

**SUBSTANTIAL OR CONTROVERSIAL DEVELOPMENT OR DEPARTURES
FROM POLICY**

<u>No:</u>	BH2009/01249	<u>Ward:</u>	HANGLETON & KNOLL
<u>App Type</u>	Full Planning		
<u>Address:</u>	The Hyde, Rowan Avenue, Hove		
<u>Proposal:</u>	Proposed construction of two blocks of 2 and 3 storeys to provide a total of 27 new sheltered housing units with associated caretaker's flat, support and recreation areas including private landscaped gardens and car and cycle parking facilities.		
<u>Officer:</u>	Chris Wright, tel: 292097	<u>Received Date:</u>	26 May 2009
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	02 September 2009
<u>Agent:</u>	LCE Architects, 164-165 Western Road, Brighton		
<u>Applicant:</u>	Birch Restoration, 7 Woodland Drive, Hove		

1 SUMMARY

The application site is situated in the Hangleton locality and comprises a plot of land accessed from Rowan Avenue and bounded on all sides with residential development in the form of two storey housing and a block of sheltered flats to the north (Lions' Gate). The site was created as a recreation ground in the 1950s and subsequently became playing fields used by Alliance and Leicester sports and social club.

The proposal is for the redevelopment of the southwest part of the site by way of two blocks comprising a total of 27 sheltered flats and a caretaker flat. This area was formerly a car park ancillary to the recreation ground. The two buildings would have flat roofs and would be two and a half to three storeys in height with recessed top floors. The main bulk of the buildings would be finished in buff brickwork with zinc cladding to the recessed second thirds storeys. Each block would be articulated by way of full height glazed sections inset from the main walls to create penetration points. Windows would be composite aluminium and balconies would have glass balustrades.

The site of the former playing fields would be landscaped to form private amenity space for use by residents of the new development and the 39 existing flats in Lions' Gate.

The north block would comprise 9 units of accommodation configured as 4 no. 1-bed flats and 5 no. 2-bed flats. The southern block would comprise 19 flats, 8 no. 1-bed and 11 no. 2-bed, along with a double guest room. The southern block would include 12 units of affordable dwelling units.

Access would be from Rowan Avenue which also serves the 39 flat development in the northern part of the site, Lions' Gate.

The supporting information submitted fails to justify the proposal in terms of the principle of the development, the site being previously undeveloped and the scheme resulting in the loss of land which was formerly playing fields and should be allowed to remain as urban open space. In terms of national policy and guidance the proposal is contrary to PPS3: Housing and PPG17: Planning for Open Space, Sport and Recreation.

The form and design of the buildings is considered plain and uninteresting whereby they lack interesting architectural features and have a utilitarian appearance.

Having a single access point, the development will lack permeability and connectivity, concentrating the most frequent movements in one area of the site and not making the best use of former connections, creating an isolated development that is not in the spirit of creating a sustainable community.

The development will result in the loss of open space in an area which is already deficient in terms of quantity of outdoor recreation space, and will suffer an increasing shortfall over the coming years as the local population increases. To compensate the applicant has offered a unilateral undertaking obliging them to make a £75,000.00 contribution towards recreation space in the local catchment area to address the deficiencies that would be brought about as a result of the development proposal and the loss of the former playing fields and ancillary parking area. This offer has also come about to compensate for an earlier S106 agreement that has not been honoured and required the developer of Lions' Gate to make provision for new playing fields and changing facilities to the south of the site, the area is now proposed as private landscaped gardens for the sheltered flats.

The application does not demonstrate satisfactory levels of efficiency in terms of energy and water use. Development on a Greenfield site should seek to go beyond the SPD minimum requirements. This scheme fails to do so.

The application is therefore recommended for refusal.

2 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 10 of this report and resolves to **REFUSE** planning permission for the following Reasons and Informatives:

1. The development of the site is not acceptable in principle. The land does not qualify as being previously developed and is not a site allocated for housing in the Brighton & Hove Local Plan. As such the proposal represents a departure from policy and the applicant has not provided sufficient justification for a departure from the development plan, notably policies HO1 and QD20 of the Brighton & Hove Local Plan, which set out site allocations and housing targets and seek to resist proposals that would result in the loss of areas of urban open space that are important to people

because of their recreational, community and historical value; and is contrary to the definitions of previously developed land contained in Planning Policy Statement 3: Housing (2006).

2. Planning Policy Guidance Note 17: Planning for Sport, Open Space and Recreation, states that existing open space should not be built on unless an assessment has been undertaken which clearly shows that the land is surplus to requirements. In the absence of an independent assessment carried out by the applicant it is considered that it has not been adequately demonstrated that the land is surplus to requirements and should not be retained as open space. Policies QD20 and QD21 of the Brighton & Hove Local Plan seek to retain public and private open space and allotments except in exceptional circumstances, none of which have been identified. For these reasons the proposal is contrary to PPG17, and policies SR20, QD20 and QD21 of the Brighton & Hove Local Plan.
3. The bulk, height and general appearance of the development would not provide a quality addition to the neighbourhood. The development would be incongruous with the surrounding buildings. It neither creates a sense of place, enhances the locality nor takes into account the characteristics of existing development including the form, scale of the surrounding family homes and that of the adjacent Lion's Gate development. As such the proposal would give rise to harm to visual amenity and the character and appearance of the immediate environs and is contrary to policies QD1, QD2, QD3, QD5, HO3 and HO4 of the Brighton & Hove Local Plan.
4. The development does not meet the standards reasonably expected by the local planning authority in terms of efficiency in the use of energy and water. Supplementary Planning Document SPD08 requires new development on Greenfield sites to achieve the highest level of resource-efficiency, this being Level 6 of the Code for Sustainable Homes. The applicant has not provided a feasibility study for implementation of recycling of either rain water or grey water and 84.6 per cent of bathrooms and en-suites would be internal and therefore reliant on artificial light and mechanical ventilation - thereby consuming energy at times when otherwise these rooms would be naturally ventilated and lit by an opening window. Future residents of these units would not have the option of benefiting from natural light and ventilation. In addition the development does incorporate solar reflective roofing as opposed to green roofs, which does not enhance biodiversity and amplifies the urban heat island effect. As such the application is contrary to the objectives of policies SU2 and QD27 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08: Sustainable building design.

Informatives:

1. This decision is based on the design and access statement, planning consultant's letter and drawing nos. 07675/PA/001 Revision A, 07675/PA/004 Revision D, 07675/PA/005 Revision D, 07675/PA/006, 07675/PA/007 and 07675/PA/008 submitted on 26 May 2009; and the biodiversity checklist and drawing nos. 07675/PA/002 Revision B and 07675/PA/003 Revision A submitted on 3 June 2009.

3 THE SITE

The proposal relates to a site measuring 0.77 hectares located south of Lions Gate and accessed via a single roadway between Nos. 93 and 95 Rowan Avenue.

The plot of land presently comprises an area of open grassland measuring 89m by 59m and an area of wasteland comprising unkempt hard surfaced parking area and an ad hoc yard for builders' waste and dumped white goods.

4 RELEVANT HISTORY

On 12 November 2008 the committee resolved to agree the recommendation to refuse permission for the development of the site with 28 new sheltered residential units with one additional caretaker's unit, associated support and recreational areas and private landscaped gardens (ref. **BH2008/02532**). The reasons for refusal included the following:-

- The principle of development being unacceptable as the site does not qualify as previously developed land.
- The loss of open space with recreational and community potential and the absence of an independent assessment by the applicant to clearly show the land is surplus to the city's requirements.
- A low density of residential development and inadequate percentage of affordable units.
- An unsatisfactory mix of dwelling types.
- The design, layout and appearance falling below the standard reasonably expected by the local planning authority and not enhancing the locality or taking into account the characteristics of existing development.
- Inappropriate height, scale and siting in relation to existing residential homes to the western boundary of the site, being detrimental to residential amenity.
- Overlooking and loss of privacy for occupiers of houses in Rowan Avenue.
- Failure to demonstrate efficiency of the development in the use of energy, materials and water.
- The design and layout not meeting Lifetime Homes' standards.

BH2006/03568: Certificate of Lawfulness to establish an existing use as a builder's store and as a car park – refused on the 8th of January 2007.

BH2005/01271/OA: Outline application for 7 dwellings – appeal withdrawn on 7 September 2006.

BH2005/00249/FP: Conversion of lounge to form an additional 1 bedroom flat – refused on the 14th of March 2005 (loss of common room/communal facilities).

BH2004/01816/FP: Extension to existing development to provide 2 no. additional flats and laundry room – approved on the 23rd of September 2004.

BH2003/02279/INV.

BH2002/02206/FP: Erection of 39 flats for the elderly, caretaker's accommodation and common room – approved with S106 on the 20th of January 2003.

BH2001/02545/FP: Proposed additional football/tennis facilities and changing facilities – approved on the 9th of April 2002.

BH2000/03007/OA: Demolish 95 Rowan Ave., residential development on northern part of site occupied by Clubhouse and tennis courts. Improvements to playing fields including new changing facilities and pitches – approved with S106 on the 9th of October 2002.

BH1999/01245/OA: Two storey block affordable flats, improvements to sports facilities – approved on the 2nd of December 1999.

3/94/0288(F): Internal and external alterations to form new entrance, caretaker's flat and general upgrading to re-instate existing club (retrospective) – granted on the 4th of July 1994.

3/93/0579(OL): Outline application for conversion of clubhouse to form 2 no. detached houses – refused on the 8th of December 1993.

3/93/0578(O/L): Outline application for development of 8 linked residential units – refused on the 26th of November 1993.

3/93/0381(OL): Outline application for development of 8 linked residential units – refused on the 8th of September 1993.

3/93/0380(OL): Outline application for conversion of existing clubhouse to form 2 no. detached houses – refused on the 8th of September 1993.

3/82/0533: Ground floor changing room extension – approved on the 22nd of October 1982.

3/81/0488: Extension to car park to form addition parking for 18 cars – granted on the 25th September 1981.

3/79/0399: Erection of Groundsman's store/garage – granted on the 6th August 1979.

3/78/0725: Extension to club room bar area, bar extension and resiting of 20 car parking spaces – granted on the 26th February 1979.

M/14696/70: Extension to existing sports pavilion and clubhouse with parking for 24 vehicles – granted on the 3rd August 1970.

M/11432/65: Outline application for residential development – allowed to lapse on 11th May 1965.

M/3471/54: Sports Pavilion – granted on the 10th December 1954.

M/1903/51: Recreation ground – granted on the 20th December 1951.

5 THE APPLICATION

The proposal is for 27 sheltered flats with a caretaker's apartment and associated support and recreation areas to be accommodated in two flat roof buildings of between two and three storeys in height. The proposal will achieve a maximum density of 36.4 dwelling units per hectare.

The north block will have a square footprint of 17.5m long by 16m whilst the south block will be 40m in length and 16m deep. There would be a gap of 13m between the buildings. The siting and the footprint of both building remain unaltered from the previous scheme of 2008.

The building would be 6.6m in height above ground level to the top of the second storey. Above this 3-storey elements are proposed above each block, to be set in 1.2m from the elevations below. The highest point of each block

would measure 8.4m above ground level. The design has been altered such that each building is 800mm lower than the buildings previously refused under application BH2008/02532. Each building would be finished in buff brickwork and PPC grey aluminium windows punctuated with balconies with glass enclosures and having recessed vertical glazed sections to communal areas between (helping articulate the mass of each building). The inset top floors would be finished in zinc cladding. The flat roofs would feature reflective materials in the interests of natural cooling and heating. At lower ground level beneath the southern block a ramp provides access to five car parking spaces (one disabled) along with secure and covered cycle storage, wheelchair charging facility and laundry services. Two under-croft parking spaces (one disabled) are proposed beneath the northern block, along with cycling parking and refuse storage. Two surface car parking spaces (one disabled) are proposed between the two blocks along with a turning head and a further two parking spaces are proposed off the new access road adjacent to the northern block.

The total number of parking spaces would be eleven, including three suitable for disabled users.

The accommodation would be comprised of 1 and 2 bed units with (42.8%) of affordable units for social rent in the southern block

The area of infrequently managed rank grassland, formerly playing fields, measuring 89m in length and 59m in width, to the east of the proposed buildings, would be laid out as private landscaped amenity space for residents of the proposed development and Lions' Gate.

Pre-application advice

Following the refusal in 2008, the applicant was advised that an application submitted for a similar scheme was likely to receive a recommendation for refusal from officers. It was suggested to the applicant that it would not be appropriate to submit a further planning application without having resolved, through negotiation the issues in relation to the unauthorised use of the land and the outstanding obligations in the outstanding s106.

6 CONSULTATIONS

External:

Neighbours: Twenty-one (21) letter of objection have been received from **59 (two people), 65, 69, 71, 77, 79 (x2 – including five diagrams and an appendix), 87, 102, 140, 142 and 144 Rowan Avenue; 138 and 148 Elm Drive; 5, 7, 11, 13 and 15 (two people) May Tree Walk; and 21 (BN3 7JB).**

The following

Principle

- Site should remain green.
- The area started out as a recreation ground in 1951.
- Loss of green land for developer profit.
- The application is not very different from the previous application.

- Concern about lack of enforcement in relation to the site and the previous s106 agreement. Benefit not realised by community or local teams
- Residents have children who would benefit from provision of the sports pitches for enjoyment of local children and fresh air.
- Existing open space should be kept and restored to pre-building site condition.
- The area was bequeathed as open space for the community as a recreation area.
- The site is not previously developed and should be seen as greenfield as opposed to brownfield.
- The £75,000 offered should be spent on the site and not to benefit the surroundings of another part of the district at the expense of harmful development in this locality.
- The site was used to temporarily store materials while Lions' Gate was being built. The materials should now be cleared away and the site restored to grass and car park.
- Lions' Gate has not been properly completed and none of the tree planting proposed has been implemented.

Design

- One storey taller than surrounding houses.
- Excessive height, size, bulk.
- Uninspired, boxy flat roof design, appearance does not blend in with surrounding properties.
- Covers excessive ground area.
- Out of character with local houses and the existing block of flats on the site.
- Will not leave much open space.
- Contrary to QD1 and QD2 as will affect skyline, layout of streets and spaces.
- Should be no higher than eaves of surrounding houses to protect privacy.
- Contrary to QD3 as infill of backland site. Could lead to infill of remaining open space.
- Contrary to QD14 as not well designed and adverse impact on neighbours by noise disturbance, loss of privacy, outlook, daylight/sunlight and neighbour amenity.
- Setting the top floor in from the floors beneath reduces the apparent height when standing next to the proposed buildings and looking up, but not from neighbouring properties from which the development would clearly be seen as three storeys.
- An application for flat roof side and rear dormers to 73 Rowan Avenue was refused for reasons of visual amenity (ref. BH2001/02378/FP) and the development should not be considered differently.
- The balconies and windows of the development will provide direct views into the rear windows of houses in Rowan Avenue.
- No art on site or funds to go towards art.

Amenity

- Overlooking, overshadowing, loss of privacy, loss of sunlight

- Loss of privacy.
- Loss of 12ft fence and replacement with 6ft fence or palisade – less privacy.
- The top floor of the flats would overlook the loft conversions of surrounding houses.
- Applicant is building for elderly as good services in locality, but many have gone including two greengrocers, one grocer, one hardware store and a Post Officer/haberdashery/card shop.
- Drains cannot cope and will increase flooding
- Growing population but services, e.g. healthcare, diminishing.
- The flat units will provide less space per head than the surrounding 1930s' houses.
- The disabled flats are both 1-bed. These flats are more likely to require a second bedroom for carers and visitors.
- All of the flats should be wheelchair accessible.
- New road alongside bottom of rear gardens in Rowan Avenue.
- The infrastructure to support the development does not exist in this area.
- High number of flats in a confined area.

Transport

- Unfinished access road.
- Heavy traffic generated from Lions' Gate, including ambulances, lorries, vans and cars.
- Only one access and exit onto Rowan Avenue, which is narrow and a bus route.
- Will become dangerously busy at top of Rowan Avenue.
- Insufficient parking within the development
- Insufficient parking for visitors and carers.
- Parking will overspill into Rowan Avenue.
- Rowan Avenue is already saturated with on-street parking.
- Increased highway danger for children attending local schools, particularly when crossing the road, and the elderly attending Nevill Hospital.
- Due to poor signage many drive the wrong way down Rowan Avenue, which is a one-way street.
- Extra pollution for vehicular traffic.
- Difficult access for emergency vehicles via narrow road to proposed buildings.

Miscellaneous

- Loss of property value.
- The applicant has consulted neighbours as to the use of the open space and not the development proposal.
- The applicant has consulted neighbours as to the use of the open space and given but two options, one of which hints that the open space could be developed in the future.
- Birch Restoration does not represent the views of local people.
- Developer and council should meet more with residents.
- Influx of elderly people will unbalance the locality which predominantly

comprises young families.

- There are too many 2-bed flats in the development. Lions' Gate has 50 beds in total, the proposed development would have 88 beds.

A **petition** containing 78 signatures from 61 households in **Rowan Avenue, May Tree Walk and Elm Drive**, has been submitted in objection to the application, with the following preamble:-

We are objecting to the proposed development on a range of issues including:

- *Loss of privacy;*
- *Overlooking of back gardens and rooms on the rear of existing properties from the windows and balconies on the two blocks of flats;*
- *Excessive size, height and bulk of the proposed buildings;*
- *Unnecessary height and inclusion of the third floor with balconies which is out of keeping with surrounding properties;*
- *Poor flat roofed 'box like' design which does not blend in with surrounding properties;*
- *Insufficient on-site parking provision for residents and visitors and the knock on effect that overspill parking will have on parking in Rowan Avenue;*
- *Noise and disruption both during construction and once completed;*
- *A new road at the end of the back gardens in Rowan Avenue;*
- *The unfinished access road continuing to create a danger to pedestrians;*
and
- *Potentially opening the rest of the site up for future development.*

A plan showing the residential units who have signed the petition was also submitted.

Greenfield Residents' Association: Objection.

On behalf of eighty five (85) members comprising residents of Rowan Avenue, Elm Drive, Hangleton Road and May Tree Walk, who object to the application due to the dramatic loss of privacy for many members whose back gardens will be directly overlooked. Also, the design of the buildings is totally out of character with surrounding buildings. Residents remain baffled why the council did not enforce the terms of the previous approved application on the site where sports facilities and changing rooms were to be provided as part of the permission to build the first block of flats. In light of this, there is little confidence that the promised landscaped gardens that form part of this latest application will materialise. Residents have memories and photographs showing that the land for this latest application was not always a builders' yard and remain concerned that should this application be approved, then another part of the grounds will become a builders' yard for a number of years with leftover materials from the construction, allowing further applications for more flats on what could then be termed brown land.

Sport England: Objection.

The site of the proposed development forms part of, or constitutes a playing field as defined in Article 10(2) of the Town and Country Planning (General

Development Procedure) Order 1995 (as amended by SI 1996/1817 and SI 2009/453). Sport England has therefore assessed the application in light of the adopted Playing Fields Policy: A Sporting Future for the Playing Fields of England (1996). The aim of this policy, which is embodied within PPG17, is to ensure that there is an adequate supply of quality pitches to satisfy the current and estimated future demand for pitch sports within the area. The policy states that:

Sport England will oppose the granting of planning permission for any development which would lead to the loss of, or would prejudice the use of, all or any part of a playing field, or land last used as a playing field, or allocated for use as a playing field in an adopted or draft deposit local plan, unless, in the judgement of Sport England, one of five specific circumstances applies.

Development which would lead to the loss of all or part of a playing field, or which would prejudice its use, should not normally be permitted because it would permanently reduce the opportunities for participation in sporting activities. Government planning policy and the policies of Sport England have recognised the importance of such activities to the social and economic well-being of the country.

Sport England is area that previous applications for development at this site proposed that Area B would remain as playing field land and comprise junior football pitches. However, it is understood that this latest application proposes the loss of the playing field land. This latest application proposes that Area B is converted to private landscaped gardens for use by the residents of Lions' Gate and the proposed new development. From the information received it appears that the applicant is offering a financial contribution of £75,000 for the provision of recreational facilities in the local area to compensate for this loss of playing field land.

Unfortunately the information received does not provide the necessary detail on the nature of this financial sum including how the figure of £75,000 has been obtained, where it will be directed along with the timing of the resulting replacement provision.

Given the proposed loss of playing field land and lack of detail on any replacement provision, Sport England is not satisfied that the development meets any of the specific circumstances to the Playing Fields Policy, these being:-

[E1] A carefully quantified and documented assessment of current and future needs has demonstrated to the satisfaction of Sport England that there is an excess of playing field provision in the catchment and the site has no special significance to the interests of sport.

[E2] The proposed development is ancillary to the principal use of the site as a playing field or playing fields, and does not affect the quantity or quality of pitches or adversely affect their use.

[E3] The proposed development affects only land incapable of forming, or forming part of, a playing pitch, and does not result in the loss of, or inability to

make use of any playing pitch (including the maintenance of adequate safety margins), a reduction in the size of the playing area of any playing pitch or the loss of any other sporting/ancillary facility on the site.

[E4] The playing field or playing fields which would be lost as a result of the proposed development would be replaced by a playing field or playing fields of an equivalent or better quality and of equivalent or greater quantity, in a suitable location and subject to equivalent or better management arrangements, prior to the commencement of the development.

[E5] The proposed development is for an indoor or outdoor sports facility, the provision of which would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss of the playing field or playing fields.

Southern Water: Objection.

There is currently inadequate capacity in the local network to provide foul sewerage disposal to service the proposed development. The proposed development would increase flows to the public sewerage system, and existing properties and land may be subject to a greater risk of flooding as a result. Additional off-site sewers, or improvements to existing sewers, will be required to provide sufficient capacity to service the development. Section 98 of the Water Industry Act 1991 provides a legal mechanism through which the appropriate infrastructure can be requested (by the developer) and provided to drain to a specific location. The applicant should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. A foul sewerage disposal condition should be imposed in the event permission is granted, as well as a condition to ensure the necessary infrastructure is in place to the satisfaction of the local planning authority prior to occupation of the dwelling units.

Sussex Police: No objection.

This is a low/medium crime risk area and no major concerns are identified with the proposals. However, it is disappointing that the Design and Access Statement fails to make reference to the crime prevention measures considered in the proposed development, contrary to advice in Circular 01/2006 and PPS1. Improvements are suggested.

East Sussex Fire & Rescue Service: No objection.

Subject to compliance with B5 of Approved Document B of the Building Regulations 2000.

Southern Gas Networks: No objection.

No mechanical excavations should take place above or within 0.5m of the low pressure and medium pressure system and 3m of the intermediate pressure system. Where required the position of the mains should be confirmed by way of hand dug trial holes.

EDF Energy: No objection.

Access rights to existing cables and equipment should be maintained.

Internal:

Planning Policy: Objection.

The Certificate of Lawful Use application ref. BH2006/03568, to establish the existing uses as a builders' store and as a car park was refused in January 2007. There is no alternate authorised use of the site demonstrated, other than open space, and these comments are submitted on this basis. PPS3: Housing – Annex B, supports the presumption that this land is not previously developed land, as does PPG17: Planning for open space, sport and recreation – paragraph 14.

Adopted local plan policy SR20 'Protection of public and private outdoor recreation space' is particularly relevant. The policy seeks to resist the loss of public or private recreational or sporting facilities and gives particular attention to the need to retain playing fields.

Policy SR20 states that planning permission will not be granted for development on areas of outdoor recreation space, other than that which is incidental and appropriate to the respective recreation uses – unless it can be demonstrated that the land is not an important open space under the terms set out in the Urban Open Space policy, QD20, and:

- a. there is not an existing deficiency in accessible outdoor recreation space in the respective locality and it will not create a deficiency in outdoor recreations space;
- b. the land physically cannot be made accessible to the public;
- c. the sports, recreation and amenity facilities can best be retained and enhanced, including, where appropriate, the creation of suitable access to the public, through redevelopment of a small part of the site; or
- d. the proposal is of benefit to the local community and includes the provision of an appropriate alternative site, which is accessible to the public, provides similar community and amenity facilities, and, is in a suitable location as to serve the original catchment area.

The application does not demonstrate that any exception in terms of criteria a-d, as listed above, should be made. Therefore the primary policy objective is that this area remains as open space.

Other matters: Earlier planning consents (referenced BH2000/03007/OA and BH2002/02206/FP) permitted residential development on the northern part of the site, which had been formerly occupied by Clubhouse and tennis courts. Along with a consent (referenced BH2001/02545/FP) for changing facilities and additional football/tennis facilities, the resultant development allowed for under application BH2000/03007/OA and BH2002/02206/FP was clearly intended to mark the 'maximum' extent of the loss of open space/outdoor recreation facilities and, most importantly, to provide for the qualitative improvement to the playing fields. As part of the BH2002/02206/FP consent, the applicant entered into a planning obligation to secure the remaining playing field as open space in perpetuity to ensure that there would be no further pressure for residential development on the site in the future.

From this, the residual Open Space has been included as an area of Outdoor Sports Facilities within the Open Space, Sport and Recreation Study (formerly approved by the Environment Cabinet Committee on 30 July 2009), which is a background study informing the Local Development Framework, prepared in accordance with PPG17.

The Study assessed the results of the audit undertaken by the council of all open space, both private and public, that could be identified (excluding some very small sites). As expected in a city where densities are increasing and land is scarce the draft study does not identify any surpluses. Indeed in comparison with other authorities the city's open space provision per head of population is low, especially in respect of outdoor sports areas. The draft report has recommended a standard for outdoor sports which is approximately double the current provision due to the needs of the city as identified by the consultants. The recommended standard still remains half the minimum standard recommended by Fields in Trust (formerly the National Playing Fields Association) so is not felt to be unduly aspirational in terms of sports requirements. The draft standard means the city will need to provide an additional 121 hectares by 2026 purely to address the outdoor sports standard. This will be challenging and will certainly require the retention of all existing open space and initiatives to optimise their full open space potential. This will be explored further in the strategies that are to be prepared by City Parks upon the completion of the Open Space, Sport and Recreation Study.

Whilst the Open Space, Sport and Recreation Study is still in draft the information from the audit and current space per head of population is not subject to change. The loss of the open space is not supported by the Study and thus would be contrary to PPG17. Indeed the loss of the open space is felt to be contrary to the planning objective of contributing to the achievement of sustainable development.

A further reduction in the open space will negatively impact upon buffer areas and thus the use of the space and its multi-functionality. It will impact upon the surrounding properties as well as becoming harder for the council to justify taking on. As the space currently stands it is believed City Parks is willing to take on this open space.

NB: If the site is still in use as a builders' store and car park, this unlawful development is contrary to policy and the unauthorised use should be enforced against.

Council Ecologist: Objection.

Whilst there are insufficient grounds for refusal based on nature conservation as there is little existing interest, the justification for not incorporating green roofs into the scheme is not acceptable. Green roofs can provide a significant solar cooling function and can be used in conjunction with solar panels. Conversely, the 'solar reflective layers of ballast' proposed, whilst being cheap, increase the urban heat island effect and are not consistent with

efforts to reduce the effect of climate change. Green roofs would provide significant additional habitat and would be far less disturbed than land at ground level.

The biodiversity references are vague but this could be covered by a condition requiring the submission of a detailed landscaping scheme and management plan to maximise biodiversity opportunities on site, to be agreed with the local planning authority.

Sustainable Transport: No objection.

To comply with policies TR1 and QD28 the applicant will be expected to make a contribution in line with the scale of development to help finance off-site highway improvement schemes, in particular for sustainable modes of transport. Based on person trips generated a contribution of £21,600 would be acceptable.

Based on adopted parking standards in SPGBH4 sheltered accommodation could require 1 car parking space per 2 dwelling units and 1 space per staff resident on site. Blue badge holder parking is set at 1 space per 10 dwelling units. A minimum of one cycle parking space per 3 units is required. Based on 27 sheltered units and 1 caretaker's unit the maximum number of car parking spaces should be 15 standard spaces, 3 Blue badge holder car parking spaces and 8 cycle parking spaces. The application proposes 11 car parking spaces, 3 Blue badge holder spaces and 8 cycle parking spaces. Any over spill parking would not constitute a material risk to public safety and as such the level of parking provision is considered acceptable.

Enforcement of Conditions on previous application

The highway authority via the planning authority has been trying to secure enforcement action against the inappropriately designed access. The access should have been upgraded as required by condition attached to the permission for BH2002/02206/FP: 8. *Prior to the commencement of development the access to the site from Rowan Avenue shall be laid out in accordance with the plans hereby approved.*

The access has not been constructed to an appropriate standard and should be considered as representing a hazard to the safe and easy movement of pedestrians. There is no principled objection to the location of the access, there is sufficient visibility available and it can be designed to meet the appropriate standard. This matter was not raised during the consultation of the previous application on this site (BH2008/02532) because the avenue for enforcement was still being explored, which has now proved unsuccessful.

Legal advice has been sought and it has been confirmed a similar conditional obligation can be placed on the current application. It is also possible to secure the principle of the works to the access via a clause in the s106 agreement that refers to a section 278 agreement under the Highways Act 1980.

Housing Strategy: No objection.

Given the current market conditions, tenure mix in the area and local priorities/housing need there is no objection to the affordable housing units being for rent only.

Service Improvement Manager Commissioning: No objection.

The Contracts support the planning proposal that will provide quality homes for older people in the city.

Accessibility Officer: No objection.

The revised application now satisfies Lifetime Homes' Standards and two wheelchair accessible units have been provided.

Environmental Health: No comment.

The application should be mindful that according to historic mapping an area to the southeast of the proposed development is listed as being an old chalk pit from 1873 to 1910-1912.

7 PLANNING POLICIES

Planning Policy Guidance:

- PPG4: Industrial, commercial development and small firms
- PPG13: Transport
- PPG17: Planning for open space, sport and recreation
- PPG24: Planning and noise

Planning Policy Statements:

- PPS1: Delivering Sustainable Development
- PPS3: Housing

Brighton & Hove Local Plan:

- TR1 Development and the demand for travel
- TR2 Public transport accessibility and parking
- TR7 Safe development
- TR8 Pedestrian routes
- TR13 Pedestrian network
- TR14 Cycle access and parking
- TR19 Parking standards
- SU2 Efficiency of development in the use of energy, water and materials
- SU4 Surface water run-off and flood risk
- SU5 Surface water and foul sewage disposal infrastructure
- SU10 Noise nuisance
- SU13 Minimisation and re-use of construction industry waste
- SU14 Waste management
- SU16 Production of renewable energy
- QD1 Design – quality of development and design statements
- QD2 Design – key principles for neighbourhoods
- QD3 Design – efficient and effective use of sites

QD4	Design – strategic impact
QD15	Landscape design
QD16	Trees and hedgerows
QD20	Urban open space
QD25	External lighting
QD27	Protection of amenity
QD28	Planning Obligations
HO2	Affordable housing – ‘windfall’ sites
HO3	Dwelling type and size
HO4	Dwelling densities
HO5	Provision of private amenity space in residential development
HO6	Provision of outdoor recreation space in housing schemes
HO12	Sheltered and managed housing for older people
HO13	Accessible housing and lifetime homes
HO20	Retention of community facilities
HO21	Provision of community facilities in residential and mixed use schemes
SR20	Protection of public and private outdoor recreation space

Supplementary Planning Guidance:

SPGBH4: Parking Standards

SPGBH9: A Guide for Residential Developers on Provision of Recreational Space

Supplementary Planning Documents:

SPD03: Construction and Demolition Waste

SPD08: Sustainable Building Design

Planning Advice Notes

PAN03: Accessible housing and Lifetime Homes

PAN05: Design guidance for the storage and collection of recyclable materials and waste

East Sussex and Brighton & Hove Waste Local Plan

WLP11: Reduction, Re-use and Recycling during Demolition and Design, and Construction of New Developments

WLP12: Recycling as Part of Major Development

8 CONSIDERATIONS

The substantive consideration in the determination of this application is the principle of development on land which is considered to be open space.

Additional considerations relate to visual appearance and impact on neighbouring occupiers; highway and parking issues; sustainability; and the implications of the proposal on fulfilment of a legal agreement already entered into and dated 4 October 2002.

Principle

Western area of the site

The application contends the western area of land, on which the two buildings would be situated, constitutes previously developed land. Historically the land was used for ancillary purposes, for example as a car park and changing facility, to the sports pitches run by the former Alliance & Leister Sports and Social Club. The club also had a pavilion and tennis courts, which were removed to make way for the existing Lions' Gate development of sheltered flats.

The land has subsequently been brought into an unauthorised use as a builder's storage yard following the completion of Lions' Gate. An application for a Certificate of Lawfulness for an established use was unsuccessful in 2006 (ref. BH2006/03568). Since this time the emphasis of the use of the land has shifted to the dumping of builders' waste materials, which is again an unauthorised use.

The General Permitted Development Order does allow for land to be used temporarily in connection with building works being carried out. It requires though that any structures/works, plant and machinery be removed and that the land is reinstated to its condition prior to the works being carried out.

In 2007 the area of land had been substantially enlarged having increased in width. Up to the present day the area of land does not appear to have been enlarged further, but the previous expansion of the site along with the refusal of a Certificate of Lawfulness and the apparent variation in the primary use of the site for storage of builders' materials and now deposit of builders' waste materials (not related to Lions' Gate) significantly weakens the applicant's assertion that the site is previously developed land.

Moreover, the application site is not considered to be previously developed land under the definitions given in Annex B of PPS3: Housing (2006). National planning policy in PPS3 states land in built-up areas, such as parks and recreation grounds, which, although it may feature paths, pavilions and other buildings, has not been previously developed. There is no presumption that previously developed land is necessarily suitable for housing development or that the whole of the curtilage should be developed. This is echoed in earlier advice contained in PPG17: Planning for Open Space, Sport and Recreation (2002) which says existing open spaces, sports and recreational buildings and land should not be built on unless an assessment has been undertaken which has clearly shown the open space or the buildings and land to be surplus to requirements and developers must consult the local community and be able to demonstrate their proposals are widely supported by them. In addition PPG17 advises the recreational quality of open spaces and access to them can be eroded by insensitive development or incremental loss of the site.

Part 3.0 of the applicant's Design and Access Statement says all of the

surrounding residential properties sharing a boundary with the site have been consulted as to the preferred use of the open area to the east side of the proposed blocks of sheltered flats. Of the returned forms, 90% were in favour of landscaped gardens as opposed to the junior football pitches which are not an option, but a requirement of the existing s106 Agreement of October 2002.

The applicant has not provided a list of those properties surveyed, details of the responses or copies of the survey questionnaire – that latter of which would make clear which options local residents were given to choose from. However, local residents objecting to the application have submitted a copy of the questionnaire which reveals local people were given two options:-

Option 1. Junior football pitches with associated changing facilities.

Option 2. Private landscaped park; to be used and maintained by the owners of the development along with any future residents of any development on the retained land.

In conclusion the western part of the application site on which the two blocks of flats are being proposed does not constitute previously developed land and continues to be used for unauthorised purposes. A report in relation to the unauthorised activities on the site will be considered by Members on this agenda.

Eastern area of the site

The application proposes to landscape the remaining open space to the east of the blocks of sheltered flats and due south of Lions' Gate. The landscaped area would form private outdoor space for residents of both Lion's Gate and the current application only.

Historically this portion of the application site was intended for improved recreation use, including provision of two sports pitches and changing facilities as part of a S106 agreement (dated 4 Oct 2002) relating to the grant of consent for residential development (ref. BH2000/03007/OA). A subsequent planning application for these football facilities and changing facilities was approved (ref. BH2001/02545/FP). It was on the basis of this provision that the principle of residential use (i.e. Lion's Gate) on the northern part of the site was considered acceptable and satisfied open space and playing field policies. Although the applicant has not met their obligations in terms of the s106 Agreement, a period of litigation with the council ensued due to an ambiguity in the plans attached to the s106 agreement, i.e. the approved changing facility being outside the appropriately edged part of the site shown in the legal agreement.

In 2002 another application, this time for 39 sheltered flats was submitted (ref. BH2002/02206/FP) and this development now forms the Lions' Gate complex occupying the northern part of the site. The legal agreement of 4 October 2002 was linked to this application by way of a Deed of Variation dated 16 January 2003.

The existing s106 Agreement is linked with the existing Lions' Gate development occupying the northern portion of the site and does not relate to the current application albeit that the provision of private landscaped gardens as part of the current application would result in the permanent loss of the opportunity to retain the site as accessible recreation and open space.

The council is pursuing modifications to the existing s106 Agreement in negotiation with the applicant who has submitted a formal request to vary the s106. A report under part two of this agenda deals with this issue.

In brief following internal consultation with Sports Development, City Parks and Planning Policy, the council is seeking to consult with the community on the provision of either allotments or sports pitches along with modest ancillary facilities on this site.

This approach is supported by the Brighton & Hove City Council Open Space, Sport and Recreation Study, which has been formally approved by the Environment Cabinet (30 July) as a background document informing the emerging LDF Core Strategy, identifies a shortfall of open space per capita within the city and even if existing open spaces were to be kept, a significant shortfall would remain. As such it is vitally important to residents of the city that existing open spaces are retained and put to their best use in the interests of the environment, recreation, exercise and the well being of the populace.

The applicant has suggested that in order to compensate for the loss of these facilities, through a Unilateral Undertaking payment of a commuted sum of £75,000 for off-site recreation provision in the form of a private park (to be expended by the council on recreation facilities in the local area).

This offer is considered unsatisfactory because the applicant has not identified any suitable and similar sites in the local catchment area and because there is a shortfall in the quantity of open space per head of the existing population which will be made worse following the extra demand generated by the proposed development and the increasing population of the city as a whole.

The applicant has not made clear how the figure of £75,000 has been calculated. In these respects the proposal is contrary to the objectives and requirements of policies SR20 and QD20 of the Local Plan, which seek to retain open space and recreation space and Planning Policy raise a strong objection to the application on these grounds.

In addition the proposed buildings are situated in the western part of the site which would impede access to the remaining open space and hence prejudice its future use as a recreation facility.

To conclude this section, the proposal concerns previously undeveloped land

upon which an unauthorised use is being carried on and cited by the applicant as making the land suitable for residential development. The development would prejudice the fulfilment of an existing and enforceable legal agreement.

Mix of dwelling types and tenures

The application seeks to provide 12 affordable flats in the southern building, which would be interspersed with 7 market units and a guest room. The provision of 12 affordable units equates to 42.8% and complies with the requirements of policy HO2. Policy HO2 of the Brighton & Hove Local Plan requires provision of 40% affordable housing overall, for proposals of ten or more dwelling units.

Housing Strategy raises no objection to the mix of affordable housing and is satisfied all the affordable units are available for social rent as opposed to providing a portion for intermediate shared ownership. Furthermore, all of the affordable units will be offered to one of the City Council's preferred Registered Social Landlords. The development meets the requirements of policy HO2.

Mix of units

Turning to the mix of affordable units, the application seeks eight no. 1-bed flats and four no. 2-bed flats representing a split of 66/34. Housing Strategy would normally require a split of 40% 1-bed and 50% 2-beds but given the fact the application is for sheltered housing the proposed split is acceptable. In sheltered housing 3-bed units would not be sought. In accordance with the comments of Housing Strategy, a condition could be imposed to require the submission of a local lettings plan for the scheme with some of the units targeted at under occupation of larger family homes.

To meet Housing Strategy requirements the new affordable homes should be built to meet or exceed the Homes & Communities Agencies' current Design & Quality Standards (April 2007) incorporating the Building for Life criteria and Code for Sustainable Homes Level 3 as a minimum. The units will have private outdoor amenity space including balconies, terraces and landscaped areas.

The smallest and largest 1-bed units would be 49.28 to 58.93 square metres respectively and the smallest and largest 2-bed units between 54.32 and 78 square metres respectively, excluding external balcony space. However, the majority of 1-bed flats would be between 51 and 54 square metres (11 units) and 2-bed flats would be between 68 and 71 square metres (9 units). As such the development complies in the main with the space standards referred to by Housing Strategy of 51 square metres for 1-bed/2-person homes.

However, all of the 2-bed units have double rooms and could accommodate 4 persons, the spaces standard of which is 76 square metres. The 9 units of between 68 and 71 square metres only meet the minimum standard of 66 square metres for 2-bedroom/3-person homes.

In these respects the development conflicts with policies HO3 and HO4 which require dwelling sizes that reflect and respond to the city's housing needs and for development to make full and effective use of the land available subject to a mix of dwelling types and sizes which reflect local needs respectively.

Two of the 28 units would be fully wheelchair accessible, representing 5% of the market units and 10% of the affordable units, in accordance with the guidance contained in Planning Advice Note PAN03: Accessible housing and lifetime homes. The Accessibility Officer raises no objection.

Policy HO5 of the local plan requires provision of private and useable amenity space appropriate to the scale and nature of the development, and provision of such space is also a requirement of Housing Strategy in turns of affordable housing provision. The application includes a minimum of 2.5 square metre balconies (terraces for surface units) with a number of 3 and 4 square metre balconies and a 22.24 square metre roof terrace to the top floor 2-bed flat in the southern building. All of the balconies and terraces are accessible through the living areas of each flat. The application meets the requirements of policy HO5.

New residential development should not be permitted unless the requirement for outdoor recreation space generated by the development is suitably provided in accordance with policy HO6 of the local plan. The adopted standard is 2.4 hectares per 1,000 population or part thereof. The sixteen 2-bed flats could accommodate up to 64 people and the twelve 1-bed flats up to 24 people, making a total of 88 people. As such the development should provide a minimum of 0.21 hectares, or 2112 square metres of outdoor recreation space. The proposed area of private landscaped amenity space equates to some 5251 square metres, thereby exceeding the policy HO6 requirement. However, the private landscaped amenity space would also be put to use by existing residents in Lions' Gate, resulting in patronage by some 166 people (catering for 2 residents in each of the 39 flats in Lions' Gate), increasing the outdoor recreation space requirement to 0.39 hectares, or 3984 square metres.

The revised proposal addresses the majority of issues manifest in the previous application in terms of dwelling mix, tenure and amenity space and, when assessed in context of policies HO2, HO3, HO4 and HO5 is broadly acceptable. The large area of outdoor recreation space exceeds the level required by policy HO6.

Appearance

Policy QD2 of the Brighton & Hove Local Plan requires new development to emphasise and enhance the positive qualities of the local neighbourhood by taking into account local characteristics including the height, scale, bulk and design of existing buildings, the layout of streets and spaces and patterns of movement within the neighbourhood. Policy QD3 requires new development to make efficient and effective use of sites and seeks to ensure proposals are

appropriate in the context of the prevailing townscape and avoid town cramming, with rigorous examination of backland sites, whilst policy QD4 requires development proposals to protect or enhance the sky line.

In addition, PPS1: Delivering Sustainable Development and PPS3: Housing, aim to create sustainable, inclusive and cohesive communities over the long term and require development proposals to take the opportunity for improving the character of an area – creating well-mixed and integrated developments that bring people together. Development proposals should seek to create places which relate well to their surroundings and enhance local character and good design should complement neighbouring buildings and the local area in terms of scale, layout and access. Design which is inappropriate in its context should not be accepted.

The bulk, height, roof form and general appearance of the proposal would not provide a quality addition to the neighbourhood and would be incongruous with the surrounding buildings which are predominantly two storey houses with pitched roofs arranged in a typical suburban layout. None of the flat roof buildings referred to in the Design and Access Statement are within sight of the application site or fall into the same neighbourhood category and not all are positive contributors to the townscape in visual terms.

The applicant's justification for the flat roofs is simply to reduce to the overall height of the development as the addition of pitched roofs to the 3 storey development would substantially increase the height and bulk of the buildings.

The design and access statement submitted with the application states the applicant is aiming for a contemporary style of building using buff brick finishes, aluminium windows, glass balustrades to balconies and zinc cladding to the top floors. In order to articulate and break down the massing of the buildings, both of which are of considerable breadth, communal stairways and lift lobbies would be fully glazed externally and set back from the main walls to create penetration points. These features address the design concerns of the previously refused application.

Notwithstanding the proposed development would not be readily visible from a public viewpoint it would be visible by all residents of houses around the site and the scale and bulk of the buildings combined with their flat roof form remains in contrast with the houses.

The contemporary design of the development is not cohesive with the form and style of Lions' Gate, although views as to the imitation of this design are subjective, and the two developments together would not form a cluster of backland development with a clear identity and meaningful relationship – an enclave of sheltered housing development where the buildings are well related to one another whose combined presence defines a specific character.

The footprints, layout and separation of the proposed buildings remains unchanged from the previous application.

The new buildings would be sited along the west side of the application site close to houses in Rowan Avenue and, along with Lions Gate, would effectively form a barrier to the remaining open space occupying the southeast corner. This arrangement does not represent an imaginative approach to developing the site and creating a high quality of urban environment that integrates with the layout of surrounding streets and residential buildings. There is therefore concern in relation to the quality and design of the space between the proposed buildings and the houses on the east side of Rowan Avenue which back onto the site.

There is limited access to the site and no through routes would be available to the public, severely limiting connectivity and segregating the development site from the neighbouring communities. A former pedestrian access at the southeast corner of the site leading into May Tree Walk has been blocked off. In the spirit of policy TR8 of the local plan new development should take account of pedestrian links within and outside site boundaries and improve links to and between pedestrian routes and public transport facilities, where reasonably related to the development. Ingress and egress from this pedestrian walk would be beneficial for future residents of the development. However, the application as submitted would not be conducive to the creation of a sustainable community and is not in the spirit of government aims for sustainable development, creating an isolated and detached community.

Housing Strategy comments that to ensure the creation of mixed and integrated communities the affordable housing should not be visually distinguishable from the market housing on the site in terms of build quality, materials, details, levels of amenity space and privacy. The affordable housing should be 'tenure blind' and fully integrated with the market housing. This matter, which was a pertinent issue in the assessment of the previous application, has been addressed in the current application. The 12 affordable units would be mixed in with 7 other market units in the southern block, although the application does not make clear exactly which units would form affordable accommodation.

In summary the proposed form, design, layout and scale of the proposed development would neither relate well with or enhance the character of the local area or integrate well with the local community.

Amenity impact

In terms of satisfying the requirements of policies HO5, HO6 and HO13, which relate to accessibility and amenity space, the development is acceptable, as discussed above. Policy QD27 seeks to safeguard the amenity of future residents and adjoining occupiers by resisting development that would be harmful in terms of overlooking, loss of privacy, noise, disturbance and other effects which could be detrimental to quality of life or

human health.

The application shows that the northern and southern blocks would be separated by a gap of 7.8m, this gap being occupied by a turning head and two parking spaces. The balconies to the upper level units would be 6m apart and there would be mutual overlooking between the balconies of flats N3 and S14, even taking into account the fact the balconies on the northern block would be 800mm higher up than those of the southern block. The second floor balconies on the roof top units N7 and S19 would be 7.8m apart from the wall edge and again, notwithstanding the fact the northern block would be 800mm higher up than the southern block, overlooking would still be easily achieved. Screening to preclude this degree of compromise to future residents' privacy between the first floor flats would not be reasonable as it would obstruct the outlook from the living areas of these flats.

Existing residents in closest proximity to the proposal are along the eastern side of Rowan Avenue and it is these residents who are most likely to be affected by the development in terms of residential amenity and impact on living conditions. The presently undeveloped area at the end of their rear gardens would become a driveway parking area and ramp leading to the lower ground floor of the southern block. This use is likely to create noise generated by vehicular movements but is considered far enough away at a minimum of 16.5m from the rear elevations of the houses (and a minimum of 2m from the ends of rear gardens) not to present a significant issue. In the event permission is granted a condition could be imposed seeking clarification of boundary treatment, such as planting and acoustic fencing, to mitigate the impact of additional traffic noise.

The site ground level slopes downwards gradually from north to south. The houses in Rowan Avenue also follow this topography. The applicant has submitted three sections illustrating the relationship between the proposed buildings and the nearest houses. Section A-A shows the relationship between Lions' Gate and houses in Maytree Walk. The southern block at this end of the development is two and a half storeys in height and the closest point to the site boundary 9m away is a first floor balcony. The rear gardens of properties in Maytree Walk are in the region of 29m in length. As such there is ample separation to prevent window to window overlooking although some overlooking of the foot of these rear gardens would be achievable.

Section B-B shows the relative height of the southern block in relation to 59-61 Rowan Avenue, the rear elevations of which are 26m from the development. The height of the top floor of the development is shown to align with the top of first floor windows in these houses. Section C-C shows the height relationship between the northern block and 73 Rowan Avenue. The height of the top floor to the development would align with a dormer window on this dwelling and the overall height of the development would be 700mm below the ridge height.

Based on this information, the separation distances and relative heights of the development with nearby houses in Rowan Avenue, it is not considered that the proposal would lead to undue loss of privacy and overlooking. In addition, considering the height of the development and notwithstanding the breadth of the buildings, the proposal would not have an overbearing impact. This is achieved by way of the top floor being set in from the external walls of the ground and first floors and by the separation distance of at least 7.8m from the site boundary.

Only secondary living area windows on the top floor are proposed on the western elevation opposite the houses in Rowan Avenue and at the lower first floor level there are inset balconies and secondary living area windows proposed.

However the first floor guest room in the southern block is not connected with any individual flat unit. The window to this guest room would look across the balcony of unit S7, a 1-bed unit. In consideration of the fact the guest room could be occupied by visitors not connected with the occupiers of unit S7, mutual loss of privacy would occur between the balcony and the guest room window.

The applicant proposes all street and pavement lighting would be low level wall lights and bollards only. No external lighting is proposed in the private landscaped area. However, in order to comply with local plan policy QD25: External lighting, should Members be minded to grant consent, a condition should be imposed to control external lighting to prevent detriment to amenity and light pollution, particularly upward light pollution.

The proposal is largely considered to comply with policies QD25 and QD27 of the Brighton & Hove Local Plan in terms of overlooking.

Secured by Design

Policy QD7 requires developments of more than ten residential units to clearly demonstrate how crime prevention measures have been incorporated into the layout and design in order to be considered favourably. Such details have not been provided although the applicant is intending to meet Secured by Design standards and argues natural surveillance of the site will increase as a result of the development. The site benefits from a considerable degree of natural surveillance at present.

A Police box is proposed in the southern block, which is intended as a community facility. Sussex Police have not commented on this aspect of the proposal and it is not clear how useful or what the demand for this facility would be.

Highway and parking

New development should provide for the transport demand generated to meet the requirements of policy TR1 of the local plan. Policy TR19 requires

development to meet the parking standards set out in SPGBH4: Parking standards. The development should be safe in terms of transport, and provide secure and accessible cycle parking in accordance with policies TR7 and TR14.

Based on adopted parking standards in SPGBH4 sheltered accommodation could require 1 car parking space per 2 dwelling units and 1 space per staff resident on site. Blue badge holder parking is set at 1 space per 10 dwelling units. A minimum of one cycle parking space per 3 units is required. Based on 27 sheltered units and 1 caretaker's unit the maximum number of car parking spaces should be 15 standard spaces, 3 Blue badge holder car parking spaces and 8 cycle parking spaces. The application proposes 11 car parking spaces including 3 Blue badge holder spaces and 8 cycle parking spaces.

There is a parking shortfall of 7 spaces. However the Traffic Manager takes the view that any over spill parking would not constitute a material risk to public safety and as such the level of parking provision is considered acceptable. The proposal site is within walking distance of local shops in Hangleton Road and bus services operate along Rowan Avenue. As such future residents need not have to rely on private car use and the development would not necessarily affect on-street parking in surrounding roads with overflow parking.

In accordance with SPGBH4, the minimum number of cycle parking spaces for dwellings for the elderly is 1 space per 3 dwellings, in this instance 9 spaces. The application includes provision for 8 cycle parking spaces, six beneath the southern block and two in the under-croft of the northern block. This represents an unacceptable shortfall of one cycle parking space. However, there is clearly scoped for more cycle parking provision under the northern block and the details of secure cycle parking provision can be secured by condition. At least 9 spaces would be required to meet the objectives of policy TR19.

To comply with policies TR1 and QD28 the applicant will be expected to make a contribution in line with the scale of development to help finance off-site highway improvement schemes, in particular for sustainable modes of transport. Based on person trips generated a contribution of £21,600 would be acceptable. In addition, the Traffic Manager recommends a condition requiring the reconstruction of the access connecting the site with Rowan Avenue in the interests of highway safety and to ensure safe traffic and pedestrian facilities in accordance with policy TR7 of the local plan. The existing access has not been completed following the construction of Lions' Gate, in breach of a condition on that planning consent. Legal advice has been sought and a condition may be imposed on the current application, as the council is an adjacent landowner (of the highway), to rectify.

The plans submitted have been assessed in relation to Part B5 of the Building

Regulations 2000 following an objection from the East Sussex Fire Brigade. The applicant has responded by incorporating dry risers into the development and the access and turning facility meets the standards required for access by a fire appliance – those being at least 3.7m width between kerbs, a turning head to prevent fire appliances reversing more than 20m. However, the surface should be able to withstand 12.5 tonnes and a direct path from the ramp to the entrance of the southern block would be required. This small amendment could be required by a hard surfacing condition.

Sustainability

Policy SU2 of the Local Plan seeks efficiency of development in the use of energy, water and materials and new development should demonstrate a high standard of efficiency. Since the submission of the previous application, BH2008/02532, a new Supplementary Planning Document has been adopted. SPD08: Sustainable building design, requires applications for new residential development to be accompanied by a sustainability checklist and achieve a minimum of Code Level 4 of the Code for Sustainable Homes. However, development of Greenfield sites should achieve the highest level of resource-efficiency to minimise the impact of the development, this being Level 6 of the Code for Sustainable Homes. Major new development should also meet Lifetime Homes' standards.

The SPD also aspires to achieving zero net annual carbon dioxide from energy use and a feasibility study on rainwater harvesting and grey water recycling systems.

The development would not incorporate grey water recycling or rainwater harvesting. This has had a negative influence on the outcome of the sustainability checklist. The applicant has not provided evidence of a feasibility study and, bearing in mind this is a new major development, the very minimum of rainwater recycling and/or collection should be expected.

The absence of such provision is made more significant in light of the representations submitted by Southern Water stating existing sewer capacity is not adequate to service the proposed development. Under policy SU5 of the Brighton & Hove Local Plan (Surface water and foul sewage disposal infrastructure), should permission be granted, the development or occupancy of the development would have to be phased in step with the introduction of the additional sewage infrastructure required.

The sustainability checklist has been completed to say community involvement in the design of the development has been promoted, to improve the quality and acceptability of the development. In reality, surrounding residential properties have been surveyed as to their preferred use of the large area of open space and have had no input into the design, form, scale or layout of the actual development on the western strip of land. Question 3.12 of the checklist has been incorrectly answered. This open space category seeks assurance of access to high quality public green space for all,

but the proposed landscaped gardens would be private. The applicant has also stated in both the sustainability checklist and the design and access statement that cycle parking is not required for sheltered housing to comply with SPGBH4: Parking standards. This is not correct. The SPG requires 1 cycle parking space for every 3 dwelling units of housing for the elderly.

The sustainability checklist gives the development a good score for diverting biodegradable waste from landfill by promoting composting of kitchen and garden waste. However, the planning application proposed communal recycling areas beneath each block. Provision of composting facilities built into the kitchens of the units would be preferred. In terms of reducing energy consumption and associated emissions, larger areas of glazing are proposed on the east, west and south elevation off living areas to encourage natural ventilation and solar gain, although the applicant concedes the north-south orientation of the two blocks is owing to the constraints of the site. Thermal solar collectors would heat water and save 20% of the energy needs of each flat and the building would be very well insulated to conserve energy. Low energy lighting and energy efficient white goods would be provided. Whilst Building Regulations require provision of mechanical ventilation and artificial light in bathrooms, greater energy efficiency is gained if end users have the option of benefiting from natural light and ventilation through an opening window and relying less on artificial light and ventilation unless necessary.

Of the 39 bathrooms and en-suites, 33 (84.6%) would be reliant solely on artificial light and mechanical ventilation and 6 units (15.4%) would have window openings promoting natural ventilation and light.

SPD08 also requires new residential schemes of more than 10 units to meet Lifetime Homes' standards, as does Policy HO13 of the local plan. New residential dwellings should be built to lifetime homes' standard whereby they can be adapted to meet the needs of people with disabilities without major structural alterations. Furthermore, where proposals are for more than ten units, a proportion should be built to wheelchair accessible standards. More detailed guidance is presented in Planning Advice Note 03: Accessible housing & Lifetime Homes.

Two of the 28 units would be fully wheelchair accessible, representing 5% of the market units and 10% of the affordable units, in accordance with the guidance contained in Planning Advice Note PAN03: Accessible housing and lifetime homes. Entrances, corridors and accesses meet the required standards for circulation and meeting the changing mobility needs of future occupiers and the Accessibility Officer raises no objection.

To conclude, the application has not provided documentation to demonstrate sufficient consideration as to the feasibility of greywater systems or rainwater recycling and the number of bathrooms and en-suites reliant solely on artificial light and mechanical ventilation is excessive and does not represent efficient use of carbon loaded utilities, for example electricity.

Finally, despite the large expanses of flat roof shown on the drawings submitted, there is no scheme for a green roof. Green roofs are proven to aid cooling in the summer and to keep heat inside buildings during the winter – minimising the energy consumption otherwise demanded by artificial heating and air conditioning. However, the applicant proposes a reflective material that would reduce the effect of natural heating in the summer.

The Council Ecologist comments the justification for not incorporating green roofs into the scheme is not acceptable. Green roofs can provide a significant solar cooling function and can be used in conjunction with solar panels. Conversely, the 'solar reflective layers of ballast' proposed, whilst being cheap, increase the urban heat island effect and are not consistent with efforts to reduce the effects of climate change. Green roofs would provide significant additional habitat and would be far less disturbed than land at ground level.

In view of the above the proposal is not meet the requirements of policy SU2 of the local plan or SPD08: Sustainable building design.

Recycling and waste minimisation

In order to satisfy the objectives of policy WLP11 of the East Sussex and Brighton & Hove Waste Local Plan and policy SU13 of the Brighton & Hove Local Plan, details of a waste minimisation, re-use, recycling and disposal strategy during construction must be submitted. Supplementary Planning Document SPD03: Construction and demolition waste, requires submission of a Site Waste Management Plan for development exceeding 5 dwelling units.

The Site Waste Management Plan Regulations came into effect on 6th April 2008.

The Regulations require preparation of a Site Waste Management Plan which must be reviewed every six months, with a final report prepared within 3 months of the development finishing. Failure to comply is an offence and spot checks by Local Authority officers are acceptable whereby fixed penalty notices can be imposed as appropriate.

The document put forward by the applicant details how materials will be recorded, stored and carefully transported around the site but does not identify specific materials that could be recycled or their quantities or the contractors who would be able to take the waste and recycle it off site. The application describes how precise quantities of materials will be ordered to minimise waste and states all demolition materials will be re-used where possible. The application says full details of the extent of the Site Waste Management Plan will be submitted when a main contractor has been appointed for the works.

A planning condition could be imposed to ensure a satisfactory Site Waste Management Plan is agreed and in place prior to the commencement of the

works. It is important to note that notwithstanding planning control, the Site Waste Management Plan Regulations are legal requirements that must be adhered to.

Landscaping, biodiversity and nature conservation

The proposal seeks to create a private landscaped arboretum with various types of tree planted and species inspired by the formal gardens of Sussex Square and Lewes Crescent in Kemp Town. Topography would largely remain as existing because residents with mobility difficulties would require a reasonably level surface. The scheme broadly satisfies the requirements of policy QD15 of the Brighton & Hove Local Plan which seeks use of high quality landscaping materials and effective use of existing landscape features and the level of new tree planting is supported by policy QD16. The landscaping scheme has been endorsed by an independent professional Arboriculturalist.

Policies QD17 and QD18 of the local plan relate to protection and integration of nature conservation features and species protection respectively. The biodiversity checklist accompanying the planning application is designed to trigger ecological surveys and reports but in this instance has not been correctly completed. The applicant has stated that the development would not result in change to derelict areas with exposed soil, brambles, piles of rubble etc. Such areas can provide habitats for reptiles including Slow-worm and plants of value. Clearly the development would involve the removal and/or disturbance of the western strip of land which comprises an area of builder's materials and waste which has become overgrown and dilapidated.

The applicant has stated the development would not result in the loss of open areas of rank grassland of more than 400 square metres, which are cut infrequently. Sunny, open rough grass sites which do not receive regular management often support reptiles and possibly Glow Worm. The open space to the east of the proposed buildings is not regularly managed and would be removed to make way for the private landscaped amenity area to be used by future residents of the development and occupiers of Lions' Gate.

The failure to answer these question correctly means that the ecological surveys and reports necessary have not be triggered and do not accompany the application.

Furthermore, the application does not include green roofs, which can also enhance biodiversity especially as they are far less disturbed than landscaping at ground level.

However, conflict with policies QD17 and QD18 was not identified as a reason for refusal of the previous application, BH2008/02532, and the Council Ecologist is satisfied a detailed landscaping condition could overcome the vagueness of the biodiversity information submitted, in the event permission is granted.

9 CONCLUSIONS

The application seeks to carry out development on a site that has not been previously developed and that would prejudice the future use of a recreation facility presently subject of an extant legal agreement. The space has been included in the council's Open Space, Sport and Recreation Study, approved by the Environment Cabinet on 30 July 2009. This study forms a background documents to the emerging LDF Core Strategy and describes a shortfall of open space per capita, a deficiency which is forecast to grow in future as the population of the city increases. The development and the loss of this open space is contrary to government guidance in PPG17, national planning policy in PPS3, and policies QD20 and SR20 of the local plan.

The proposal raises serious concerns over the form, scale, layout, design and appearance of the buildings and their compatibility with existing residential development around the site and the adjacent Lions Gate sheltered housing development.

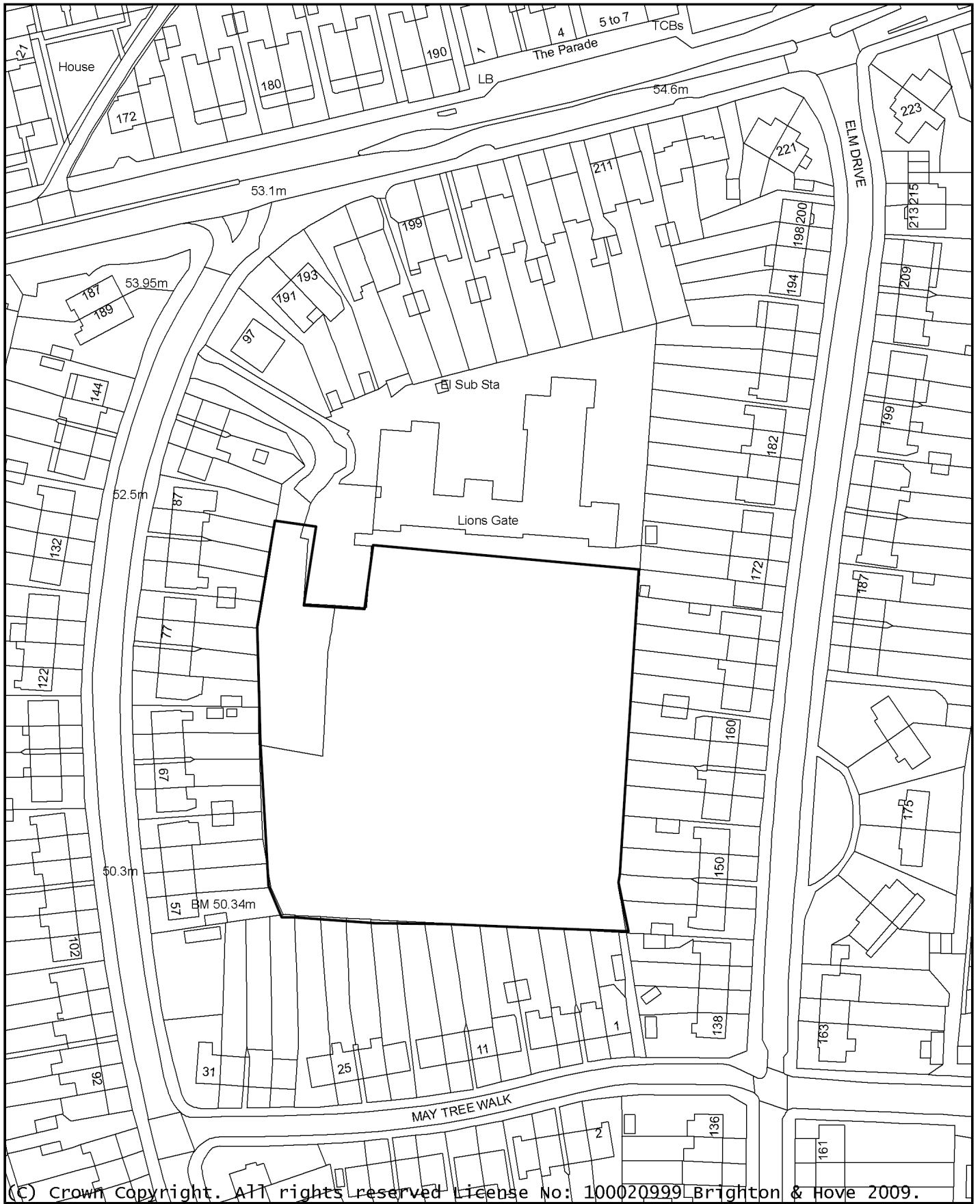
The proposal is deficient in terms of creating a sustainable community and improving connectivity and permeability and insufficient attention has been given to recycling rainwater and grey water. In addition the high proportion of internal bathrooms is unacceptable in terms of generating unnecessary use of energy and having an adverse impact on future occupiers' living conditions.

In view of the above the recommendation put forward is for the refusal of permission for the reasons detailed in section 2 above.

11 EQUALITIES IMPLICATIONS

The development meets Lifetime Homes' standards and provides two fully wheelchair accessible units.

BH2009/01249 The Hyde, Rowan Avenue



Date: 17/08/2009 03:43:06

Scale 1:1250



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LIST OF MINOR APPLICATIONS

<u>No:</u>	BH2009/00696	<u>Ward:</u>	BRUNSWICK AND ADELAIDE
<u>App Type:</u>	Full Planning		
<u>Address:</u>	39 Salisbury Road, Hove		
<u>Proposal:</u>	Demolition of existing building and erection of a four storey private residential building containing nine mixed size units and community area on ground floor.		
<u>Officer:</u>	Guy Everest, tel: 293334	<u>Received Date:</u>	23 March 2009
<u>Con Area:</u>	Adjoining Willett Estate	<u>Expiry Date:</u>	12 June 2009
<u>Agent:</u>	Town & Country Planning Solutions Ltd., Sandhills Farmhouse, Bodle Street Green, Hailsham		
<u>Applicant:</u>	Brightwell Homes, 2 Goldstone Street, Hove		

This application was deferred at the last meeting for a Planning Committee site visit.

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves it is **MINDED TO GRANT** planning permission subject to:

- (i) A Section 106 obligation to secure the following:
 - The provision of the community facility as a community benefit
- (ii) The following conditions and informatives:

Conditions

1. BH01.01 Full Planning.
2. The ground floor of the building, excluding the communal cycle, refuse, recycling stores and access to upper levels, shall only be used for uses falling within Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) unless prior written consent is obtained from the Local Planning Authority for any community uses falling outside this Class.
Reason: The Local Planning Authority would wish to retain control over any subsequent change of use of these premises in the interests of safeguarding the amenities of the area and to comply with policy QD27 of the Brighton & Hove Local Plan.
3. BH14.01 Archaeology (Investigation/Programme of work).
4. BH03.01 Samples of Materials Non-Cons Area (new buildings).
5. BH11.01 Landscaping / planting scheme.
6. BH11.02 Landscaping / planting (implementation / maintenance).

7. The lower sections of windows to the rear elevation at first, second and third floor levels, as indicated on approved drawing no. BRX 201 02, shall not be glazed otherwise than with fixed shut obscured glass and shall 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.
8. Access to the flat roof areas at first, second and third floor levels to the rear of the building shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area.
Reason: In order to protect adjoining properties from overlooking and noise disturbance and to comply with policy QD27 of the Brighton & Hove Local Plan.
9. The rear outdoor space and rear access doors shall not be open or in use except between the hours of 09.00 and 18.00 Monday to Friday, 10.00 and 16.00 on Saturdays and at no times on Sunday's or Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.
Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan
10. Prior to occupation of the ground floor of the building details of the management of the rear outdoor space shall be submitted to and approved in writing by the Local Planning Authority. The rear outdoor space shall only be used in accordance with the approved details thereafter. The management plan for the outdoor space shall be reviewed annually and submitted to and agreed in writing by the Local Planning Authority, unless otherwise agreed in writing by the Local Planning Authority.
Reason: To ensure the effective management of the outdoor space and safeguard the amenities of the locality and to comply with policy QD27 of the Brighton & Hove Local Plan.
11. BH07.02 Soundproofing of building.
12. BH06.03 Cycle parking facilities to be implemented.
13. BH05.01 Code for Sustainable Homes – Pre-Commencement (New build residential) Code Level 3.
14. BH05.02 Code for Sustainable Homes – Pre-Occupation (New build residential) Code Level 3
15. Notwithstanding the submitted details no development shall take place until a written Site Waste Management Plan, confirming how demolition and construction waste will be recovered and reused on site or at other sites, has been submitted to and approved in writing by the Local Planning Authority. The Plan shall be implemented in strict accordance with the approved details.
Reason: To ensure that the development would include the re-use of limited resources, to ensure that the amount of waste for landfill is reduced and to comply with policies WLP11 of the East Sussex and Brighton & Hove Waste Local Plan and SU13 of the Brighton & Hove Local Plan and Supplementary Planning Document 03 Construction and Demolition

Waste.

16.BH04.01 Lifetime Homes.

Informatives:

1) This decision is based on drawing nos. BRX 202 01, 203 0, 204 0 & 206 0 submitted 23rd March 2009; BRX 100 02, 200 02 & 205 01 submitted 9th April 2009; and drawing no. BRX 201 02 submitted 17th April 2009.

2) This decision to grant Planning Permission has been taken:

i) having regard to the policies and proposals in the Brighton & Hove Local Plan set out below, including Supplementary Planning Documents:

TR1	Development and the demand for travel
TR7	Safe Development
TR14	Cycle access and parking
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU9	Pollution and nuisance control
SU10	Noise nuisance
SU13	Minimisation and re-use of construction industry waste
QD1	Design - quality of development and design statements
QD2	Design - key principles for neighbourhoods
QD3	Design - efficient and effective use of sites
QD4	Design - strategic impact
QD5	Design - street frontages
QD15	Landscape design
QD27	Protection of amenity
HO3	Dwelling type and size
HO4	Dwelling densities
HO5	Provision of private amenity space in residential development
HO7	Car free housing
HO13	Accessible housing and lifetime homes
HO19	New community facilities
HO20	Retention of community facilities
HE6	Development within or affecting the setting of conservation areas
HE12	Scheduled ancient monuments and other important archaeological sites
SPD03	Construction and Demolition Waste
SPD08	Sustainable Building Design; and

ii) for the following reasons:

The development is of an appropriate height, scale, bulk and design having regard to the local characteristics and will provide modern flexible D1 community floorspace at ground floor level and a good standard of residential accommodation at upper floors.

The development will result in a greater impact on adjoining properties than currently exists. However, it has been demonstrated that sufficient light will remain available to adjoining properties, and despite additional overshadowing to adjoining gardens to the east the remaining sunlight is considered sufficient in this location and the harm will not be significant.

The development will be 'car free' and therefore no increase demand for on-street parking will result.

- 3) The applicant is advised that in respect of condition 6 details relating to the means of enclosure to the western boundary of the site should have regard to achieving noise attenuation between the ground floor Class D1 use and adjoining residential properties.

2 THE SITE

The application site relates to a site on the eastern side of Salisbury Road which contains a single-storey building. The building currently appears vacant but represents a hall-type community facility. The eastern side of Salisbury Road is predominantly relatively recent flatted development, with the western side historic semi-detached houses within the Brunswick & Adelaide Conservation Area.

3 RELEVANT HISTORY

Planning permission was refused in 2008 for 'demolition of existing building and erection of four storey private residential building containing nine mixed size units and community area on ground floor' (ref: **BH2008/01967**). The reasons for refusal were:-

1. The existing community use is not incorporated or replaced within the proposed development and it has not been demonstrated that there is a demand for the type of speculative community space to be provided within the local area, or that the space would be accessible to all members of the community and include demonstrable benefits to people from socially excluded groups.

Furthermore it has not been demonstrated the community use is, or has, relocated to a location that improved accessibility to its users; that existing nearby facilities are to be improved to accommodate the loss; or that the site is not needed for its existing use, or other types of community use.

The proposal is therefore contrary to policies HO19 and HO20 of the Brighton & Hove Local Plan.

2. There is insufficient information to demonstrate that the proposed development will not result in harmful overshadowing of adjoining gardens to the rear of the application site on Palmeira Avenue. The proposal is therefore contrary to policy QD27 of the Brighton & Hove Local Plan which seeks to protect residential amenity.

Planning permission was refused in 2007 for demolition of existing building & erection of four storey private residential building containing nine mixed size units (ref: **BH2007/00144**). The reasons for refusal were:-

1. Policy HO20 of the Brighton & Hove Local Plan resists the loss of community facilities except where it can be demonstrated that the use is incorporated or replaced in the new development, is relocated to a location which improves its accessibility to users, nearby facilities are to be improved or the site is not needed, not only for its existing use but also for other types of community use. No justification has been made for the loss of the existing use on the site, contrary to the aims of the above policy, to the detriment of the amenities of the local population.
2. The proposal represents an overdevelopment of the site by reason of its excessive depth in relation to adjoining development. The height of the building is out of keeping with adjoining development by virtue of an unduly prominent fourth floor which would represent a highly visible component of both the building, wider street and adjoining conservation area. Furthermore the detailing of the front elevation fails to incorporate vertical relief appropriate to the conservation area setting. The proposal is therefore considered contrary to policies QD1, QD2, QD3 and HE6 of the Brighton & Hove Local Plan.
3. Policy QD27 of the Brighton & Hove Local Plan seeks to protect amenity. The proposed building by reason of its close proximity to the rear boundary of the site, particularly at first floor level, will result in overlooking of adjoining properties on Palmeira Avenue above that which would reasonably be expected from development on this site. The proposal is therefore contrary to the above policy to the detriment of neighbouring residential amenity.
4. Policy HO13 of the Brighton & Hove Local Plan requires new residential units be built to a lifetime homes standard whereby the accommodation can be adapted to meet the needs of people with disabilities without major structural alterations. Insufficient information has been submitted, particularly with regards the accessibility of bathrooms and the communal staircase, to demonstrate how the requirements of policy HO13 have been incorporated into the design of the development.
5. Policy TR1 of the Brighton & Hove Local Plan requires that development proposals should provide for the demand for travel they create and maximise the use of public transport, walking and cycling. Whilst the applicant has demonstrated a willingness for the development to be car free no delivery mechanism to ensure the development will remain genuinely car-free over the long term has been submitted. Therefore, in the absence of information to indicate demonstrate otherwise the proposal makes no provision for the increase in traffic likely to be generated and will exacerbate on-street parking demand.
6. Policy SU2 of the Brighton & Hove Local Plan requires proposals demonstrate a high standard of efficiency in the use of energy, water and materials. Insufficient information has been submitted with the application to demonstrate how these requirements have been met,

particularly with regards the presence of internal bathrooms with no natural light or ventilation.

However, a subsequent appeal against this decision was dismissed solely due to loss of the community facility (reason 1 above), and overshadowing and loss of daylight to 7, 9, 11 & 13 Palmeira Avenue (part of reason 3 above). All other matters either did not constitute sufficient reasons for refusing the proposal or could be satisfactorily resolved by condition.

Permission was granted in 1988 for a conversion of the church to form ground floor offices with first and second floor extensions to form eight self-contained flats (ref: **3/88/0711**). Further permission was granted in 1989 for demolition of the existing building and construction of terrace of 3 three-storey offices with nine parking spaces (ref: **3/89/0648**). None of these approvals were implemented.

Planning permission was granted in 1951 and 1955 for a church building for public worship and religious instruction (ref: **M/1740/51** and **M/3518/54**).

4 THE APPLICATION

The application seeks consent for demolition of the existing building and erection of a four storey building comprising ground floor D1 floorspace with 9 self-contained flats above (1 x one-bed and 8 x two-bed).

5 CONSULTATIONS

External:

Neighbours: Ten (10) letters have been received from **7 (flats 4 & 5), 9 (flats A & E), 13 (flats 1, 2, 3, 4 & 5) Palmeira Avenue; 15 (flat 5) Salisbury Road** and **1 letter of no address objecting** to the proposal for the following reasons:-

- the development is not addressing a priority need for affordable housing in the area: in light of the current recession there will be no shortage of this type of property in the foreseeable future;
- no discernable attempt has been made to consult with the local community to assess what the local need is or how the facility is likely to be used. The community space is not addressing any identified community need and is not fit for purpose;
- loss of light;
- overshadowing as a result of the proposed height;
- overlooking and loss of privacy;
- the plans suggest a balcony or communal garden at the upper stories which will cause increased noise and disturbance;
- lack of parking facilities;
- a recent application for an additional storey at 38 Salisbury Road was recently refused (*ref: BH2008/03885*) with one of the reasons that the proposal was contrary to QD14 and QD27 which seek to protect residential amenity. The height of the new building as proposed will be at a similar level and the same objections apply;

- believe it should be possible to develop a more appropriate building;
- noise pollution, dust and dirt from demolition and construction works;
- security issues resulting from the erection of new flats adjoining existing dwellings;
- loss of property value.

Cllrs Elgood & Watkins: Object – letter attached.

Country Archaeologist: (previous comments) the development is situated within an archaeologically sensitive area designated because of a large Bronze Age burial mound. The barrow contained at least one burial accompanied by a very rich and important assemblage of artefacts. There is also a strong possibility that this monument was surrounded by satellite burials and may have various phases of construction and use, possible pre-dating the Bronze Age, as well as subsequent use during later periods. The site is of national importance in the understanding of early to middle Bronze Age transition. In light of the potential significance of this site the area affected by the proposal should be subject to a programme of archaeological works to enable any deposits and features, disturbed during the works, to be adequately recorded.

Internal:

Environmental Health: No comment.

Sustainable Transport: The proposed application will generate fewer trips than the existing consented use and will therefore not have a material impact on the highway network requiring a financial contribution. The proposed application is within the City's controlled parking zone N which currently does not have a waiting list for a residential parking permit.

The cycle parking provision has been designed in accordance with policy TR14 and SPG4.

6 **PLANNING POLICIES**

Brighton & Hove Local Plan:

TR1 Development and the demand for travel

TR7 Safe Development

TR14 Cycle access and parking

TR19 Parking standards

SU2 Efficiency of development in the use of energy, water and materials

SU9 Pollution and nuisance control

SU10 Noise nuisance

SU13 Minimisation and re-use of construction industry waste

QD1 Design - quality of development and design statements

QD2 Design - key principles for neighbourhoods

QD3 Design - efficient and effective use of sites

QD4 Design - strategic impact

QD5 Design - street frontages

QD15 Landscape design
QD27 Protection of amenity
HO3 Dwelling type and size
HO4 Dwelling densities
HO5 Provision of private amenity space in residential development
HO7 Car free housing
HO13 Accessible housing and lifetime homes
HO19 New community facilities
HO20 Retention of community facilities
HE6 Development within or affecting the setting of conservation areas
HE12 Scheduled ancient monuments and other important archaeological sites

Supplementary Planning Documents

03 Construction and Demolition Waste
08 Sustainable Building Design

7 CONSIDERATIONS

The main issues of consideration in the determination of this application are the loss of the existing building and use on the site; and the impact of proposed development on amenity for occupiers of adjoining properties, the visual amenities of Salisbury Road and the adjoining conservation area, the impact on the demand for travel, and sustainability issues. The previous decisions, and associated appeal decision, are also material considerations.

Existing community facility

The existing building was originally built as a church building for public worship and religious instruction, and it is understood that between 1991 and 2006 the building was used as a function room available for hire. It is not in question that the former use of the premises was as a community facility.

Local plan policy HO20 states that planning permission will not be granted for development proposals that involve the loss of community facilities, and that exceptions may apply when:

- a) the community use is incorporated, or replaced within a new development;
- b) the community use is relocated to a location which improves its accessibility to its users; or
- c) existing nearby facilities are to be improved to accommodate the loss; or
- d) it can be demonstrated that the site is not needed.

The ground floor of the proposed development is indicated as community space within Class D1. The applicant considers that this provision complies with criteria (a) of policy HO20 and notes that although the site still remains in D1 use the building has been vacant for 3 years and as such there is no community facility to replace. It is not being suggested that the community facility is being replaced elsewhere, that existing nearby facilities are to be improved to accommodate the loss, or that the site is not needed for

community use; accordingly criteria (b), (c) and (d) do not apply to the proposal.

The proposed ground floor provides modern flexible space, capable of accommodating 1 or 2 users, and will be DDA compliant. The application is accompanied by supporting information from local agents advising that the community facility is likely to be attractive to a number of end-users; and outlining probable future management arrangements. Although the D1 element of the scheme is speculative, with no known end user, on the basis of the submitted information there are no apparent reasons why a community use would not be realised within the premises and meet a demand in the local area.

The proposal must also be considered against the provisions of local plan policy HO19, which relates to the provision of new community facilities. For the reasons outlined above, there are no reasons to believe the facility would not be accessible to all members of the community, and include demonstrable benefits to people from socially excluded groups.

Character and appearance

The existing building on the site is of little architectural merit and does not positively contribute to the overall character and appearance, or setting, of the Willett Estate Conservation Area. The principle of redevelopment is therefore acceptable in design terms.

Scale

The eastern side of Salisbury Road is generally characterised by relatively modern flatted development of between 3 and 5 storeys in height. The proposed four-storey height of the building is generally comparable with adjoining buildings and would be in keeping with the prevailing scale on Salisbury Road.

Design

A previous planning application (ref: BH2007/00144) was partly refused as the proposed building was considered excessive in depth, out of keeping with adjoining development by virtue of an unduly prominent fourth floor, and poorly detailed in relation to the adjoining conservation area.

However, when considering a subsequent appeal, the Planning Inspector considered that the depth of the proposed building would not be unreasonably excessive, the overall height of the building would be generally comparable with that of other buildings on this side of the road, the detailing of the front elevation would compare favourably with that of other modern buildings in the vicinity. This appeal decision is a material consideration in the determination of this application.

The overall design approach of the building proposed by this application has not altered following the earlier appeal decision and for this reason it is

considered that refusal on design grounds could not be justified.

Impact on neighbouring amenity

Proposed building

The existing building on the site is lower than the adjoining buildings fronting Salisbury Road to the north and south of the site. The proposed building would rise to about half a storey above the height of the adjoining buildings on either side, and would obstruct the open aspect across the site that is presently enjoyed by the occupiers of the upper flats at 7, 9 and 11 Palmeira Avenue. However, if the development is acceptable in other respects (i.e. with regards light levels) the loss of aspect would not be an overriding reason for refusing planning permission.

The Planning Inspector, when considering an appeal for a comparable building on the site, raised concerns that upper parts of the proposed building would overshadow and lead to a reduction in light to the lowest flats and gardens at 7, 9, 11 & 13 Palmeira Avenue. The Inspector did not raise any other concerns with regards neighbouring amenity that would warrant refusal of the application.

In response to the appeal decision the third floor of the proposed building has been set back approximately 3.7 metres from the floor below and additional information on sunlight / overshadowing has been submitted.

Overshadowing - a 'sun on ground study' has been submitted which illustrates the impact of the existing building, the previous appealed scheme, and the proposed building on adjoining properties to the rear. The key points of the study are:-

- the rear garden of no. 9 will be unaffected by the development;
- the development will result in overshadowing of no. 11 approximately 1 hour earlier than at present (at 16.00 instead of 17.00);
- the proposed building will result in additional overshadowing to no. 13. The southern part of the rear garden would be overshadowed approximately 20 minutes earlier than at present (at 15.25 instead of 15.45), with the northern part of the garden overshadowed 60 mins earlier than at present (at 17:00 instead of 18:00 hours).

The findings of the study have been assessed by the Building Research Establishment (BRE) who concluded that 'sunlight provision to the rear of Palmeira Avenue would remain satisfactory with the development in place. It would meet the guidance in the BRE report *Site layout planning for daylight and sunlight: a guide to good practice*'. There are no apparent reasons to question these findings and whilst additional overshadowing will result for occupiers of adjoining properties, the resulting harm to amenity will not be significant.

Loss of light - a drawing has been submitted showing the relationship between the proposed building and existing ground floor window openings to

the rear of 9 and 11 Palmeira Avenue. The drawing demonstrates that the proposed development, with the set-back at third floor level, does not subtend the 25 degree line as projected from the rear of these properties. On this basis it has been adequately demonstrated that the proposed building will not result in significant effect on light levels to adjoining properties.

Loss of privacy - in accordance with the previous appeal decision on the site lower sections of windows to the rear elevation at 1st, 2nd and 3rd floor levels are to be obscurely glazed; this is indicated on the proposed plans and required by condition. This is considered sufficient to prevent overlooking and no significant loss of privacy will result for occupiers of adjoining properties. The plans do not indicate access to the flat roofed areas at first and third floor levels and a condition is recommended to prevent any future use as amenity space.

Proposed use(s) – the ground floor community facility has potential to create noise and disturbance for occupiers of adjoining properties: although it is noted there is no apparent history of noise complaints from the previous community use on the site. Whilst Environmental Health have not raised any concerns, to minimise the potential for such harm, conditions are recommended restricting hours of use and access to the rear garden area(s); requiring details of soundproofing between the ground floor and upper levels of the building, which may need to be in excess of that required by Building Regulations; and details of boundary treatment. The outlined conditions are considered sufficient to minimise the potential for noise and disturbance from future use of the ground floor premises.

Standard of accommodation

The development incorporates (8) 2 bed units and (1) 1 bed unit. This is considered to be an appropriate mix of units and whilst private amenity space is only provided for four units this is considered acceptable due to amenity and design constraints. The applicant has submitted a statement indicating that lifetime home standards have been incorporated into the design and this is apparent from the proposed floor plans.

Transport

The development proposes 9 residential units and a ground floor community centre with no provision for on-site parking, and due to the constraints of the site none can realistically be provided. An earlier application for 9 residential units on the site (see section 3) was partly refused as it was considered the development would exacerbate the demand for on-street parking. However, in an appeal decision against this refusal the Inspector considered an agreement to ensure that the development would remain genuinely car-free would overcome this.

A Unilateral Undertaking has been submitted to amend the Traffic Regulation Order so that future occupants of the development would not be eligible for resident parking permits. This approach is consistent with the preceding

appeal decision on the site and will ensure no harmful demand for on-street parking will result from the development.

The proposed development has been assessed by the Transport Planning Team and is envisaged to generate fewer trips than the existing use of the site. On this basis the proposed development does not require the provision of additional sustainable transport infrastructure in the vicinity of the site.

Secure cycle storage is located in a readily accessible position to the side of the property. The plans indicate the store could accommodate 12 cycles and this is considered acceptable with regards the requirements of LP policy TR14.

Sustainability

Policy SU2 requires proposals demonstrate a high standard of efficiency in the use of energy, water and materials. Further guidance within supplementary planning document 08, sustainable building design, recommends that for a development of this scale the application should include a completed Sustainability Checklist and achieve Level 3 of the Code for Sustainable Homes.

The sustainability checklist states the development will achieve a Level 3 or 'very good' rating. Further information in the Planning, Design & Access Statement outlines measures, such as solar panels to supplement the domestic hot water supply and water saving devices, which will contribute towards this being achieved. An earlier appeal decision considered that there were no reasons why this could not be secured by condition and as such suitable conditions are recommended to require further details.

Policy SU13 and Supplementary Planning Document 03 on Construction and Demolition Waste seek to reduce construction waste and require, as best practice, a Site Waste Management Plan demonstrating how elements of sustainable waste management have been incorporated into the scheme. A statement has been submitted demonstrating that there are no reason why construction and demolition waste cannot be minimised as part of the works and further details are required by condition.

Archaeological issues

Policy HE12 of the Brighton & Hove Local Plan aims to ensure developments preserve and enhance sites of known and potential archaeological interest and their settings. The application site forms part of a large Bronze Age burial mound and within an Archaeologically Sensitive Area.

In light of the potential significance of this site, the area affected by the proposal should be subject to a programme of archaeological works to enable any deposits and features, disturbed during the works, to be adequately recorded. A condition is therefore recommended to require a programme of archaeological works to be carried out before any development of the site

takes place.

Conclusion

The existing building on the site contrasts with the prevailing scale and form of development on the eastern side of Salisbury Road. The proposed building is of an appropriate scale with the design and detailing, having regard to a previous appeal decision on the site, suitable for the location.

The development will provide modern flexible D1 floorspace at ground floor level and there are no apparent reasons why a community use would not be realised within the premises and meet a demand in the local area. At upper floors the development will provide nine residential units with a good standard of accommodation throughout.

The proposed building will result in a greater impact on adjoining properties than currently exists. However, it has been demonstrated that sufficient light will remain available to flats on Palmeira Avenue and whilst additional overshadowing of adjoining garden areas, and primarily no. 13, will result, the remaining sunlight is considered sufficient in this location and the harm will not be significant.

To ensure the development does not increase demand for on-street parking, which is in limited supply, future occupants of the residential units will not be eligible for resident parking permits.

8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

The development is of an appropriate height, scale, bulk and design having regard to the local characteristics and will provide modern flexible D1 community floorspace at ground floor level and a good standard of residential accommodation at upper floors.

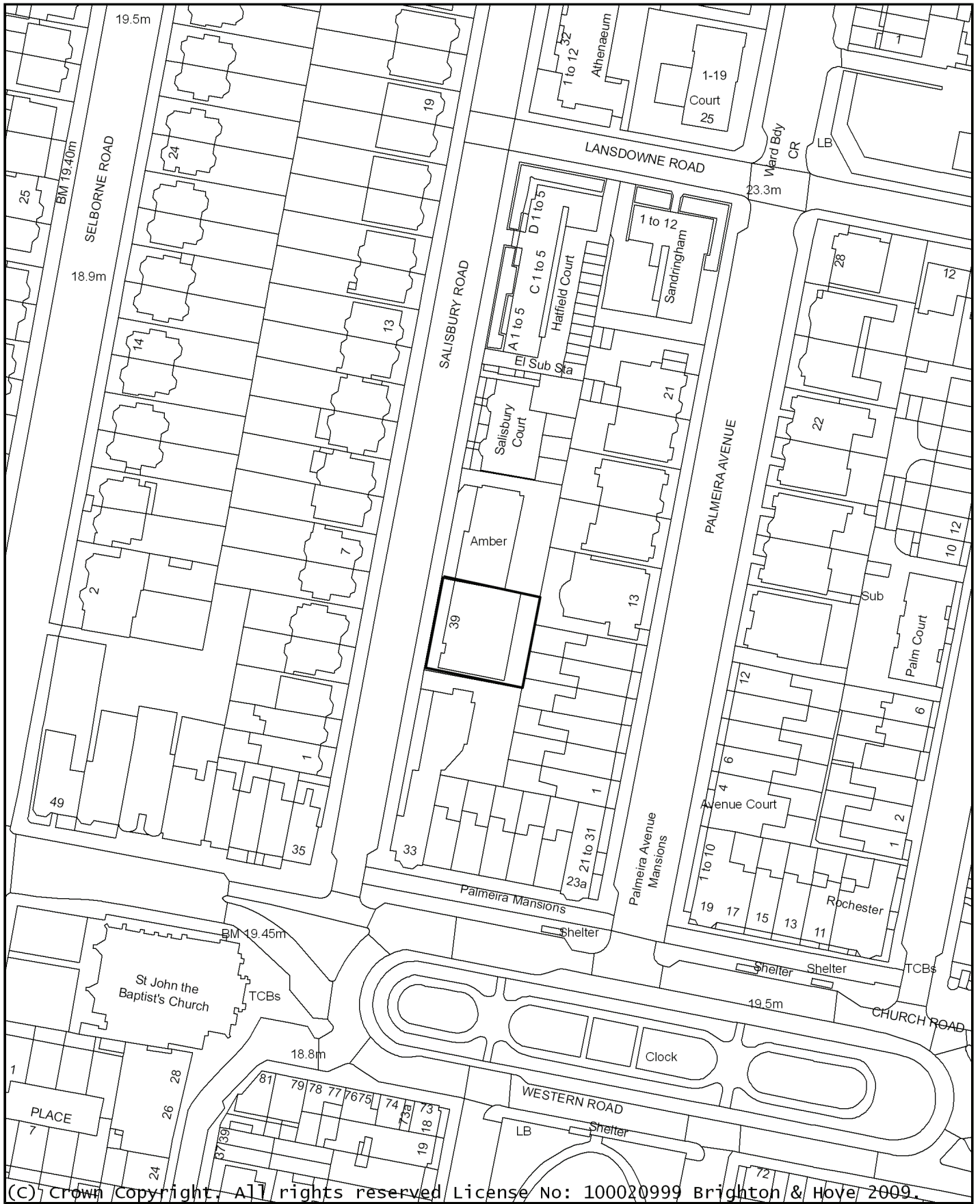
The development will result in a greater impact on adjoining properties than currently exists. However, it has been demonstrated that sufficient light will remain available to adjoining properties and, despite additional overshadowing to adjoining gardens to the east, the remaining sunlight is considered sufficient in this location and the harm will not be significant.

The development will be 'car free' and therefore no increase demand for on-street parking will result.

9 EQUALITIES IMPLICATIONS

The development should be built to Lifetime Home standards.

BH2009/00696 39 Salisbury Road



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Brighton & Hove City Council

PLANS LIST – 2 SEPTEMBER 2009

COUNCILLOR REPRESENTATION

From: Paul Elgood [Paul.Elgood@brighton-hove.gov.uk]
Sent: 06 August 2009 13:18
To: Penny Jennings; Guy Everest
Cc: David Watkins
Subject: Late representations for BH2009/00696 - 39 Salisbury Road, Hove

Dear Penny, Guy,

As the local Ward Councillors, we would like to make late representations for the above application, which comes before the Planning Committee on Wednesday.

Residents have contacted us concerned that the development will cause a considerable loss of privacy to neighbouring properties (especially to the rear). The proposal will cause loss of light to these properties, reduce daylight hours, cause overlooking (especially from the proposed balcony) and increase noise and disruption. These residents purchased their properties based on the existing use of the building, not as residential units.

We are concerned that the development will lose one of the few large community facilities in the area. The previous use of the building included a nursery which helped to meet a growing need for families in the ward who have limited other opportunities locally. The report does not mention the previous use as a nursery, and we would like to seek urgent clarification. There are a large number of community uses such a building could offer, and to lose it will impact negatively on residents.

Indeed, the comments within the report regarding the 'community' space are too vague and do not address how the space would be used, managed and made available to the public. Firmer undertakings need to be undertaken before any decision is made.

In addition, we are concerned that none of the nine units will be offered on an affordable basis, access to affordable housing is a vital issue in an area such as this.

We would like to suggest a site visit is undertaken for the committee to assess the level of intrusion for the homes to the rear.

We would be grateful if you would kindly draw our views to the attention of the committee.

Best wishes

Councillor Paul Elgood & Councillor David Watkins

<u>No:</u>	BH2009/01400	<u>Ward:</u>	WITHDEAN
<u>App Type:</u>	Full Planning		
<u>Address:</u>	32 Redhill Drive, Brighton		
<u>Proposal:</u>	Demolition of existing house and construction of a pair of semi-detached houses.		
<u>Officer:</u>	Clare Simpson, tel: 292454	<u>Received Date:</u>	11 June 2009
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	07 August 2009
<u>Agent:</u>	CJ Planning Ltd, 80 Rugby Road, Brighton		
<u>Applicant:</u>	Scamans Mercer Partnership, C/O CJ Planning Ltd		

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

1. BH01.01 Full planning.
2. BH02.03 No permitted development (extensions).
3. BH02.04 No permitted development (windows).
4. The windows on the east and west side elevations shall not be glazed otherwise than with obscured glass and fixed shut and thereafter permanently retained as such.
Reason: To safeguard the privacy of the occupiers of the adjoining property and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
5. BH02.07 Refuse and recycling storage (facilities).
6. BH03.01 Samples of Materials Non-Cons Area.
7. Notwithstanding the approved floor plans, no development shall take place until revised floor plans which demonstrate how the proposal complies with lifetime home standards have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented fully in accordance with the agreed details and thereafter retained.
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. BH05.01 Code of Sustainable Homes Pre-commencement.
9. BH05.02 Code for Sustainable Homes Pre-occupation.
10. No development shall take place until a scheme demonstrating how rainwater recycling facilities will be incorporated into the scheme has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to occupation of the dwellings and shall be retained for use as such

thereafter.

Reason: To ensure that the development is sustainable and makes efficient use of energy, water and materials and in accordance with policies S1 of the East Sussex and Brighton & Hove Structure Plan 1991-2011 and SU2 of the Brighton & Hove Local Plan.

11. Notwithstanding the submitted site minimisation statement accompanying the development, no development shall take place until a written statement, consisting of a Waste Minimisation Statement, confirming how demolition and construction waste will be recovered and reused on site or at other sites, 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.

Reason: To ensure that the development would include the re-use of limited resources, to ensure that the amount of waste for landfill is reduced, to comply with policy W10 of the East Sussex and Brighton & Hove Structure Plan, WLP11 of the East Sussex and Brighton & Hove Waste Local Plan, policy SU13 of the Brighton & Hove Local Plan and Supplementary Planning Document 03 Construction and Demolition Waste.

12. No development shall take place until full details of the boundary treatments, including sections and samples, have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in strict accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and to comply with policies QD1, QD2 and HE6 of the Brighton & Hove Local Plan.

13. No works shall commence until full details of a landscaping scheme, which includes hard surfacing, means of enclosure along the sites boundaries in the form of landscaping and planting, have been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five 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. All hard landscaping and means of enclosure shall be completed before the development is occupied.

Reason: To enhance the appearance of the development in the interests of the visual amenities of the area and to comply with policies QD1, QD2 and QD16 of the Brighton & Hove Local Plan.

14. No development shall take place until a Tree Protection Strategy has been submitted to and agreed in writing by the Local Planning Authority. The trees shall be protected to BS5837 (2005) Trees on Development Sites during Construction. The development shall be constructed in strict accordance with the agreed details.

Reason: In order to protect neighbouring residential amenity and to protect preserved trees and to comply with policies QD1, QD2, QD16 and QD27 of the Brighton & Hove Local Plan.

15. The development shall not be occupied until the parking areas have been provided in accordance with the approved plans and shall thereafter be retained for use at all times.

Reason: To ensure the safety of persons and vehicles entering and leaving the access and proceeding along the highway and to comply with policy TR7 of the Brighton & Hove Local Plan.

16. 06.03A Cycle parking facilities to be implemented.

17. BH06.04 Sustainable transport measures.

18. The mitigation and compensation measures identified in the Survey of Badger Activity dated 20 December 2006 and supplemented in letter by Julian Brown Consultancy dated 10th June 2009 accompanying the application shall be fully implemented concurrently with those parts of the development to which the respective measures relate and thereafter maintained in accordance with the agreed details at all times.

Reason: To secure adequate protection for the existing Badger setts and to comply with policies QD17 and QD18 of the Brighton & Hove Local Plan.

19. The planting and the fencing described in paragraphs 5.1.2 and 5.1.3 of the Survey of Badger Activity dated 20 December 2006 accompanying the application shall be carried out prior to the badgers needing to use it.

Reason: To secure adequate protection for the existing Badger setts and to comply with policies QD17 and QD18 of the Brighton & Hove Local Plan.

20. The timing of the construction of the new sett is planned to allow at least 3 months of 'adaptation time' during spring and summer, prior to closure of the existing sett.

Reason: To secure adequate protection for the existing Badger setts and to comply with policies QD17 and QD18 of the Brighton & Hove Local Plan.

21. Demolition of the existing house is undertaken by hand if work takes place while the existing sett is still occupied.

Reason: To secure adequate protection for the existing Badger setts and to comply with policies QD17 and QD18 of the Brighton & Hove Local Plan.

Informatives:

1. This decision is based on drawing nos. 08200/E/01F, 02F03F, 04F, 05F, 06F and 08200/P/01F, 02F, 03F04F, 05F, 06F, 07F, 08F and supporting statements submitted on 11th June 2009.
2. The applicant is advised that the requirements of Condition 17 may be satisfied by the completion of a Unilateral Undertaking or Agreement under s106 of the Town and Country Planning Act 1990, to provide £1500 to fund improved sustainable transport infrastructure in the vicinity.

3. This decision to grant Planning Permission has been taken:
- (i) having regard to the policies and proposals in the Brighton & Hove Local Plan set out below, including Supplementary Planning Guidance:

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR7	Safe development
TR14	Cycle access and parking
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU10	Noise nuisance
SU13	Minimisation and re-use of construction industry waste
SU15	Infrastructure
QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods
QD3	Design – efficient and effective use of sites
QD5	Design – street frontages
QD15	Landscape design
QD16	Trees and hedgerows
QD17	Protection and integration of nature conservation features
QD18	Species protection
QD27	Protection of amenity
QD28	Planning obligations
HO3	Dwelling type and size
HO4	Dwelling densities
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes

Supplementary Planning Guidance:

SPG4 Parking Standards

Supplementary Planning Document:

SPD03: Construction and Demolition Waste

SPD06: Trees and Development Sites

SPD08: Sustainable Building Design

Planning Advice Note

Accessible Housing and Lifetime Homes; and

- (ii) for the following reasons:-

The proposed development, subject to compliance with the above conditions, will not result in a loss of light, overshadowing and overlooking given the scale, design and positioning of the dwellings in relation to neighbouring properties. Furthermore, the design, scale and appearance of the additional dwellings are not considered to have a detrimental effect on the character and appearance of the surrounding area. The development would accord with Local Plan policies.

2 THE SITE

The application relates to a detached split-level house set within a large plot

on the south side of Redhill Drive, opposite the junction with Redhill Close. To the front, it presents as a single storey dwelling but is two storey at the rear. The rear garden, whilst extensive in length, is characterised by land which falls away sharply with an approximately 1 in 3 gradient towards Valley Drive to the south and is well vegetated with trees. Access is gained via a crossover to the front of the house nearest to no. 30 Redhill Drive that leads down towards a detached flat-roofed double garage set behind the house.

The locality is wholly residential, dating from the 1930s and 1940s, although the street scene is characterised by differing housing styles, heights, footprints and building lines. Properties on the northern side of Redhill Drive are built on a higher land level than those on the southern side, reflecting the slope of the land, and those to the south broadly present a single storey aspect to the street. Most properties are detached, with a small number being semi-detached.

The application site possesses a badger sett in the rear garden with three badger paths that connect with those in neighbouring gardens in the immediate vicinity.

3 RELEVANT HISTORY

Planning permission was refused in February 2008 (**BH2007/02980**) for the demolition of existing house and construction of a pair of semi-detached houses - resubmission of refused application. The reasons for refusal were as follows:

1. The proposed development by reason of its bulk, scale and excessive roof form would be out of keeping with surrounding development and represents an incongruous feature and overdevelopment of the site that fails to respect the context of its setting. The proposal is therefore contrary to policies QD1, QD2, QD3, QD5 and QD18 of the Brighton & Hove Local Plan.
2. The proposed development by reason of its bulk, scale and excessive roof form would result in a development having an adverse impact on the amenities of the neighbouring properties. The proposal is therefore contrary to policy QD27 of the Brighton & Hove Local Plan.

This refusal was then the subject of an appeal which was subsequently dismissed in December 2008 for reasons relating to design.

Planning permission was refused in March 2007 for the demolition of the existing house and construction of two detached dwellings (ref: **BH2007/00041**). The reasons for refusal were as follows:

1. The proposed development would fail to provide an acceptable appearance, by reason of its detached-style and need for associated railings, roof form, slate roof materials, apparent 2-storey frontage height, bland front elevation dominated by garage door opening and recessed entrance, window detailing and differences in style on the rear elevation,

large unrelieved and visible flank elevations, lack of articulation on the rear elevation, and positioning of upper level windows. The proposed scheme would constitute overdevelopment of the site, would not appear residential in character, and would be incongruent with, and harmful to, the character and appearance of the immediate street scene, contrary to policies QD1, QD2, QD3 and HO4 of the Brighton & Hove Local Plan, which seek to ensure a high standard of design in new developments.

2. The proposed coverage of the new front garden with hardstanding would be out of keeping with and harmful to the character and appearance of the street scene, contrary to policies QD3, QD5 and QD15 of the Brighton & Hove Local Plan, which respectively seek to ensure that all new development secures the retention of grassed areas, presents an interesting and attractive frontage at street level and incorporates suitable landscape design into schemes

4 THE APPLICATION

Full planning permission is sought for the demolition of existing house and construction of a pair of semi-detached houses. Three bedrooms would be provided with residential accommodation arranged over three floors. Integral garages would be provided.

5 CONSULTATIONS

External

Neighbours: 26, 28, 30, 34, 39, 41, 43 Redhill Drive, 4 Redhill Close object to the application for the following reasons:

- size and appearance is not appropriate for the site,
- semi-detached houses are not characteristic,
- the new houses do not respect the camber of the valley,
- the redevelopment seeks to cram as much from the site as possible,
- it is an overdevelopment of the site,
- the footprint would be increased by 100%,
- the submitted drawings should indicate the positioning of neighbouring windows
- the building frontage would extend 2.6 metres forwards of the existing frontage,
- at the rear, the cat-slide roof is unattractive,
- too closed to boundaries,
- neighbours would suffer a loss of light,
- it would overpower and dominate neighbouring properties,
- a loss of privacy would result,
- the properties opposite would lose their view,
- a large amount of green landscaping would be lost,
- the development would reduce the level of off-street and on-street car parking provision,
- the road is very congested at present,
- the proposed new access would be hazardous,
- wind funnels will be created which will harm pedestrians,

- badgers at the rear will be harmed,
- how will be protection zone be managed,
- further opinion must be sought regarding the badgers,
- at present foxes use the driveway as access to the rear gardens,
- it is not sustainable to demolish an existing house,
- the local parade of shops does not contain a post office,
- previous objections appear to have been unanswered.

Internal

Ecologist: No Objection - The application is essentially unchanged from 2007/02980 (and 2007/00041) as far as scale and the locations of the new buildings are concerned, then my comments on its effects on badgers remain unchanged too, provided the changes are implemented that are detailed in a letter dated 10th June 2009 from Julian Brown Consultancy (submitted as a part of this latest application).

Sustainable Transport Team: No objection.

Arboriculture Team: No Objection - The closest tree to the development is a small magnolia. It may need to be pruned to facilitate development and this should be carried out to BS 3998 (1989) Tree Pruning operations.

There is a large Cupressus in the middle of the garden (just behind the Magnolia) that has a poor stem union. The sloping nature of this garden means that all trees / hedging should be OK as it would be impossible to use the garden for storage of building materials etc. There is nothing worthy of Tree Preservation Order. The Arboricultural Section therefore does not object to this application

Environmental Health: No comments.

6 PLANNING POLICIES

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR7	Safe development
TR14	Cycle access and parking
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU10	Noise nuisance
SU13	Minimisation and re-use of construction industry waste
SU15	Infrastructure
QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods
QD3	Design – efficient and effective use of sites
QD5	Design – street frontages
QD15	Landscape design
QD16	Trees and hedgerows
QD17	Protection and integration of nature conservation features

QD18	Species protection
QD27	Protection of amenity
QD28	Planning obligations
HO3	Dwelling type and size
HO4	Dwelling densities
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes

Supplementary Planning Guidance:

SPG4 Parking Standards

Supplementary Planning Document:

SPD03: Construction and Demolition Waste

SPD06: Trees and Development Sites

SPD08: Sustainable Building Design

Planning Advice Note

Accessible Housing and Lifetime Homes

7 **CONSIDERATIONS**

The determining issues relate to first, whether the proposal accords with local plan policies; secondly, whether the proposal will have a detrimental impact on neighbouring amenity; thirdly, whether the design is considered acceptable; and finally, the impact the proposal will have on ecology, trees and transport.

Background Information

The principle of redeveloping the site to form semi-detached houses was not questioned in the previous application, with members of Planning Committee voting to refuse planning permission for design reasons and secondly impact on amenity. It was generally considered that the application site represents a wider than the average plot on this street with a potential to accommodate a larger form of development.

When assessing the subsequent appeal, the Inspector drew different conclusions from those made by members of the Planning Committee. The Inspector was specific in his criticism of the design of the previous scheme commenting on the flat roof, side projections of the proposed houses: *'the two flat areas would be plainly seen and would in my view appear uncharacteristic of the area and poorly related to the rest of the building.... The use of a central flat area would result in an appearance on approaching from either end of the street of a blocky deep plan without the attractive relief of a traditional ridge or hips'*. The Inspector also commented that the use of these flat roofs, to control the height of the development was indicative that the accommodation proposed was too excessive for the site.

Design and appearance

The current application has been submitted in an attempt to address the

specific criticisms made by the Planning Inspector when assessing the previous scheme. The flat roof areas have now been removed from the scheme. This is achieved by raising the gable on the side elevations of the building.

Additional floor space is provided through the insertion of dormer windows on the front and rear roof-slopes. Nevertheless these are large features, and towards the maximum size appropriate for the roof slope. There are design elements which adhere to the guidance outlined in the Supplementary Planning Guidance on Roof Alterations and Extension (SPGBH1) including minimal cladding around the glazing, set back from the eaves and ridge of the roof, and the alignment of dormer windows over the garage doors. Moreover, the roof form, when viewed from the street, now has an appearance which is comparable to chalet bungalows, rather than a two-storey building. This is considered to result in an improved relationship with neighbouring properties, and the development would be more in-keeping with the Redhill Drive street scene.

The ridge height of the property would not be significantly higher than that of the existing building and would be extended in length rather than height. It is acknowledged that the existing ridge is higher than that of the existing properties either side of the house. However Redhill Drive has a variety of residential properties, and it is generally considered that the height of the proposed buildings is acceptable.

The forward building line would be in advance of those on neighbouring properties. This would result in the new semi-detached properties being very prominent in the street scene. The building line is however comparable to the previous scheme for the site, albeit with bay window features projecting forward a further 600mm. The previous application was not refused for the position of the front building line, nor did the Planning Inspector dismiss the appeal for this reason. In addition it is considered that there are sufficient set-backs within the front elevation to ensure that this elevation has good articulation. Consequently, it is considered that the building line of the new houses is broadly acceptable.

To the rear of the property the design is dominated by a catslide roof. This has attracted objections from neighbouring residents. It is not a typical feature of the area; however a cat-slide roof is a way of designing an extension which maximises useable space whilst utilising the steep slope of land. There is no objection to this design feature.

Overall, it is considered that the design and appearance of the proposal responds to the comments made by the Planning Inspector on the previous application. The new buildings would be prominent in the street, but the roof form with pitched roofs and dormer windows is more in keeping with the character of the street scene than previous submissions.

Impact on amenity

The proposed development would result in substantial increase in the volume of the existing building envelope. It is considered that the proposed development would have most impact on the properties immediately adjacent to the site. The proposal would represent a significant increase in the bulk of the property close to the boundary and it therefore adjacent occupiers would experience an increased sense of enclosure.

With regard to the impact on no. 34 Redhill Drive, the side elevation of the house is currently 2.7 metres from the boundary, rising to 4 metres towards the rear of the site. If granted, the new building would be located 1.3 metres from the boundary, reducing to 1.1 metre towards the rear. This reduction in separation distances would enclose two ground floor side windows in 34 Redhill Drive, which serve the lounge of the property. Nevertheless it is considered that this room would continue to receive good natural light and outlook from a southerly aspect.

In terms of projection into the garden, the proposed development will project further into the garden compared to the existing property and further than the rear elevation of no. 30 Redhill Drive, however, it will project to a similar extent as no. 34 Redhill Drive. Whilst there are no side windows facing the site on no.30 Redhill Drive, given the increased depth of the new building relative to this property, it is also important to consider the rear facing windows. A distance of approximately 1.4 metres separates the joint boundary of the application site and no. 30 Redhill Drive. Whilst a rear facing window is located in close proximity to the south west corner, this window would appear to serve a garage. In terms of building bulk and increased sense of enclosure, whilst the increased depth could have an impact on neighbouring amenity, it is important to note that this element of the roof is sloping, thereby reducing the bulk of the structure.

In regard to overlooking and potential loss of privacy, there are a number of windows proposed in the side elevations. In the interests of protecting the privacy of neighbouring properties and to correspond with the views of the Planning Inspector of the previous application, it would be necessary for these windows to be obscured glass and fixed shut. This is considered appropriate and required by condition.

The concerns from neighbouring occupiers about a loss of view and loss of outlook have been noted. By increasing the size of the building, neighbours opposite will have a view of an extended building rather than more open views which are currently possible between the existing houses. The separation distances will prevent the proposal having a significant loss of outlook, or having an overbearing impact on these houses.

For the reasons outlined above, it is not considered that the proposed development has a significant impact on the residential amenity of neighbouring properties. It is noted that the Planning Inspectorate did not

consider that the previous proposal presented significant impacts on neighbouring occupiers.

Ecology

Circular 06/2005 Biodiversity and Geographical Conservation - Statutory Obligations and Their Impact Within the Planning System (paragraphs 123 and 124) provides advice on the protection of badgers and badger setts as part of development proposals. Disturbance to a badger sett is a material consideration in planning decisions. Good practice dictates that planning decisions should ensure there is no contravention of the Protection of Badgers Act 1994. Policy QD18 of the Brighton & Hove Local Plan requires measures to be put in place as part of development proposals which ensure there would be no harmful impact on protected species and where practicable, developments would be expected to enhance the habitat of protected species.

An independent badger survey accompanied the application, which identifies the existence of badger setts and paths within the site and examines mitigation measures for translocation of these features. The report was completed in the winter of 2006 for a previous application and has been resubmitted unchanged. However the consultant confirmed in a letter in June 2009 that the badger report remains valid with the exception of the paragraphs relating to the timing of licensed works. The Ecologist has commented on the application and has advised that circumstances have not changed significantly since the 2006 badger report was written.

The existing badger sett (sett A in the applicant's report) is too close to the proposed new houses to avoid disturbance to it during construction. There is also a strong likelihood of ongoing problems with the sett at its current location after the houses have been occupied. To overcome this, the applicant has proposed to relocate the badgers to an artificial sett, constructed in a dedicated 'badger protection area' further away from the proposed and existing housing at the southern end of the site.

The proposed 'badger protection area', if successful, would ensure the conservation of the badger group and, provided the land is separated from the new gardens, it also represents an enhancement of the badger habitat from its current garden location, in accordance with Local Plan policy QD18. The fact that the existing sett is in a vulnerable location, within a private garden, is an important consideration.

However as the submitted badger report makes clear, a number of separate works need to be carefully coordinated for the translocation to be successful. The time frame for implementation as set out in the report also requires the badger mitigation works to commence during the current badger licensing season (July-November inclusive) which may not be achieved in practice. To address these concerns it would be necessary to attach conditions (these are outlined above).

Transport

Concerns have been raised by neighbouring occupiers regarding existing parking problems and that these will increase as a result of the proposed development. Both units will benefit from a garage to the front of the units and space for cycles will also be provided within the garages. The site does not fall within the Controlled Parking Zone however the provision of a second vehicle crossover would reduce the ability for a car to be parked at this point on the highway. It is noted that the road is generally heavily parked.

The Sustainable Transport Team have commented on the scheme and do not raise an objection subject to the imposition of conditions requiring installation of the parking areas in accordance with the approved details and the provision of cycle parking. A financial contribution is also sought to contribute to improving accessibility to sustainable infrastructure in the area.

Trees

Policy QD16 and Supplementary Planning Document 06: 'Trees and Development Sites' seek to ensure the protection of existing trees and hedgerows and that new developments incorporate new tree and hedge planting. It is noted that there are no protected trees on the site. The Arboriculture department have not objected to the scheme. The application form states that no trees would be lost as a result of this development and certainly the major trees on the site would be retained. Conditions requiring the erection of protective fencing across the garden at the appropriate British Standard Root Protection Distance to protect the trees on site would be required, as would the submission of an Arboriculture Method Statement. Policy QD16 and SPD06 would therefore be met by this proposal.

Some details have been submitted in the design and access statement which indicates an intention for additional planting in some locations on the site, notably some planting on the boundaries. This would have to be elaborated on with full details required by condition. This information should also outline hard landscaping proposed on the site.

Sustainability

In accordance with the Supplementary Planning Document on Sustainable Building Design a sustainability checklist has been submitted with the application. This includes a commitment to meet basic standards including a Code for Sustainable Homes Level 3 and a 50% score in the energy and water sections of the assessment. No renewable energy technologies have been identified but cycle and refuse and recycling facilities are located on site.

Natural light is provided to all rooms which should reduce the reliance on artificial means in accordance with SU2 of the Brighton & Hove Local Plan. In accordance with Supplementary Planning Document 03 – Construction and Demolition Waste, a site waste minimisation statement accompanied the application. Whilst the plan states that demolition waste will be recycled as

far as possible, the document provides some indication of where the waste materials will be taken. However, it does not provide certainty and the information fails to provide an indication on likely amounts of waste to be recycled. Similarly, the information relating to the construction of the dwelling, whilst providing an indication of where materials will be sourced, the information lacks certainty and detail. The lack of information, however, is not considered to justify refusal of the application, since further information could be required by condition.

Accessibility and Lifetime Homes

Generally the accessibility and circulation space of the new buildings appear acceptable. A lifetime homes checklist has been submitted with the application which shows broad compliance with most of the standards. The living room is located on the ground floor of the property and a future location for a lift identified. The properties would have three-bedrooms and for a property of this size, a wheelchair user should be able to close the door from within the WC and achieve side transfer from a wheelchair to at least one side of the WC. There must be at least 1100mm clear space from the front of the WC bowl. The shower provision must be within the closet or adjacent to the closet. This would need to be rectified and could be moved by increasing the size of the bathrooms. These alterations could be secured through the imposition of an appropriate condition.

Conclusion

The proposed development to form a semi-detached pair of properties is considered acceptable in principle and the design and appearance of the development is considered to respond to the concerns of the Planning Inspector and would not be detrimental to the character and appearance of the surrounding area. Given the scale, design and positioning of the dwellings in relation to neighbouring properties, subject to the conditions discussed above, the proposal would not result in a loss of light, overshadowing and overlooking

8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

The proposed development, subject to compliance with the above conditions, will not result in a loss of light, overshadowing and overlooking given the scale, design and positioning of the dwellings in relation to neighbouring properties. Furthermore, the design, scale and appearance of the additional dwellings are not considered to have a detrimental effect on the character and appearance of the surrounding area. The development would accord with Local Plan policies.

9 EQUALITIES IMPLICATIONS

None identified.



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<u>No:</u>	BH2008/01283	<u>Ward:</u>	WITHDEAN
<u>App Type</u>	Full Planning		
<u>Address:</u>	1 Tivoli Crescent, Brighton		
<u>Proposal:</u>	Demolition of existing garages and non original extension, conversion of existing 1st and 2nd floor maisonette to form a 2 bed first floor flat and 1 bed 2nd floor flat retaining the existing 2 bed ground floor flat together with the erection of a new 3 bed house with parking and gardens.		
<u>Officer:</u>	Paul Earp, tel: 292193	<u>Received Date:</u>	07 April 2008
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	14 July 2008
<u>Agent:</u>	Turner Associates , 19A Wilbury Avenue, Hove		
<u>Applicant:</u>	Mrs Levinson, c/o agent		

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions

1. BH01.01 Full planning.
2. BH02.03 No permitted development – extensions.
3. BH02.04 No permitted development - windows and doors.
4. BH02.07 Refuse and recycling storage.
5. BH03.01 Samples of materials – non conservation areas.
6. BH04.01 Lifetime Homes.
7. BH05.01 Code for Sustainable Homes – Pre-commencement - to meet Code level 3.
8. BH05.02 Code for sustainable Homes – Pre-occupation - to meet Code level 3.
9. Code 06.02A Cycle parking details to be submitted.
10. Details of the solar panels shall be submitted to and approved by the Local Planning Authority before works commence. The panels shall be installed and maintained as approved thereafter.
Reason: To ensure satisfactory provision of solar gain and to comply with policy SU2 of the Brighton & Hove Local Plan.
11. The development shall be carried out in accordance with the Waste Minimisation Statement forming part of this application.
Reason: To ensure that the development would include the re-use of limited resources, to ensure that the amount of waste for landfill is reduced and to comply with policies WLP11 of the East Sussex and Brighton & Hove Waste Local Plan and SU13 of the Brighton & Hove Local Plan and Supplementary Planning Document 03 Construction and Demolition Waste.

12. BH05.10 Hardsurfaces.
13. BH05.09 General sustainability measures.
14. BH06.03 Cycle parking facilities to be implemented.
15. BH06.04 Sustainable transport measures.
16. BH11.01 Landscaping/planting scheme.
17. BH11.02 Landscaping/planting (implementation/maintenance).

Informatives:

1. This decision is based on drawing nos. TA298/10 – 15 and Site Waste Minimisation Statement submitted on 7.4.08, drawings nos. TA298/18A, 19A, 20A, 26A, 27A submitted 18.2.09, and the arboricultural report submitted on 19.5.08.
2. IN.04.01 Lifetime Homes.
3. IN.05.02 Code for Sustainable Homes.
4. IN.05.10 Hardsurfaces.
5. IN.06.04 Sustainable transport measures – contribution £1,500.
6. The existing crossover shall be re-constructed in accordance with the Council's approved Manual for Estate Roads and under licence from the Highway Operations Manager prior to the commencement of any other development on the site.
7. This decision to grant Planning Permission has been taken:
 - i) having regard to the policies and proposals in the Brighton & Hove Local Plan set out below, and to all relevant material considerations, including Supplementary Planning Guidance:
Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR7	Safe development
TR14	Cycle access and parking
TR19	Parking standard
SU2	Efficiency of development in the use of energy, water and materials
SU9	Pollution and nuisance control
SU10	Noise nuisance
SU13	Minimisation and re-use of construction industry waste
QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods
QD3	Design – efficient and effective use of sites
QD27	Protection of amenity
QD28	Planning obligations
HO3	Dwelling type and size
HO4	Dwelling densities

HO5	Provision of private amenity space in residential development
HO7	Car free housing
HO9	Residential conversions and retention of smaller dwellings
HO13	Accessible housing and lifetime homes
<u>Supplementary Planning Guidance Notes:</u>	
SPGBH:4	Parking standards. Adopted April 1997
<u>Supplementary Planning Documents:</u>	
SPD:03	Construction and demolition Waste
SPD:08	Sustainable building design
<u>East Sussex and Brighton & Hove Waste Local Plan:</u>	
WLP11	Reduction, re-use and recycling; and

ii) for the following reasons:

The proposal makes a positive contribution to the appearance of the street and housing stock, would not result in an undue loss of residential amenity, and caters for the demand in travel it would create.

2 THE SITE

The application relates to a two storey end-of-terrace Edwardian property which has been extended and converted to form two self contained units. The site is wedge shaped with a frontage to Tivoli Crescent of 27m and a depth ranging from 5.5m at the south and 23m at the north. The property comprises a flat two bedroomed ground floor flat, which has a rear garden, and a 4 bedroomed maisonette at first floor level and within the roof. A double garage, constructed in the 1960's, is linked to the house. The garage roof forms a terrace for use with the maisonette. The immediate area is residential in character. The property is neither listed nor within a conservation area.

3 RELEVANT HISTORY

- **BN84/302F**: Side extension at first floor level with access to existing roof terrace. Approved 17.4.84.
- **66/831**: Erection of double garage. Approved 10.1.67.

4 THE APPLICATION

The proposal is for:

- the demolition of the existing garages and non original extension.
- conversion of the existing 1st and 2nd floor maisonette to form a 2 bedroomed first floor flat and a 1 bedroomed 2nd floor flat.
- Retention, with alterations, of the existing 2 bedroomed ground floor flat.
- erection of a new 3 bed house.

The scheme, as amended, consists of:

Demolition:

- of the existing double garage and of the two storey side extension linking the house with the garages.

Conversion:

- existing upper maisonette to form a 2 bedroomed flat at first floor level (75m² floorspace) and a 1 bedroomed flat within the roofspace (57m²)

floorspace).

- Ground floor flat: floor area of 75m².
- Amenity space: rear garden to form separate area for ground floor flat of 16m², and communal garden for upper flats of 30m².
- Cycle / refuse stores: to adjoin side (south) of property.

Proposed dwelling:

- 3 storey property, lower-ground to first floor, to form a 3 storey detached house.
- excavation to form lower ground level of property and front and rear light wells.
- Building to measure 8.6m wide x 7.1m deep x 9.0m overall height / 6.0m above ground level.
- Layout: lower-ground: 2 bedrooms, bathroom, front and rear lightwell to provide 7.6m² and 4.0m² amenity space respectively. Ground floor: livingroom/kitchen, utility room. First floor: en-suite bedroom.
- Design / materials: White rendered building with large areas of glazing. Northern part of building set forward 1.2m from southern section and 0.5m higher. Lightwell to front and rear. Metal and timber brise soleil to ground and first floor windows, northern section. Balcony to front first floor window, southern section; Juliette balcony to front ground floor window, northern section. Flat roof (green) to front, mono-pitched to rear with solar panel.
- Boundaries: front (east): brick piers with metal railings and gates, and brick wall. Side (north) brick/timber fence to separate proposed dwelling from existing.
- Amenity space: triangular shaped rear garden 18m². Grassed area to southern corner of plot, adjacent to hardstand for car: 10m².
- Car parking: 1 space to side (south) of building.
- Cycle storage: secure covered shelter to rear of car hardstanding.
- Refuse storage: adjacent to car hardstanding to front of building.

The scheme has been amended by increasing the height of the building and reducing the amount of glazing to provide a vertical emphasis to relate better with the adjacent terrace, deletion of a large first floor terrace to protect amenity, and changes to the layout, amenity space and location of refuse and cycle storage.

5 CONSULTATIONS

External:

Neighbours: Comments on the amended scheme: **4 objections** have been received from the occupiers of **6, 8, 14, 22 Tivoli Crescent** objecting to the proposal on the following grounds:

Principle:

- Overdevelopment of the site, contrary to policies QD2, QD14, QD27.
- The site is too small for the proposed dwelling.

Design:

- The revised plan is less acceptable than the original as it is bigger and

slightly taller.

- The appearance and size of the new building is inappropriate. The modern “box” style is not in keeping with the early 20th century design of surrounding houses. Size is an issue as the new plan is now a 3 floor, double width house.
- The style of the new house has not changed from the original plan.
- The 3 storey town house will be cramped and visually unappealing. It resembles many of the other recent, more futuristic designs, that become shabby and an eyesore within 3 to 4 years.
- Design makes reference to the nearby ‘Dreamcatcher’ house which cannot be seen from Tivoli Crescent and is not part of a Victorian row as the proposed house will be.

Residential amenity:

- Overshadowing, overlooking, loss of privacy to adjoining residents.
- Overlooking of bedrooms of 8 Tivoli Crescent from the first floor rooms, balcony and terrace of the proposed house, resulting in loss of privacy.
- Loss of privacy to 6 Tivoli Crescent, and loss of light to front of the house.
- Noise and pollution from excavation and building works.
- Increase in noise and disturbance from additional units, from the comings and goings, and extra traffic.

Traffic / parking:

- Parking is already at a premium. The removal of the existing double garage, together with the additional units will exacerbate existing problems.
- The development could generate 10 cars and lead to double parking and potential danger.
- If the existing house is to be refurbished/developed as proposed the existing garages should be converted to provide appropriate off-road parking for the residents of the flats.

Trees:

- Destruction of trees and the habitat they provide to wildlife.

Comments on the original scheme: **5 letters of objections** were received from the occupiers of **288 Dyke Road; 6, 8, 14, 22 Tivoli Crescent**, objecting to the proposal primarily for the same reasons as given above.

Councillor Ann Norman: Objects to the proposal, letter attached.

Internal:

Arboriculturalist: No objection. There are no trees on the site itself, however, the arboricultural report accompanying the application does cover the 4 trees adjoining the site.

The 3 ornamental cherries will be pruned back by 30%, to which no objections are raised.

A lime tree in the garden of 288 Dyke Road overhangs the site to some extent. No pruning of overhang has been requested as part of the

application. The soil level at 288 Dyke Road is 0.5m above the development site, and the paved and built up environment of the development site means there should be very few, if any, roots from this tree in the development site itself. The rear of the proposed property has a small patio area and it is felt, therefore, that this lime will be under constant pressure for pruning back to the boundary, which could ruin the shape of this tree, however this would not prevent the development itself. A Tree Preservation Order (TPO 2008/8) has been placed on this specimen,

Sustainable Transport: No objection subject to conditions to ensure that the crossover is reconstructed, cycle parking provided and a contribution of £1,500 is sought to provide sustainable transport infrastructure to support the demand for travel generated by the development.

6 PLANNING POLICIES

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR7	Safe development
TR14	Cycle access and parking
TR19	Parking standard
SU2	Efficiency of development in the use of energy, water and materials
SU9	Pollution and nuisance control
SU10	Noise nuisance
SU13	Minimisation and re-use of construction industry waste
QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods
QD3	Design – efficient and effective use of sites
QD27	Protection of amenity
QD28	Planning obligations
HO3	Dwelling type and size
HO4	Dwelling densities
HO5	Provision of private amenity space in residential development
HO7	Car free housing
HO9	Residential conversions and retention of smaller dwellings
HO13	Accessible housing and lifetime homes

Supplementary Planning Guidance Notes:

SPGBH:4 Parking standards. Adopted April 1997

Supplementary Planning Documents:

SPD:03 Construction and demolition Waste
 SPD:08 Sustainable building design

East Sussex and Brighton & Hove Waste Local Plan:

WLP11 Reduction, re-use and recycling

7 CONSIDERATIONS

The main considerations in the determination of the application relate to the principle of development, effect of the development on the character and appearance of the area, effect on the building to be altered, residential amenities, traffic, sustainability and neighbouring trees.

The principle of development

The proposal is for the construction of a three storey building (including basement) to form a single dwelling house with garden and parking area, and alterations and conversion of the existing property.

Proposed dwelling

National Planning Policy on Housing (PPS3) and Local Plan policies QD3 and HO4 seek the efficient and effective use of land for housing and that residential densities will be permitted at higher densities than those typically found in the locality where it can be adequately demonstrated that the proposal exhibits a high standard of design and architecture, includes a mix of dwelling types and sizes, is well served by public transport and local services and respects the capacity of the local area to accommodate additional dwellings.

The Urban Characterisation Study states that the site lies within the Tivoli and Prestonville neighbourhood. The northern part of the area where this site is situated is dominated by two storey Victorian or Edwardian terraces. The overall gross density of the neighbourhood is 56 dwellings per hectare, which is considered to be moderately high. Properties within the street are predominantly terraced with no off-street parking. The existing garages are of no architectural merit and Traffic Engineer does not object to their loss.

The proposed dwelling would make a contribution to the housing stock and is acceptable in principle subject to compliance with other relevant policies.

Conversion of existing property

Relating to the proposed conversion, HO9 permits the conversion of dwellings into smaller units of self-contained accommodation where the original floor area is greater than 115m² or has more than 3 bedrooms as originally built, has at least one unit suitable for family occupation with a minimum of two bedrooms, would not result in an unacceptable level of on-street parking, provides secure and covered cycle parking and would not be detrimental to the residential amenities of adjoining properties.

The existing property forms a two bedroomed ground floor flat with floor area of 82m² and a four bedroomed first and second floor maisonette of 145m². The proposal is to retain the existing ground floor unit with little change to the layout, and subdivision of the maisonette to form a 2 bedroomed flat at first floor level of 75m² floorspace, and a 1 bedroomed flat within the roofspace of 57m² floorspace. Proposed floor areas are reduced slightly from the existing as a result of demolition and access arrangements; the proposed ground floor

flat would have a floor area of 75m².

The existing property is of a size suitable for conversion under policy HO9 and whilst the units are for market housing for which the Council does not have size standards, the proposed units exceed the size sought for affordable housing which provides a useful benchmark. The ground floor unit has two bedrooms, a separate kitchen and lounge, and private garden, which is considered suitable for family accommodation. Within the site as a whole the proposed dwelling is to form a single house suitable for family accommodation. For these reasons it is considered that the proposed residential accommodation makes efficient use of urban land with a good mix of units with amenity space which conforms with national and local planning policies.

Design

Policy QD14 states that extensions and alterations to existing buildings should be well designed in relation to the property to be extended, adjoining properties and to the surrounding area. Additionally, development should not result in significant disturbance or loss of privacy, outlook, daylight / sunlight or amenity to neighbouring properties, take account of the existing space around buildings and the character of the area and use materials sympathetic to the parent building. Policies QD1, QD2 and QD4 state that new development will be expected to demonstrate a high standard of design and should make a positive contribution to the environment and take into account local characteristics including the height, scale, bulk and design of existing buildings. HO5 requires the provision of private amenity space within residential developments. Policy QD27 aims to protect residential development.

Alteration to the existing building

The proposal involves the demolition of the existing double garage with terrace over and side extension which links them with the main property. The extension is set back from the front of the dwelling, is flat roofed and adjoins the building below eaves level, has a front first floor casement window in contrast to the sliding sash windows within the main house, and generally detracts from the appearance of the building and terrace. The removal of these incongruous additions will substantially improve the appearance of the building and street scene. Other alterations are restricted to the erection of a cycle and bin store to the side, which will be visible but set back from the street. The design of the proposed timber enclosure will not detract from the appearance of the building.

Proposed dwelling

The proposed dwelling is detached, to the southern end of a two storey Edwardian terrace. The scheme as amended is for a two storey, plus basement building, with flat, green roof to the front, sloped at the rear to reduce impact on neighbours, and with car parking area and landscaping to the side. The building is to be in a stepped form, in both height and footprint,

with rendered walls and windows. The building is of modern design with clean lines and small range of materials.

The terrace has a strong architectural identity and the aim is to produce a building of distinctive style, which whilst contrasting from the existing in terms of appearance, sits comfortably in its setting. The proposed building takes its height from the eaves level of the existing and large areas of glazing also reflect the dominant feature of buildings within the terrace. Properties within the street are both rendered and brick; the proposed use of render would facilitate a building of individual design to integrate successfully into its context. The provision of a front boundary wall/fence, as opposed to the existing wide crossover, will greatly enhance the street scene and allows the provision of a lightwell, which in turn facilitates a lower storey and permits a reasonably sized dwelling to be accommodated on this awkwardly shaped site. Whilst few properties in the street have basements, the proposed would not detract from the character of the street.

Within close proximity of the site (100m to the south-east) is a building known as 'Dreamcatcher', which is a two storey rendered dwelling fronting The Droveaway, to the side of an Edwardian brick built dwelling. Similarly to The Dreamcatcher, the proposed dwelling is in sharp contrast with the prevailing architectural style of the area. Objections to this application cite The Dreamcatcher as an example of modern infill, out of keeping with and detracting from the area. Planning policies encourage high quality and innovative design which would add to the richness and variety of the urban scene, and in this case, given the physical constraints of the site and distinctive style of the existing terrace, it is considered that a modern building, rather than one which replicated the terrace, is the right approach. For the reasons given it is considered that the proposed building would make a positive contribution to the architectural mix of the street.

Impact on neighbouring residential development

Policy QD27 aims to protect residential development.

The site is to the southern end of the street and objections have been received from the occupiers of properties opposite on the grounds that the development will lead to a loss of privacy and overlooking of bedrooms and the front of 6 & 8 Tivoli Crescent. A balcony of 4.8m² is proposed to the front of property at first floor level, which is in part within the same location as the existing first floor terrace. The existing terrace has a floor area of approximately 31.5m² and the only amenity space from the existing maisonette. The proposed terrace is to serve the proposed house which also has a rear and side garden and 2 lightwells. It is considered that the impact of the proposed front terrace on surrounding properties would be less than from the much larger existing terrace. The relationship of the proposed building to those opposite is the same as for existing properties in the street, and it is not considered that undue loss of privacy would occur from the proposed front, first floor, bedroom window.

The only first floor window to the rear is to a landing. Given the distance and acute angle to properties to the rear, and existing trees screening along their boundaries, it is not considered that any loss of privacy would occur.

Trees and landscaping

Policies QD15 and QD16 relate to landscape design and trees, and states that new development must seek to retain existing trees and not destroy preserved trees.

There are no trees on the site itself, however, the arboricultural report accompanying the application cover the 4 trees adjoining the site. The 3 ornamental cherries will be pruned back by 30%, to which the arboriculturist raises no objections. The arboriculturist also comments that the preserved lime tree in the garden of 288 Dyke Road is within soil level 0.5m above the development site, and the paved and built up environment of the development site means there should be very few, if any, roots from this tree in the development site itself. Whilst the tree overhangs the site to some extent and will be under pressure for pruning back to the boundary, consent would be required and this should not prevent the development itself, as the tree shape could be retained.

Traffic implications

Policies TR1 and TR7 aim to ensure that proposals cater for the demand in traffic they create, and do not increase the danger to users of adjacent pavements, cycle routes and roads. TR14 requires the provision of adequate secure and covered cycle parking.

Car parking provision

The site is not within a Controlled Parking Zone. The proposal involves the loss of one off-street parking space with the replacement of two garages with a hardstanding for one vehicle. The number of units on the site is to increase from the existing two, to a total of four. The site, close to bus services along Dyke Road and Preston Park railway station, is well served by public transport. Although public objections stating that parking in the area is at a premium and that the increase in units and loss of off-street parking will exacerbate existing congestion, the Traffic Engineer considers the proposed level of parking provision to be acceptable subject to a contribution of £1,500 towards improving sustainable modes of transport.

Cycle parking:

Secure and covered cycle parking is proposed to both the single house and for the conversion, which conforms to policy TR14. The existing building does not have dedicated cycle provision.

Sustainability

Policy SU2 seeks efficiency of development in the use of energy resources.

The application is accompanied with the sustainability checklist. The site is

located close to local services and public transport. A solar panel is proposed on the rear elevation, to face south, which should provide at least 10% of the hot water requirements for the proposed dwelling, and a green roof to the front. A full water recycling system is proposed together with underground storage located within the rear garden. Accommodation within the basement within a high thermal mass structure will benefit from minimal heat loss. It is anticipated that the development would achieve a Code of Sustainable Homes rating of “Level 3”, which could be secured by condition.

The fabric of the existing house will be repaired and improved with additional thermal insulation, particularly to the roofs together with secondary glazing to the windows.

Lifetime Homes standards

Policy HO13 requires all new residential dwellings to be built to a Lifetime Homes standards.

Both the existing and proposed property have level street access and to the rear garden areas. At ground floor level the proposed dwelling has a wide entrance hall, toilet, and open plan layout which affords wheelchair access. Doors and corridors are of adequate width within both the proposed dwelling and converted property. Within the conversion bathroom layout permits side entry to baths and wheelchair turning to all rooms.

The proposal meets Lifetime Homes standards

Minimisation and re-use of construction and industry waste

Policy SU13 and the Construction and Demolition Waste SPD requires development proposals to demonstrate that the minimisation and reuse of construction industry waste has been sought in an effective manner through the preparation of Site Waste Management Plan.

A Site Waste Minimisation Statement accompanies the application. A large proportion of material from the demolition of the garages and extension will be crushed on site and the aggregate utilised for the new build. Materials will be separated and recycled and used where possible. Top soil will set aside and reused. As the site is restricted in size materials will be ordered and deliveries in quantities for immediate use, thus ensuring waste will be minimised. New building materials will be generally locally sourced, with timber sources from managed Sussex forests.

Conclusion

Local Plan policies encourage higher density development which would not be to the detriment of the surrounding area in terms of the scale and form of the development, or upon residential amenity. The proposed dwelling would replace an unattractive double garage with terrace over, and side extension, which currently detract from the appearance of the street scene. The proposed house is of modern design in stark contrast to the Edwardian

terraces of the street. The detailing, massing and rendered finish would enable the property to sit well in its context and make a positive contribution to the architectural mix of the area. The proposed demolition, removing unsightly additions to the existing property, would make a positive contribution to the appearance of the building and street scene. The development as a whole makes efficient use of the land and building, would contribute to the housing stock with a good mix of units with access to amenity space and secure cycle storage. For these reasons the proposal is considered to be acceptable and conforms to planning policies.

8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

The proposal makes a positive contribution to the appearance of the street and housing stock, would not result in an undue loss of residential amenity, and caters for the demand in travel it would create.

9 EQUALITIES IMPLICATIONS

The proposal dwelling would have to meet Part M of the building regulations. Level access would facilitate wheelchair access.

BH2008/01283 1 Tivoli Crescent



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Brighton & Hove City Council

PLANS LIST – 2 SEPTEMBER 2009

COUNCILLOR REPRESENTATION

Paul Earp.
Brighton and Hove City Council.
Environmental Services.
Norton Road,
HOVE BN3 3BQ

June 29th 2008

Dear Mr. Earp,

Planning Application Number: BH2008/01283

I, Tivoli Crescent, Brighton BN1 5NB

I am writing in my capacity as Withdean Ward Councillor to oppose the application as listed above. I believe that the proposal constitutes over development of the site and I give details below of my principle reasons for objecting to this proposed development which appears to be contrary to policies QD2, QD14 and QD27 of the Brighton and Hove Local Plan 2005.

QD 2 KEY PRINCIPLES FOR NEIGHBOURHOODS

All new developments should be designed to emphasise and enhance the positive qualities of the local neighbourhood, by taking account of local characteristics

QD14 EXTENSIONS AND ALTERATIONS

Planning permission for extensions or alterations to existing buildings, including the formation of rooms in the roof, will only be granted if the proposed development (a) is well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area

- (b) It would not result in significant noise disturbance or loss of privacy, outlook, daylight/sunlight or amenity to neighbouring properties
- (c) It takes account of the existing space around buildings and the character of the area

QD27 PROTECTION OF AMENITY

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.

I request that my letter of objection be circulated with the appropriate agenda for the Planning Applications Sub Committee unless the application has previously been rejected by powers delegated to officers.

Yours sincerely,

WITHDEAN WARD COUNCILLOR

Tel: 01273 291182 ann.norman@brighton-hove.gov.uk

