is unlikely that the maximum number of occupiers would have exceeded five given the constraints of the building at the time.
17. The next set of plans, entitled "Pre-existing plans" and dated November 2016, show the layout of the property to have changed. A corridor has been created from the front door to the kitchen and the ground floor is now laid out as two bedrooms with a new bathroom between them and the kitchen has been extended to accommodate a dining area. On the first floor there are still three bedrooms but the main bedroom has been reduced in size to accommodate the re-located bathroom and there is *one* bedroom shown within the loft area. However, this appears to be inconsistent with the application submitted for Building Regulation approval in 2015 which describes the development as "Proposed conversion of loft space to form habitable *rooms* with dormer to rear and roof light to the front roof slope".
18. Whilst according to Council Tax records, occupation by six persons occurred between 26 September 2016 and 31 May 2017, the building and conversion works resulted in a large HMO that was available to let through the letting agency. The rooms were seen by a Council officer in May 2016, when there were only five occupiers. A Building Control completion certificate was issued in July and this confirms that the application as applied for has been completed in accordance with the Regulations.

³ Submitted with the application made in November 2016 described on the decision notice as the material change of use of the property from 6 bedroom house in multiple occupation to 7 bedroom house in multiple occupation, retrospective, ref BH2016/06114.

19. It has been held in case law that in assessing when a material change of use has taken place, the physical layout of premises is important but it is not decisive. The actual, intended or attempted use is also important but again is not decisive as these matters have to be looked at in the round. This is because a material change of use can take place before the premises are used in the ordinary and accepted sense of the word. In some cases operations are undertaken to convert premises to residential use and they are then put on the market as being available to rent. Nobody is using these premises in the ordinary connotation of the term because they are empty but there has plainly, on those facts, been a change of use. I consider this is what has happened at the appeal site.
20. With regard to the physical state of the premises, Building Regulation approval was sought and given for the works. I have not been advised by either party that there was any other Building Regulation application for a single room within the loft or that the approved application was amended to a single room. The intention of the appellant appears to have been to create two bedrooms within the loft from the outset. I find that this intention is reinforced by the HMO licence application submitted in February, when presumably the building works were on-going. In addition, intent is evident from the tenant's remarks to the Council officer, that the building was a large HMO available to rent. Whilst the appellant submits that the "property benefits from having a HMO licence", on close inspection the licence states there are seven sleeping rooms but limits the maximum number of people permitted to occupy the HMO to six persons.
21. For these reasons it is my overall conclusion that insufficient evidence has been produced by the appellant to demonstrate, on the balance of probabilities, that there has not been a breach of planning control. On the basis of all the submissions I find the extension does not benefit from PD as the act of constructing it was, in fact, the necessary operational development to convert the property into a larger HMO. The appeal on ground (c) therefore fails.

Appeals A and B, the ground (a) appeals and the deemed planning applications

22. From the wording within Notice B it is clear that the Council do not object to the single storey rear extension or the insertion of one front roof light. These elements of the allegation are not in contention between the parties and I find them to be acceptable as they accord with Policy QD14 of the Council's local plan (LP)⁴.

Main issues

23. The main issues for Appeal A are the effects of the use on i) the living conditions of existing and future occupiers, having regard to the standard of accommodation; and ii) the living conditions of neighbouring occupiers, having regard to noise and disturbance.
24. The main issue for Appeal B is the effect of the rear dormer extension on the character and appearance of the host property and the surrounding area.

⁴ Brighton & Hove Local Plan 2005, saved.

Living conditions – standard of accommodation

25. The appellant submits that the size of the rooms is sufficient. There are no planning standards published by the Council for either the size of communal living space in HMOs or space standards for any other residential use. Five of the bedrooms offer accommodation in excess of 7.5sqm which is the minimum size for a single bedroom as set by the Technical housing standards – nationally described space standard (NDSS). This matter has been dealt with by two previous Inspectors⁵ in respect of similar properties in Brighton and the appellant relies on their conclusions. These are that the property is aimed at the short term rental market rather than longer term occupiers where higher standards might be necessary and the issue of a HMO licence indicates that the accommodation is suitable, albeit that is in respect of the Housing Act 2004.
26. The Council submit that the NDSS can be used for comparative purposes in the absence of any other planning standards for HMO use. However, standards for HMO licences serve a different purpose, namely ensuring accommodation meets a minimum standard for human habitation whereas planning space standards for dwellings were created to ensure that new homes are of a high quality, accessible and sustainable. These aspirations accord with the National Planning Policy Framework (the Framework) requirement for a high standard of amenity for existing and future occupiers.
27. The principal points at issue in respect of the layout of the large HMO are the size of the front bedroom within the loft and the size of the kitchen/dining area. In the absence of any specific minimum planning space standards for large HMO uses, a starting point could be the standards for HMO licensing. However, this would be to ignore the requirements of the new Framework and as such, the NDSS are more appropriate, even though they have been drawn up for new dwellings.
28. These specify a minimum floor area of at least 7.5 sqm for a single bedroom. Any area with a headroom of less than 1.5m is not counted within the gross internal area (GIA) unless used solely for storage and the minimum floor to ceiling height should be 2.3m for at least 75% of the GIA. The appellant's plans show that the loft front bedroom has a minimum GIA of 6.5 sqm over 1.5m in height. Whilst this is 1 sqm less than the standard, it is noted these are minimum standards and as such, the shortfall is significant. Furthermore, at the site visit I found this room to be very cramped and oppressive, mainly due to the large expanse of sloping ceiling which led me to conclude that 75% of the floor area was most likely not over 2.3m in height. The room is furnished with a double bed, a sink, a wardrobe and a narrow desk and other than standing directly in front of the sink or the wardrobe there was little space to stand up straight. For these reasons it is concluded that this room does not provide an acceptable standard of accommodation, as required by Policy QD27 of the LP.
29. The kitchen and dining area are shown on the plans to be 17.2 sqm in total with the kitchen having a galley layout. At the site visit though I saw that the dining area provides access to the garden and is furnished with 2 No two seater sofas, a coffee table and a large fridge freezer, with very little space to move around them. As the bedroom above the kitchen is shown on the plans to be 9 sqm in area, I estimate the sitting area to be 8 sqm. There is no minimum

⁵ Appeal references: APP/Q1445/W/16/3150798 and APP/Q1445/W/15/3140528

space standard for kitchens within the NDSS but the minimum space required for a HMO licence for seven occupiers is 9 sqm for a kitchen without dining facilities and an additional 10 sqm for a separate dining area. There are no requirements for a lounge.

30. The Council are concerned that the available space would not be sufficient for seven residents to cook, consume food and to relax. However it is unlikely that seven residents would carry out these activities at the same time. Nevertheless, whilst the kitchen appeared to be large enough for all the necessary fittings, including a hob, oven, washing machine, dishwasher, units and worktops, there is insufficient space for the required second fridge freezer as this has been sited in the dining/lounge area.
31. The previous appeal decisions relied upon by the appellant to support his case can be distinguished from the current appeal in that they were made before the current version of the Framework. In addition, in each HMO in those cases, for seven and eight persons each was provided with a kitchen and dining area amounting to 20 sqm. It is my view that the communal space at the appeal site falls below minimum standards as set out in the HMO licensing requirements and the expectations in the Framework. This results in a poor standard of accommodation and is therefore harmful to existing and future occupiers.
32. The appellant relies on the fact that the property is aimed at the short term student market rather than longer term occupiers. Whilst there is no guarantee that the manner of the HMO use would remain as a student let, the appellant's position fails to take into account the latest guidance in the Framework. This is that decisions should ensure developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. For these reasons it is concluded that overall the development causes harm to the living conditions of existing and future occupiers, having regard to the standard of accommodation and is therefore contrary to Policy QD27.

Living conditions – noise and disturbance

33. It appears that the property has been occupied as a small HMO for a number of years and from the planning history and an earlier HMO licence, occupation was limited to a maximum of five people. Use as a large HMO began in 2016. The appellant submits that the additional two occupiers have not resulted in an unacceptable increase in noise and disturbance and relies on five appeal decisions⁶ to support his case.
34. Two of these five appeal properties lie within the City's Article 4 Direction Area, where the Council seeks to exercise more control over developments for HMO use as the residential balance of the neighbourhoods has changed. It is not known whether the other three appeal properties are within the Article 4 Area but what is clear from all these decisions is that the number of HMOs within a 50m radius of each appeal site varied between 26% and 37%. This is significantly higher than the 3.7% found near the current appeal⁷ and I consider that this indicates a material difference in the character of these areas

⁶ References: APP/Q1445/W/16/3150798, APP/Q1445/W/15/3140528, APP/Q1445/W/16/3142291, APP/Q1445/W/16/3162725 and APP/Q1445/W/6/3165693

⁷ The Council's mapping exercise found 108 properties within a 50m radius of the appeal site of which 3.7% were in use as either a small or large HMO.

compared to the current appeal. As such, these decisions can be distinguished from the current appeal, where there are still a significant number of family houses in the immediate area, and which is described by neighbours as being quiet, at some distance from the busy main road.

35. The initial change to a small HMO would have altered the character of this area with more comings and goings from the property and patterns of behaviour different from typical occupants of a family dwelling. That change may have been minimal in terms of its impact or more significant but over time, this change to the character of the area has been absorbed. However, it is my view that use by an additional two occupiers, whilst on paper appears insignificant, in reality has had an unduly harmful effect on the living conditions of neighbouring occupiers, having regard to noise and disturbance. This is because, in part, the predominant character of the area in the vicinity of the appeal site remains as family housing and the terraced layout of the buildings with small front gardens means that activities associated with the large HMO use are more noticeable. This is evident from the details submitted by third parties. These include at all hours the comings and goings by taxi, frequent food deliveries, doors slamming and anti-social behaviour. I consider these activities arising at day and night time from two additional occupiers over and above the existing small HMO use to be more than significant.
36. Third parties have raised other objections to the use including the presence of rats, excessive rubbish and the loss of family housing. However the first two matters are dealt with through other means and there is no loss of family housing as the property was already in use as a small HMO.
37. The appellant submits that the property could be occupied by up to six unrelated individuals as a small HMO and therefore what should be taken into account is the effect of just one additional occupier. However, I give only limited weight to this submission as it could be repeated in respect of a number of HMOs, as indeed it has been in relation to the appeal at No3 Bristol Street. This creeping and incremental change would result in harm to the living conditions of neighbouring occupiers.
38. In conclusion, detailed evidence has been put forward to demonstrate the harmful effects of a large HMO use on the living conditions of third parties who all live in close proximity to the site. Whilst it is not known whether all the evidence is directly attributable to the change of use that has occurred at the appeal site, as opposed to No 3 Bristol Street, it is my view that it warrants considerable weight given the location of the third parties, the particular details of the evidence and the character of this residential area. For these reasons I find the development results in harm and is therefore contrary to Policy QD27 of the LP. The appeal on ground (a), Appeal A, fails.

Character and appearance

39. The character of the area is largely residential and the appearance is that of attractive Victorian housing interspersed with later post war housing sited on rising ground. The dormer extension at the appeal site is visible from a housing estate to the rear from where it is possible to see not only the appeal site but the majority of the terrace comprising 13 houses and a pair of semi-detached houses that make up this side of Bristol Street. There are four other extensions similar to the appeal site. Each property has a half width, two storey addition and the dormer extensions appear as third storeys, extending

as they do generally from the ridge to the eaves and to each side wall. Some appear to have been built a while ago and others may have been built as permitted development (PD).

40. Nevertheless, where express planning permission is required, Policy QD14 from the LP requires them to be well-designed in relation to the property to be extended, adjoining properties and the wider area. In addition, the Council's Supplementary Planning Document stipulates that they should be a subordinate extension to the roof and not substantially larger than the dormer window itself.
41. The extension at the appeal site is an extremely large addition to the roof due to its height, depth and width. It appears top heavy on this end of terrace property and is a significant alteration to both the roof and the overall appearance of the rear elevation. Any semblance of the original roof is now lost. It is visible in long distant views from the estate to the rear and is a dominant feature overlooking the narrow light well between it and No 3. For these reasons the dormer extension is not well-designed in relation to either the host building or the surrounding area due to its scale, style and form.
42. The appellant submits that large dormer windows are now characteristic of the area around the appeal site. As such, the dormer at the appeal is appropriate. However, whilst I saw similar dormer extensions to houses in the vicinity, their low number means that they have not become a characteristic feature of the area which would result in a finding that the dormer at the appeal site was acceptable.
43. It is therefore concluded that the dormer extension has an adverse effect on the character and appearance of the host building and the surrounding area. It therefore does not accord with Policy QD14.

Fall back

44. The appellant submits that if the dormer extension were found to be unacceptable, he has a fall back position of being able to exercise his PD rights to replace it. This is on the basis that he ceases the use of the property as a large HMO and resumes the small HMO use. He would then re-build the dormer to the same size and design to provide a sixth bedroom. This would be PD as the sixth bedroom would benefit the property as up to six unrelated individuals may occupy a small HMO. It would not be erected to enable a material change of use. I consider there is a real prospect that the fall back position would be implemented given the planning history of the property and my conclusion on the ground (a) appeal in respect of the material change of use to a large HMO. It is therefore a material consideration in the determination of this ground (a) appeal to which I attach substantial weight.
45. The fall back dormer extension would have the same effect on the character and appearance of the area as the unauthorised development. In the circumstances of this appeal I consider the fall back position is a strong justification for making a decision in respect of the unauthorised dormer extension, which is not in accordance with the development plan, and for the ground (a) appeal to succeed. No conditions have been suggested by the Council in the event of planning permission being granted for the dormer extension. As it was substantially complete when the notice was issued, none are necessary.

46. Given my findings on Appeal B, ground (a), the appeals on grounds (f) and (g) do not fall to be considered.

Appeal A, ground (g)

47. The ground (g) appeal is that the time given to comply with the requirements of the notice is too short and the appellant requests that the three month period be increased to allow for the expiration of the tenancy agreement. At the time the appeal was submitted the three month compliance period appeared to be too short and the appellant was concerned that complying with the notice would not allow for the appropriate notice period and rehousing of the tenants. However, most higher education institutions will have finished their summer terms by the time this decision is issued and the three month compliance period expires. I therefore consider three months is a reasonable time to comply with the notice. The appeal on ground (g) therefore fails.

Conclusions

Appeal A

48. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Appeal B

49. For the reasons given above I conclude that the appeal should succeed on ground (a) and I will grant planning permission in accordance with the application deemed to have been made under section 177(5) of the 1990 Act as amended, which will now relate to the corrected allegation.

D Fleming

INSPECTOR



Appeal Decision

Site visit made on 28 January 2019

by Diane Fleming BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 March 2019

Appeal Ref: APP/Q1445/C/18/3195793

3 Bristol Street, Brighton BN2 5JT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Dr C Shulman against an enforcement notice issued by Brighton & Hove City Council.
 - The enforcement notice was issued on 9 January 2018.
 - The breach of planning control as alleged in the notice is without planning permission, a material change of use from a dwelling house (C3)/House in Multiple Occupation (C4) to a 7 bedroom large House in Multiple Occupation (Sui Generis).
 - The requirements of the notice are to cease the use of the property as a House in Multiple Occupation (Sui Generis).
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

2. No 3 Bristol Street is a mid-terrace property. It adjoins No 1 Bristol Street where the Council have also issued a notice alleging a material change of use to a large HMO. An appeal¹ has been made in respect of this notice which is the subject of a separate decision.
3. At the site visit I saw that there were seven bedrooms within the building, all of which appeared to be occupied. There were also three shower rooms and an open plan kitchen and lounge area that included two sofas, two fridge freezers, a boiler, a coffee table as well as kitchen fittings.

The ground (a) appeal and the deemed planning application

Main Issues

4. The main issues are the effects of the use on i) the living conditions of existing and future occupiers, having regard to the standard of accommodation; and ii) the living conditions of neighbouring occupiers, having regard to noise and disturbance.

¹ Ref APP/Q1445/C/18/3195789

Reasons

Standard of accommodation

5. The property is laid out over three floors with two bedrooms within an extended loft area. The principal point at issue in respect of the layout of the large HMO is the size of the communal space on the ground floor.
6. The appellant submits that the size of this area is sufficient. There are no planning standards published by the Council for either the size of communal living space in HMOs or space standards for any other residential use. This matter has been dealt with by two previous Inspectors² in respect of similar properties in Brighton and the appellant relies on their conclusions. These are that the property is aimed at the short term rental market rather than longer term occupiers where higher standards might be necessary and the issue of a HMO licence indicates that the accommodation is suitable, albeit that is in respect of the Housing Act 2004.
7. The Council submit that the Technical housing standards – nationally described space standard (NDSS) can be used for comparative purposes in the absence of any other planning standards for HMO use. However, standards for HMO licences serve a different purpose, namely ensuring accommodation meets a minimum standard for human habitation whereas planning space standards for dwellings were created to ensure that new homes are of a high quality, accessible and sustainable. These aspirations accord with the National Planning Policy Framework (the Framework) requirement for a high standard of amenity for existing and future occupiers.
8. The plans prepared by the appellant to accompany a planning application³ to change the use of the property from a five bedroom small HMO (Use Class C4⁴) to a seven bedroom large HMO sui generis use show the communal space as “kitchen/dining 15.6 sqm”. However, at the site visit I saw that the kitchen units are laid out in a “U” shape within a recent extension to the two storey, half width, rear projection. They contain all the necessary fittings, including a hob, two ovens, washing machine, tumble dryer, units and worktops. However, there is insufficient space for the required two fridge freezers as these are placed within the adjacent ground floor area, which presumably used to house the kitchen before the extension and has now been left as an open plan lounge area.
9. Within this area there is also a boiler in a cupboard, the door to the rear garden and 2 No, two seater sofas placed either side of the doorway into the communal space from the hallway. There was no dining table and furthermore, there appeared to be very little room for a dining table even if the sofas were removed. This is due in part to the positions of the doorway into the area from the hall, the doorway into the garden and the siting of the fridge freezers in proximity to the cooking area. The Council are concerned that the available space would not be sufficient for seven residents to cook, consume food and to relax. However, it is unlikely that seven residents would carry out these activities at the same time.

² Appeal references: APP/Q1445/W/16/3150798 and APP/Q1445/W/15/3140528

³ Reference BH2016/06221

⁴ Town and Country Planning (Use Classes) Order 1987 as amended

10. There is no minimum space standard for kitchens within the NDSS but the minimum space required for a HMO licence for seven occupiers is 9 sqm for a kitchen without dining facilities and an additional 10 sqm for a separate dining area. Although there are no requirements for a lounge the available communal space in this case falls short of these requirements by 3.4 sqm on the basis that the open plan lounge area is the dining space. I consider this to be significant especially as the required standards are minimum standards.
11. The previous appeal decisions relied upon by the appellant to support his case can be distinguished from the current appeal in that they were made before the current version of the Framework. In addition, in each HMO in those cases, for seven and eight persons, each was provided with a kitchen and dining area amounting to 20 sqm. It is my view that the communal space at the appeal site falls below minimum standards as set out in the HMO licensing requirements and the expectations in the Framework. This results in a poor standard of accommodation and as currently laid out is rather cramped. It is therefore harmful to existing and future occupiers.
12. The appellant relies on the fact that the property is aimed at the short term student market rather than longer term occupiers. Whilst there is no guarantee that the manner of the HMO use would remain as a student let, the appellant's position fails to take into account the latest guidance in the Framework. This is that decisions should ensure developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. For these reasons it is concluded that the development causes harm to the living conditions of existing and future occupiers, having regard to the standard of accommodation. It is therefore contrary to Policy QD27 of the saved Brighton & Hove Local Plan 2005, Retained Policies 2016 (LP) which states that planning permission for development will not be granted where it would cause loss of amenity.

Noise and disturbance

13. It appears that the property has been occupied as a small HMO since 2007 when the first HMO licence was issued and occupation was limited to a maximum of five people. Use as a large HMO appears to have begun in September 2016. The appellant submits that the additional two occupiers have not resulted in an unacceptable increase in noise and disturbance and relies on five appeal decisions⁵ to support his case.
14. Two of these five appeal properties lie within the City's Article 4 Direction Area, where the Council seeks to exercise more control over developments for HMO use as the residential balance of the neighbourhoods has changed. It is not known whether the other three appeal properties are within the Article 4 Area but what is clear from all these decisions is that the number of HMOs within a 50m radius of each appeal site varied between 26% and 37%. This is significantly higher than the 3.7% found near the current appeal site⁶ and I consider that this indicates a material difference in the character of these areas compared to the current appeal. As such, these decisions can be distinguished from the current appeal, where there are still a significant number of family

⁵ References: APP/Q1445/W/16/3150798, APP/Q1445/W/15/3140528, APP/Q1445/W/16/3142291, APP/Q1445/W/16/3162725 and APP/Q1445/W/6/3165693

⁶ The Council's mapping exercise found 108 properties within a 50m radius of the appeal site of which 3.7% were in use as either a small or large HMO.

houses in the immediate area, and which is described by neighbours as being quiet, at some distance from the busy main road.

15. The initial change to a small HMO would have altered the character of this area with more comings and goings from the property and patterns of behaviour different from typical occupants of a family dwelling. That change may have been minimal in terms of its impact or more significant but over time, this change to the character of the area has been absorbed. However, it is my view that use by an additional two occupiers, whilst on paper appears insignificant, has had an unduly harmful effect on the living conditions of neighbouring occupiers, having regard to noise and disturbance. This is because in part the predominant character of the area in the vicinity of the appeal site remains as family housing and the terraced layout of the buildings with small front gardens means that activities associated with the large HMO use are more noticeable. These have been particularly apparent to the occupiers of the neighbouring family property at No 5 and include at all hours the comings and goings by taxi, frequent food deliveries, doors slamming and anti-social behaviour. I consider these activities arising at day and night time from two additional occupiers over and above the existing small HMO use to be more than significant.
16. Third parties have raised other objections including excessive internal noise, excessive rubbish and the loss of family housing. However, the first two matters are dealt with through other means and there is no loss of family housing as the property was already in use as a small HMO.
17. The appellant submits that the property could be occupied by up to six unrelated individuals as a small HMO and therefore what should be taken into account is the effect of just one additional occupier. However, I give only limited weight to this submission as it could be repeated in respect of several HMOs, as indeed it has been in relation to No 1 Bristol Street. This creeping and incremental change would result in harm to the living conditions of neighbouring occupiers.
18. In conclusion, detailed evidence has been put forward to demonstrate the harmful effects of a large HMO use on the living conditions of third parties who all live in close proximity to the site. Whilst it is not known whether all the evidence is directly attributable to the change of use that has occurred at the appeal site, as opposed to No 1 Bristol Street, it is my view that it warrants considerable weight given the location of the third parties, the particular details of the evidence and the character of this residential area. For these reasons I find the development results in harm and is therefore contrary to Policy QD27 of the LP. The appeal on ground (a) fails.

The ground (g) appeal

19. The ground (g) appeal is that the time given to comply with the requirements of the notice is too short and the appellant requests that the three month period be increased to allow for the expiration of the tenancy agreement. At the time the appeal was submitted the three month compliance period appeared to be too short and the appellant was concerned that complying with the notice would not allow for the appropriate notice period and rehousing of the tenants. However, most higher education institutions will have finished their summer terms by the time this decision is issued and the three month

compliance period expires. I therefore consider three months is a reasonable time to comply with the notice. The appeal on ground (g) therefore fails.

Conclusion

20. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

D Fleming

INSPECTOR



The Planning Inspectorate

Temple Quay House
2 The Square
Bristol
BS1 6PN

Direct Line:
Customer Services:
0303 444 5000

Email:
despatch.admin@pins.gsi.gov.uk

www.gov.uk/planning-inspectorate

Appeals' Team (D C)
Brighton & Hove City Council
Hove Town Hall
Norton Road
Hove
BN3 3BQ

Your Ref: ENF2017/00228
Our Ref: APP/Q1445/C/18/3198144

13 March 2019

Dear Sir/Madam,

Town and Country Planning Act 1990
Appeal by Mr Keith Shearing
Site Address: Land at 33-34 Gloucester Road, BRIGHTON, BN1 4AQ

“CORRECTION NOTICE” – APP/Q1445/C/18/3198144

APPEAL BY MR KEITH SHEARING AT LAND SITE AT 33-34 GLOUCESTER ROAD,
BRIGHTON BN1 4AQ

I am enclosing a copy of the corrected appeal decision, in pursuance of Section 56(2) of the Planning and Compulsory Purchase Act 2004 as amended. This decision corrects that issued on 11 January 2019.

The error corrected is as follows:

Banner Heading, Bullet Point 2: Council's reference number corrected to ENF2017/00228

Please accept our apologies for this error and for any confusion or inconvenience this may have caused.

Information about the Inspectorate's complaints procedures can be obtained from our web site, which also gives information on the circumstances in which the validity of this decision may be challenged by making an application to the High Court:

<https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure>

Yours sincerely,

Kevin Plummer

Kevin Plummer

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - <https://www.gov.uk/appeal-planning-inspectorate>

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: 13 March 2019

Appeal Reference: APP/Q1445/C/18/3198144

Site at: 33-34 Gloucester Road, Brighton BN1 4AQ

- The appeal is made by Mr Keith Shearing 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 ENF2017/00228.
- The notice is dated 14 February 2018.
- The breach of planning control alleged in the notice is: "Without planning permission the erection of a plastic roof canopy to the rear of the building on the Land".
- The requirements of the notice are: "Remove the plastic roofing and all associated structures from the rear of the property".
- The period for compliance is eight weeks.
- The appeal was made on grounds (c) and (f) as set out in Section 174(2) of the 1990 Act.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a variation as set out in the Formal Decision.

This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 11 January 2019

Ground (c)

1. Under this ground of appeal it is claimed that the matters alleged in the enforcement notice do not constitute a breach of planning control. The onus is on the appellant to make out a case on the balance of probability.
2. The appellant contends that no development has occurred, taking into account that the canopy has no permanent foundation, does not offer full enclosure and is not attached to existing buildings, that the sheet roof is only fixed to the scaffold superstructure with cable ties, and that the scaffolding and clamps can be removed at any time. In the appellant's submission, there has not been any intention to form a permanent structure.
3. Whether a structure can be considered a building has to be determined with regard to three primary factors: size; degree of permanence; and physical attachment. No one factor is decisive. The structure enforced against is quite substantial in size, covering an area of about 70 square metres. The roof

comprises several plastic sheets. Given the size and composition of the structure, it was clearly built on the site (as opposed to being brought on to the site).

4. The use of cable ties, clamps and screws as part of the structure does not mean that it is temporary. It provides shelter for a large quantity of miscellaneous second-hand items including furniture, clothing, books, electrical goods including lamps and many other items which appear to be the stock-in-trade of the retail premises known as "Diplock's Yard". The structure had apparently been on the site for about 17 months by the time of my inspection. There is no suggestion that it has been removed and replaced at any time and it has caused a physical change of some permanence to the land and the way it is used.
5. Taking into account the points above about its size, the way it was built, its use and effect on the character of the land and its degree of permanence, I find that the operations to construct the canopy amounted to development for which planning permission was required. The assertion that the appellant does not intend to keep the canopy in place for longer than three years does not alter that finding. The appellant has not shown that the erection of the canopy did not involve development.
6. The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended ("GPDO") grants planning permission for certain types of extensions or alterations to non-domestic premises such as shops; but these provisions do not apply to the development enforced against for several reasons, including the fact that the site is in a designated conservation area, the size of the structure (which covers a larger area than the 50 square metre limit applicable in conservation areas) and its position closer to the property boundary than 2 metres. All these factors exclude the development from being permitted under Article 3 and Schedule 2, Part 7, Class A of the GPDO, and permission is not granted by any other part of the GPDO. No express planning permission was obtained for this development.
7. The appellant, through his agent, has disputed the council's comments about the height of the structure. I established during my inspection that the structure is less than 4 metres high; but that is irrelevant.
8. In summary, the erection of the canopy as alleged in the enforcement notice constituted a breach of planning control. Therefore ground (c) of the appeal fails.

Ground (f)

9. Under this ground it is argued that the requirement stated in the enforcement notice is excessive to remedy the breach of planning control or injury to amenity. Since the notice alleges the erection of a canopy and requires that the canopy be removed, it follows that the purpose of the notice is to remedy the breach. For that reason, and since the appellant has not made an appeal on ground (a) in order to seek planning permission, I cannot consider questions of amenity or the merits of the canopy under ground (f).
10. The appellant contends that the disputed structure could be modified so that it would be permitted development under the GPDO. However, no specific details have been put forward as to how the appellant would propose to modify the unauthorised structure, or how any such change could result in the development being permitted. Put simply, the erection of the disputed structure enforced was unauthorised; there has been a breach of planning control; the requirement for removal does not go beyond what is necessary to remedy the breach.

11. The appellant also contends that the enforcement notice is "woefully vague and sufficient to render it a nullity", particularly with regard to the requirement to remove "all associated structures". I disagree. The wording of the notice and the photographs included with it show plainly that the appellant is simply required to remove what is "associated" with the canopy, meaning the scaffolding poles, green sheeting and all attachments, ties or clamps which hold the structure together, to which the appellant himself refers to in relation to ground (c). The term "associated structures" is not so imprecise as to render the enforcement notice a nullity or defective on its face. Nevertheless, since the council has provided a list "to be explicit" of what is to be removed, I shall vary the notice to make the requirements more precise. I have powers under Section 176 of the 1990 Act to do so, and I am satisfied that this would not cause injustice to any party.
12. The appellant has criticised the requirement for removal "from the rear of the property", but that is where the canopy is located and this is an appropriate remedy for the breach of planning control.
13. I conclude that the appeal on ground (f) only succeeds to the extent I have described, and does not result in the enforcement notice being quashed.

Other Matters

14. In his statements the appellant contends that the development has little impact on the amenity of neighbours. Some nearby residents have also submitted representations, objecting to and supporting the development. These points do not affect my decision - the effect of the development on local amenity would only have been relevant if I had been considering an application for planning permission; there is no such application before me.
15. The appellant says that the planning authority carelessly made mistakes in the enforcement process and in the notice. An example is that Section 4 of the enforcement notice (stating the reasons for issue) refers mistakenly to "demolition" instead of "development". Some of the council's actions during the enforcement process were flawed, but none of the flaws make the notice null or otherwise justify allowing this appeal.
16. I am also aware of the appellant's criticisms about the council's handling of a planning application (reference BH2017/0371). I make no comment on this matter as the application is not within my jurisdiction.

Formal Decision

17. I direct that the enforcement notice be varied by deleting the text of subparagraph 5(i) in its entirety and substituting:

"Remove the plastic roofing and all components of its supporting structure (including scaffolding poles, green sheeting and all attachments, ties or clamps which hold the structure together) from the rear of the property".
18. Subject to the above variation, I dismiss the appeal and uphold the enforcement notice as varied.

G F Self

Inspector



Appeal Decision

Site visit made on 18 December 2018

by J Davis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 March 2019

Appeal Ref: APP/Q1445/W/18/3205709

Flat 2, 3 St Aubyns, Hove, BN3 2TG

- 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 Judith Manson against the decision of Brighton & Hove City Council.
 - The application Ref BH2018/00301, dated 30 January 2018, was refused by notice dated 13 April 2018.
 - The development proposed is single storey extension to courtyard garden connected to non original kitchen addition.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) The effect of the proposal on the character and appearance of the host building and the Old Hove Conservation Area; and
 - ii) The effect of the proposal on the living conditions of the occupiers of the neighbouring lower ground floor flat, with particular reference to light, outlook and sense of enclosure.

Reasons

Character and appearance

3. The appeal property is a ground floor flat within an attractive period four storey terraced property with further accommodation within its roof and a lower ground floor level located within Old Hove Conservation Area. This part of the Conservation Area is characterised by highly attractive period properties, with mainly original individual villas or semi-detached properties on the western side of St Aubyns and mainly terrace properties on the eastern side, with gardens backing onto Seafield Road. Buildings are stuccoed and mostly on four floors with basements, some also having roof additions. Fine decorative railings are a particular feature. Part of the significance of this part of the Conservation Area is its uniformity; with some buildings little altered which allows the architectural character of the area to survive. This uniformity also extends to the rear elevations which whilst some have been altered, the original form and materials are still evident.

4. The proposed rear extension would be at ground floor level and would extend off the back of what is described as a non original kitchen within a tight and restricted garden area. The proposed extension would be of a contemporary design with the layout and roof design split into sections of varying height and pitch. It would be constructed mainly of dark silver standing seam cladding which would contrast significantly with the rear of the terrace which is uniformly finished in cream render.
5. The proposed extension would appear out of character with the existing property by virtue of both its design and materials, which are not characteristic of the property or the Conservation Area within which it is located. The proposal would be contrary to advice contained within SPD12: Design Guide for Extensions and Alterations (June 2013). This guidance states that all extensions to buildings within Conservation Areas should be completed to a high standard of design, with materials and detailing matching exactly those of the host building.
6. The proposed extension would also breach the rear building line of the terrace. Views of the extension would be obtainable from Seafield Road, in between the buildings and also over the top of the low rise garages. The proposed extension, due to its positioning, size and design would be incongruous and would stand out against the rear of the existing terrace, appearing as an overly dominant and obtrusive addition. Consequently, the proposal would harm the character and appearance of the Conservation Area.
7. The statutory duty in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is a matter of considerable importance and weight. The proposal would have a negative effect on the significance of a designated heritage asset and would result in "less than substantial" harm in the words of the National Planning Policy Framework (July 2018). No public benefits have been put forward to weigh against this harm.
8. Overall the proposal would harm the character of the existing building and would fail to preserve the character and appearance of the Conservation Area. It would be contrary to Policy HE6 of the Brighton & Hove Local Plan 2005 and Policy CP15 of the City Plan Part One 2016 which require the City's historic environment to be preserved and enhanced through a high standard of design. The proposal would also be contrary to the more general provisions of Policy QD14 of the Brighton & Hove Local Plan which requires a high standard of design and the use of materials which are sympathetic to the parent building.

Effect on living conditions

9. Windows on the rear elevation of the lower-ground floor flat are already restricted in terms of the amount of light they receive and their outlook, partly due to the existing retaining wall. The proposed rear extension would extend beyond the side wall of the existing kitchen extension and due to its height and design, would be overbearing and would lead to a further loss of light and a harmful sense of enclosure to these windows. The proposal would therefore result in harm to the living conditions of occupiers of the lower ground floor flat. I appreciate that the proposal would enlarge the internal living space which would benefit the occupier of the property. However, the reduction in outdoor amenity space would be detrimental to the overall use of the property. Consequently, the proposal would be contrary to Policy QD27 and HO5 of the

Brighton & Hove Local Plan which seek to protect the amenity of existing residents and provide for private amenity space.

Conclusion

10. For the reasons set out above I conclude that the proposal would be harmful to the character of the existing building and would fail to preserve or enhance the character and appearance of Old Hove Conservation Area. It would also harm the living conditions of occupiers of the adjacent lower ground floor flat. It would therefore conflict with the development plan as a whole. There are no material considerations that indicate a decision should be made other than in accordance with the development plan. The appeal is therefore dismissed.

J Davis

INSPECTOR



Appeal Decision

Site visit made on 22 January 2019

by **Philip Willmer BSc Dip Arch RIBA**

an Inspector appointed by the Secretary of State

Decision date: 12 March 2019

Appeal Ref: APP/Q1445/D/18/3218362

226 Hangleton Road, Hove, East Sussex, BN3 7LP.

- 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 Tony Biggs against the decision of Brighton and Hove City Council.
 - The application Ref BH2018/02421, dated 21 July 2018, was refused by notice dated 24 September 2018.
 - The development proposed is roof and dormer extension forming additional bedroom/en-suite accommodation, including internal alterations.
-

Decision

1. The appeal is dismissed.

Main Issue

2. I consider the main issue to be the effect of the proposed development on the architectural integrity of the host property, the neighbouring property and the character and appearance of the area.

Reasons

3. The property the subject of this appeal, 226 Hangleton Road, is a semi-detached two-storey dwelling located alongside this busy road. The area is characterised by a mix of residential and commercial properties. As I observed the dwellings are of an eclectic mix of types, architectural styles and designs.
4. This pair of properties has a very distinctive three-dimensional form, including hipped and low sweeping roofs. Number 226 has previously been extended by the addition of, along with other things, a prominent wrap around flat roofed box dormer. However, the other half of the semi-detached pair, in terms of its three dimensional form, remains virtually as originally designed.
5. The appellants propose, along with other things and while retaining the box dormer at the front, to replace the existing hipped roof with a new gable end and half hip and to build a new large box dormer at the rear. In this arrangement the return side of the box dormer would be subsumed within the new roof addition.
6. The existing box dormer, due to its design, location at the hip and prominent position, has disrupted the form and massing of the host property and the pair of which it is part. However, because of its limited size and design the form

and character of the host building is still clearly legible. In contrast, the removal of the hipped roof and its replacement with the new gable wall and half hip roof form, as proposed, would add significantly to the bulk of the host property and would therefore serve to unbalance the pair of dwellings.

7. As stated by the appellants, the advice in the Council's SPD may well refer to the retention of the visual symmetry of semi-detached dwellings as a 'rule of thumb'. However, in this case I consider, despite the variety of building types and their form in the area, that the symmetry of this pair of semi-detached dwellings is an important design consideration in this context. Furthermore, for the reasons given I am not persuaded that the proposed scheme would be an improvement in the design of the host property as asserted by the appellants.
8. The proposed rear box dormer would extend in front of the existing and more modest rear dormer to be retained and spread partly across the flat roof of the existing single storey extension. It would thereby subsume the form of the existing rear of the dwelling. Accordingly, due to its scale and form in this context, I consider that it would also cause harm to the character and appearance of the host property, the semi-detached pair and the surrounding area.
9. I therefore conclude in respect of the main issue that the proposed development would cause significant harm to the architectural integrity of the host property, the semi-detached pair and thereby the wider area. To allow it would be contrary to saved Policy QD14 of the Brighton and Hove Local Plan 2005 (Adopted July 2005) and Policy CP12 of the Brighton and Hove City Council's Development Plan-*Brighton and Hove City Plan Part One* (Adopted March 2016) as they relate to the quality of the design of extensions and alterations in terms of the existing and neighbouring property as well as the surrounding area.

Other Matters

10. I do not disagree that that current proposed design is an improvement over that of the previous proposal. Nevertheless, in my judgement, for the reasons given I consider that this proposal would cause harm to the host property, the semi-detached pair of dwellings and the surrounding area.
11. The appellants have suggested, based on the Council's advice, that if the dormer were removed, the hip could be replaced with a gable under permitted development rights. However, no drawings or other supporting evidence has been submitted to clearly illustrate how such an extension would provide the necessary accommodation required by the appellants. Furthermore, the appellants have not demonstrated that such a scheme would in fact fall to be considered within Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2016.
12. For the above reasons I am not persuaded that there is a greater than theoretical possibility that the development might take place as indicated. Accordingly, in this case, I give the existence of the fallback scheme only limited weight in the planning balance.
13. The appellant has set out the particular circumstances of the family that justify the need for a separate bedroom. I acknowledge the health condition of one family member as outlined in the appellants' statement (including the email

from the doctor in Annex A). Given the sensitive nature of the health information supplied to me as part of this appeal, it would not be appropriate for me to outline the specific health condition of the individual concerned. However, on the evidence that is before me, I have no doubt that the proposal would be of benefit for the family member. This is a personal circumstance to which I afford weight in favour of the appeal. However, this must still be balanced against other material considerations.

14. Both parties have drawn my attention to a recent appeal decision (Ref: APP/Q1445/D/17/3180220 on a near by site. Whatever the circumstances surrounding that case I have considered this appeal on the individual merits of the proposal before me.

Planning balance and conclusion

15. I acknowledge the health issues associated with one member of the family. This is a matter which weighs in favour of allowing the proposed development. In considering this matter, I have had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and due to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to rights conveyed within the Human Rights Act.
16. In respect of the above, these matters which have to be weighed against my conclusion on the main issue which is that the proposal would have a significantly adverse impact upon the character and appearance of the area. In this case, a refusal of planning permission is a proportionate and necessary approach to the legitimate aim of ensuring that significant harm is not caused to the character and appearance of the area. Indeed, the protection of the public interest cannot be achieved by means that are less interfering of the human rights of the family member.
17. Consequently, whilst I acknowledge the personal circumstances of the family member, I conclude that this is not a matter which outweighs the significant harm that would be caused by the proposal in respect of my aforementioned conclusion on the main issue. Therefore, and taking into account all other matters raised, the appeal should be dismissed.

Philip Willmer

INSPECTOR

