

<u>No:</u>	BH2017/00262	<u>Ward:</u>	Preston Park Ward
<u>App Type:</u>	Removal or Variation of Condition		
<u>Address:</u>	Canons 27A Preston Park Avenue Brighton BN1 6HL		
<u>Proposal:</u>	Variation of condition 1 of application BH2016/01925 (Demolition of existing dwelling and erection of 1no two storey three bedroom dwelling (C3).) to allow increase in height of parapet to sedum roof.		
<u>Officer:</u>	Luke Austin, tel: 294495	<u>Valid Date:</u>	30.01.2017
<u>Con Area:</u>	Preston Park	<u>Expiry Date:</u>	27.03.2017
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	
<u>Agent:</u>	Ms Olivia Mouné The Workshop Unit 3 29-42 Windsor Street Brighton BN1 1RJ		
<u>Applicant:</u>	Mr Jon Woodfine C/o Landivar Architects Limited The Workshop Unit 3 29-42 Windsor Street Brighton BN1 1RJ		

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
Elevations Proposed	D.002 - REV. F		25 January 2017
Elevations Proposed	D.003 - REV. B		25 January 2017
Boundary treatments	AA.001 - REV. A		22 November 2016
Floor Plans Proposed	D.001 - REV. E		25 January 2017

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

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

- 3 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.

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

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

- 5 The residential unit hereby approved shall not be occupied until it has achieved a water efficiency standard using not more than 110 litres per person per day maximum indoor water consumption.

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

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

- 7 The dwelling(s) hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.

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

- 8 No development shall commence until fences for the protection of trees and hedgerow to be retained on the southern boundary of the site at the neighbouring block, Whisler Court, have been erected in accordance with a scheme which has been submitted to and approved in writing by the Local Planning Authority. The fences shall be erected in accordance with BS5837

(2012) 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 of the City Plan Part One.

- 9 Prior to first occupation of the development hereby permitted, a scheme for landscaping shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:

- a) Details of all hard surfacing;
- b) Details of all boundary treatments;
- c) Details of all proposed planting, including numbers and species of plant, and details of size and planting method of any trees.

All hard landscaping and means of enclosure shall be completed in accordance with the approved scheme prior to first occupation of the development. All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

- 10 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a method statement to identify, risk assess and address the unidentified contaminants.

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

- 11 The first floor living room and kitchen windows to the southern side elevation of the development hereby permitted shall be obscure glazed and non-opening, unless the parts of the window/s which can be opened are more than 1.7 metres above the floor of the room in which the window is installed, and thereafter permanently retained as such.

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

- 12 Prior to first occupation of the development hereby permitted the 2m fence to the southern boundary and the louvered screening to the first floor southern side window of the glazed link shall be installed in their entirety shall be retained as such thereafter.
Reason: To safeguard the privacy of the occupiers of the adjoining property and to comply with policy QD27 of the Brighton & Hove Local Plan.
- 13 The hard surfaces to the driveway of the dwelling hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.
Reason: To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policy CP11 of the City Plan
- 14 Prior to the occupation of the dwelling hereby approved detail of the slatted screen including finished materials, size of aperture and angle of slats shall be submitted to and agreed in writing with the Local Planning Authority. The approved details shall be fully implemented prior to occupation and thereafter fully retained.
Reason: To protect the privacy and amenity of future occupiers and neighbours in accordance with 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. The applicant is advised that accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see Gov.uk website); two bodies currently operate in England: National Energy Services Ltd; and Northgate Public Services. The production of this information is a requirement under Part L1A 2013, paragraph 2.13.
3. The water efficiency standard required under condition XX is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1 The application site relates to a two storey property located to the east side of Preston Park Avenue. The existing property is set in a narrow plot between two blocks of flats. The property adjoins the boundary of Park Court to the north and is set close to the boundary of Whistler Court to the south. The existing property is box shaped with a flat roof and includes a garage with storage space at lower ground floor level with living accommodation above. The property is set back from the street with a double width driveway and includes a rear garden some 50m deep, set above first floor level to the rear.
- 2.2 There is a significant change in levels up from the street towards the rear of the site. It should be noted that the existing building is built into the slope (although there is a small incline between the back edge of pavement and front elevation) whereas both neighbouring apartment blocks step up the slope.
- 2.3 Demolition of the existing building and the erection of a replacement dwelling was approved under application **BH2016/01925**. This application seeks permission to vary the approved scheme by way of increasing the height of the entire structure by 530mm. The design of the building would otherwise remain the same as the development approved under application **BH2016/01925**.
- 2.4 The applicant has stated within their covering letter that 'the reason for this increase is partly to accommodate a greater growing substrate for the consented green roof to enable a locally relevant build-up of vegetation to take root and successfully flourish and also to give an additional 200mm of internal floor to ceiling height to the first floor'.

3. RELEVANT HISTORY

BH2016/01925 - Demolition of existing dwelling and erection of 1no two storey three bedroom dwelling (C3). Approved 19/12/2016.

BH2016/00456 - Demolition of existing single dwelling and erection of 1no two storey three bedroom single dwelling (C3). Refused 13/05/2016 for the following reasons:

1. *The height and width of the proposed building on the boundary with Park Court to the north would be overbearing in terms of the visual amenities of the occupier of Flat 7 Park Court by reason of loss of outlook to the southerly aspect where the great majority of outlook from those premises is obtained. The proposal is thus not in accordance with retained policy QD27 of the Brighton & Hove Local Plan.*
2. *The absence of any proposed boundary enclosure on the southern site boundary considered along with the size of the proposed south facing first floor windows would be liable to give rise to overlooking of north facing habitable rooms on the ground and first floors of Whistler Court. The proposal is thus not in accord with retained policy QD27 of the Brighton & Hove Local Plan.*

Application **BH2016/00456** was also dismissed at appeal (**APP/Q1445/W/16/3152/104**) in September 2016.

The appeal was dismissed due to loss of privacy and overlooking from the proposed southern elevation kitchen doors and external terrace to several of the lower level flats within Whistler Court to the south of the application site. No significant harm was identified relating to the occupiers of Park Court to the north. The Inspector's report also concluded that the level of detail relating to the southern boundary treatment and the relationship between the proposal and the neighbouring blocks of flats was not clear from the submission.

BH2015/02993 - Erection of additional floor, conversion of existing garage to habitable space, alterations to fenestration and associated works Refused 23/11/15.

92/0605/FP - Proposed pitched roof onto existing flat roof to provide additional living accommodation. Elevational alterations. Refused 06/04/1993.

4. REPRESENTATIONS

4.1 **Nine (9)** letters have been received objecting to the proposed development for the following reasons:

- It is not acceptable for this building to increase in height
- It is not reasonable to assume that the proposal "has already been tested and approved by the planning inspectorate".
- Would have an overbearing presence on the lower flats of Whistler Court.
- Unacceptable overshadowing
- It seems this variation is a 'back door' way of getting the height increased.
- Loss of light
- An increase in height of more than half a metre is excessive
- Clearly the intent is to raise the building height is to gain more internal space.
- Unclear to us which is the actual true height of the existing building
- Any extra height will severely overshadow Flat 7 Park Court. The kitchen window and door, lends crucial daylight to the internal hallway of Flat 7.
- Loss of privacy, loss of light.
- There is no room for extension due to the close proximity.
- A waste of our time and resources.

5. CONSULTATIONS

5.1 **Heritage:** No objection

5.2 **Sustainable Transport:** No objection

6. MATERIAL CONSIDERATIONS

- 6.1 In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 6.2 The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016)
 - Brighton & Hove Local Plan 2005 (retained policies March 2016);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only - site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.
- 6.3 Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

7. **POLICIES**

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

- SS1 Presumption in Favour of Sustainable Development
- CP1 Housing delivery
- CP7 Infrastructure and developer contributions
- CP8 Sustainable buildings
- CP9 Sustainable transport
- CP12 Urban design
- CP14 Housing density
- CP15 Heritage
- CP19 Housing mix

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

- TR7 Safe Development
- TR14 Cycle access and parking
- SU9 Pollution and nuisance control
- QD5 Design - street frontages
- QD15 Landscape design
- QD16 Trees and hedgerows
- QD27 Protection of amenity
- HO5 Provision of private amenity space in residential development
- HO13 Accessible housing and lifetime homes
- HE6 Development within or affecting the setting of conservation areas

Supplementary Planning Documents:

- SPD03 Construction & Demolition Waste
- SPD06 Trees & Development Sites
- SPD09 Architectural Features

8. CONSIDERATIONS & ASSESSMENT

- 8.1 The principal of the demolition of the existing dwelling and the erection of a replacement dwelling has already been approved under application **BH2016/01925**. Therefore the sole consideration in the determination of this application relates to the impacts of the proposed additional 530mm in height to the building.
- 8.2 **Design and Appearance:**
It is considered that the increase in the height of the parapet to the new house, by 530mm, would not make the new house significantly more prominent in the street scene than the approved house and overall it remains the case that there would be no adverse impact on the appearance or character of the Preston Park Conservation Area.
- 8.3 **Impact on Amenity:**
Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 8.4 With the park opposite the site and a very long back garden, the most affected by the proposal are the occupiers of apartments in Park Court to the north and Whistler Court to the south of the site.
- 8.5 Park Court adjoins the property to the north and includes a side access path with brick wall creating a 1.9m gap between the two buildings. Park Court is a block of 15 flats several of which include windows that face south towards the application site. The flats that contain South facing windows include 7, 8, 10, 11, 13 and 14. As flats 13 and 14 are high level it is not considered that the proposal would result in any significant harm to them. Flat 11 includes four South facing windows that look out over the application site, however the windows are set at a higher level than the proposal. It is therefore considered that the proposed additional height would not result in significant harm to the South facing windows of flat 11 Park Court.
- 8.6 Flats 7, 8 and 10 and Park Court all include south facing windows serving bedrooms and kitchens that look out onto/over the application site. Flats 8 and 10 include windows serving habitable rooms which are set to the rear and at a higher level than the application site. Flat 7 is set at a similar level to the first floor of the application site and includes a side facing kitchen window set within close proximity of the application site. Flat 7 also includes an obscure glazed bathroom window and side facing bedroom window which both face the application site.

- 8.7 There have been two applications for similar schemes submitted for this site within the last year - **BH2016/00456** and **BH2016/01925**, which should be noted. The former application (**BH2016/00456**) for the demolition of the existing single dwelling and erection of a two storey three bedroom single dwelling (C3) was refused for the following reasons:
1. *The height and width of the proposed building on the boundary with Park Court to the north would be overbearing in terms of the visual amenities of the occupier of Flat 7 Park Court by reason of loss of outlook to the southerly aspect where the great majority of outlook from those premises is obtained. The proposal is thus not in accord with retained policy QD27 of the Brighton & Hove local Plan.*
 2. *The absence of any proposed boundary enclosure on the southern site boundary considered along with the size of the proposed south facing first floor windows would be liable to give rise to overlooking of north facing habitable rooms on the ground and first floors of Whistler Court. The proposal is thus not in accord with retained policy QD27 of the Brighton & Hove Local Plan.*
- 8.8 Application **BH2016/00456** was also dismissed at appeal (APP/Q1445/W/16/3152104) based on the Inspector's following conclusion:
- 8.9 *'I conclude that the occupiers of Whistler Court could experience actual or perceived losses of privacy from the Southern kitchen doors and the adjoining terrace, when compared with the prevailing situation, and that this would be harmful to the living conditions of those residents. On this basis I find there would be conflict with retained policy QD27 of the Brighton and Hove Local Plan of 2005, insofar as the development would be harmful to the living conditions of neighbouring residents'.*
- 8.10 Furthermore the Inspector's report concluded in relation to the impact of the proposal on occupiers of Park Court that *'the replacement dwelling would not cause an unacceptable reduction in the outlook from Flat 7's kitchen', and that 'while there would be some potential for a reduction in the outlook from the bedroom, I consider that this would not be at a level that be harmful to the living conditions for the occupiers of Flat 8'.*
- 8.11 Subsequently to the dismissed appeal the latter application (BH2016/01925) was submitted and approved at Planning Committee earlier this year. The amended scheme addressed the harmful aspects of the previous submission identified by the Inspector by way of clarification of the boundary treatment, removal of fenestration to the southern side elevation in addition to mitigation relating to loss of privacy including screening, louvered screens, obscure glazing and revised glazing.
- 8.12 The current proposal would retain the design and mitigation methods mentioned above whilst increasing the entire height of the structure by 530mm in comparison to the previous approval. The resultant height would be approximately 200mm lower in height than proposed under application **BH2016/00456** which was dismissed at appeal (APP/Q1445/W/16/3152104). As

with the previous approval there would be no glazing on the northern side elevation which would not give rise to loss of privacy. Whilst the additional height of the proposal would be within close proximity to Park Court and would be visible, in light of the Inspector's report which related to a taller proposal, it is considered that a refusal based on the impact on amenity of the occupiers of Flats 7 and 8 Park Court would not be warranted in this case.

- 8.13 Turning to Whistler Court the additional height of the proposed building would be visible from the north facing windows of flats 1, 6 and 5 Whistler Court, all of which overlook the site. The main impact of the previous refused application (**BH2016/00456**) on Whistler Court related to a loss of privacy and lack of clarity with regards to the boundary treatment and levels. The height, loss of light and outlook was not identified as significant within the Officer's recommendation or the Inspector's report, other than the potential overbearing harm from the necessary boundary screening. As the mitigation methods which addressed the overlooking concerns mentioned above have been retained within this application the only area of concern is the potential overbearing impact and loss of outlook and as a result of the additional 530mm.
- 8.14 Although flat 5 is within close proximity to site it is not considered that the works would result in significant harm due to the level of separation between to property and the development site.
- 8.15 Flat 1 of Whistler Court is located on the ground floor on the Northern side of the block and includes north facing windows that look out onto the application site. Three of these windows serve bedrooms and are the primary windows and source of outlook for each room. The additional height is not considered to result in significant harm in comparison to the existing arrangement and previous approval.
- 8.16 Flat 6 Whistler Court is located to the Northern side of the block and includes side facing windows, two serving a living room and one serving a kitchen, that are set slightly above the height of the proposal. Flat 6 also includes a front balcony with glazed doors providing access from the living room. As with the previous approval it is considered that the front balcony and primary outlook would remain relatively unaffected. As the proposed additional height would be set at a lower level than the previous refusal (**BH2016/00456**) it is not considered that the proposal would result in significant loss of light or an overbearing impact.
- 8.17 **Conclusion:**
On balance therefore, having regard to the previous applications, the assessment above in addition to the Inspector's conclusions relating to a taller, more harmful proposal, it is not considered that the proposed additional 530mm in height to the building would result in significant harm to neighbouring amenity. Furthermore it is not considered that the proposed additional height would result in significant harm to the streetscene or Preston Park Conservation Area.

9. EQUALITIES

9.1 None identified.

