

<b><u>No:</u></b>	<b>BH2018/00133</b>	<b><u>Ward:</u></b>	<b>East Brighton Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Land R/O 1 To 3 Clarendon Terrace Brighton BN21FD</b>		
<b><u>Proposal:</u></b>	<b>Erection of 1no single storey two bedroom dwelling (C3), lowering of ground level and associated works.</b>		
<b><u>Officer:</u></b>	Ayscha Woods, 292322	tel:	<b><u>Valid Date:</u></b> 16.01.2018
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	13.03.2018
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Turner Associates 19A Wilbury Avenue Hove BN3 6HS		
<b><u>Applicant:</u></b>	Ms Richards-Levi C/O Turner Associates 19A Wilbury Avenue Hove BN3 6HS		

## 1. RECOMMENDATION

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

Conditions:

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

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location and block plan	TA 1088/01	-	16 January 2018
Floor Plans Proposed	TA 1088/10	A	12 February 2018
Roof Plan Proposed	TA 1088/11	A	12 February 2018
Sections Proposed	TA 1088/12	A	12 February 2018
Sections Proposed	TA 1088/13	A	12 February 2018
Elevations Proposed	TA 1088/16	A	12 February 2018
Refuse storage details	TA 1088/19	-	12 February 2018
Elevations Proposed	TA 1088/14	-	16 January 2018
Elevations Proposed	TA 1088/15	-	16 January 2018
Elevations Proposed	TA 1088/17	-	16 January 2018
Sections Proposed	TA 1088/18	-	16 January 2018

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

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

3. No development above ground floor slab level of any part of the development hereby permitted shall take place until samples of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):
- a) samples of all brick, render and tiling (including details of the colour of render/paintwork to be used)
  - b) samples of all cladding to be used, including details of their treatment to protect against weathering
  - c) samples of all hard surfacing materials
  - d) samples of the proposed window, door and balcony treatments
  - e) samples of all other materials to be used externally

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

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

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

**Reason:** The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and to the character of the area and for this reason would wish to control any future development to comply with policies QD14, HE6 and QD27 of the Brighton & Hove Local Plan and CP12, CP13 and CP15 of the Brighton & Hove City Plan Part One.

5. The residential units hereby approved shall not be occupied until they have achieved a water efficiency standard using not more than 110 litres per person per day maximum indoor water consumption.

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

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

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

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

**Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policy QD27 of the Brighton & Hove Local Plan, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the

East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan  
Waste and Minerals Plan.

8. The development hereby permitted shall not be occupied until details of secure cycle parking facilities for the occupants of, and visitors to, the development have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.

**Reason:** To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan and SPD14: Parking Standards.

9. The development hereby permitted shall not be agreed until a survey report and a method statement setting out how the existing boundary walls are to be protected, maintained, repaired and stabilised during and after construction works, and including details of any temporary support and structural strengthening or underpinning works, shall have been submitted to and approved in writing by the Local Planning Authority. The construction works shall be carried out and completed fully in accordance with the approved method statement.

**Reason:** As this matter is fundamental to the acceptable delivery of the permission to ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.

10. The external finishes of the works to the west boundary wall hereby permitted shall match in material, colour, style, and texture those of the historic part of the existing wall.

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

11. All new render finishes shall be smooth, lime-based, wet render without external beads, stops, bell drips or expansion joints.

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

12. The railings, finials and gate shown on the approved plans shall match the materials, profiles and detailing of the originals and be painted black within one month of installation and shall be retained as such thereafter.

**Reason:** To ensure the satisfactory preservation of this listed building and to comply with policies HE1 and HE4 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.

13. Prior to first occupation of the development hereby permitted, pedestrian crossing improvements (dropped kerbs with paving and tactile paving) shall have been installed at the junction of and across Chesham Road (east) with Clarendon Terrace.

**Reason:** To ensure that suitable footway provision is provided to and from the development and to comply with policies TR7, TR11 and TR12 of the Brighton & Hove Local Plan & CP9 of the City Plan Part One.

14. Access to the flat roof over the dwelling hereby approved shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area.

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

15. Within 6 months of commencement of the development hereby permitted or prior to occupation, whichever is the sooner, a scheme shall be submitted to the Local Planning Authority for approval to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit. The approved scheme shall be implemented before occupation.

**Reason:** This condition is imposed in order to allow the Traffic Regulation Order to be amended in a timely manner prior to first occupation to ensure that the development does not result in overspill parking and to comply with policies TR7 & QD27 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One and SPD14: Parking Standards.

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

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

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The applicant is advised to contact the Council's Streetworks Team (permit.admin@brighton-hove.gov.uk 01273 290729) for necessary highway approval from the Highway Authority prior to any works commencing on the adopted highway to satisfy the requirements of the condition.
3. The applicant is advised that the scheme required to be submitted by Condition 15 should include the registered address of the completed development; an invitation to the Council as Highway Authority (copied to the Council's Parking

Team) to amend the Traffic Regulation Order; and details of arrangements to notify potential purchasers, purchasers and occupiers that the development is car-free.

## 2. SITE LOCATION & APPLICATION DESCRIPTION

2.1 The application site relates to a narrow strip of land situated behind 1-3 Clarendon Terrace which is a Grade II listed building located in the East Cliff Conservation Area. The plot is currently vacant and grassed and is not in use. Historically this area is likely to have formed garden area associated with the lower ground floor flats at 1-3 Clarendon Terrace. However it was previously separated from these properties by the existing boundary fence. The site is surrounded by six-storey terraced properties. The character of the locality is predominantly residential.

## 3. RELEVANT HISTORY

BH2018/00134 (Listed Building Consent) - Erection of 1no single storey two bedroom dwelling (C3), lowering of ground level and associated works - **Under consideration**

BH2010/02596 (Full Planning) - Erection of a two storey dwelling, alterations to boundary walls fronting Chesham Place and alterations within garden including excavation and alterations to walls - **Refused** - 24/11/10 for the following reason:

1) The proposed new dwelling, by reason of its height and close proximity to adjoining properties in Clarendon Terrace would be overbearing and create a sense of enclosure and cause loss of outlook to occupiers of those properties, to the detriment of their amenity, contrary to policy QD27 of the Brighton and Hove Local Plan.

APP/Q1445/A/11/2153786 - Relating to application BH2010/02596 - Appeal Dismissed - 02/11/11

BH2009/01891 (Listed Building Consent) - Erection of a two storey dwelling house, alterations to boundary walls fronting Chesham Place and alterations within garden including excavation and alterations to walls - **Approved** - 23/09/09

BH2005/05030 (Full Planning) - Erection of a two-storey dwelling, alteration to boundary walls fronting Chesham Place and alterations within garden including excavation and alterations to walls - **Refused** - 11/04/06 for the following reason:

1) The proposed new dwelling, by reason of its height and close proximity to adjoining properties in Clarendon Terrace would be overbearing and create a sense of enclosure and cause loss of outlook to occupiers of those properties, to the detriment of their amenity, contrary to policy QD27 of the Brighton and Hove Local Plan.

APP/Q1445/A/06/2021441 - Relating to application BH2005/05030 - **Appeal Dismissed** - 14/12/06

BH2005/05029 (Listed Building Consent) - Attachment of a two-storey building to boundary walls and existing rear extension, alterations to boundary wall fronting Chesham Place and alterations within garden including excavation and removal/alteration of walls and steps - **Approved** - 11/04/06

#### **4. REPRESENTATIONS**

4.1 Eight (8) letters has been received objecting to the proposed development for the following reasons:

- Out of character
- Impact on Grade II listed building at Clarendon Terrace
- Impact on conservation area
- Potential for flat roof to be used to build second storey at later date
- Potential for flat roof to be used as roof terrace
- Other uses for land more appropriate
- Overdevelopment
- Loss of light
- Loss of privacy
- Overlooking
- Overshadowing
- Noise disturbance
- Impact on parking
- Concerns of excavation works and structural impact on neighbouring buildings
- Loss of access to rear of Clarendon Terrace for building works, scaffolding etc.
- Loss of listed wall/railings

4.2 One (1) letter has been received supporting the principle of the proposed development subject to minor points of clarification on detailing.

#### **5. CONSULTATIONS**

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

5.2 **Environment Agency:** No comment received.

5.3 **Fire Brigade:** No comment received.

5.4 **Sustainable Transport:** No objection subject to conditions

The Highway Authority has no objections to this application subject to the inclusion of the necessary conditions

5.5 **Heritage:** No objection subject to conditions

Amendments and further information was received throughout the course of the application. Following the amendment to the positioning of the bin store and additional information regarding the severance of the site, there are no heritage objections to the scheme, subject to the requested conditions.

## **6. MATERIAL CONSIDERATIONS**

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

## **7. POLICIES**

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development  
CP1 Housing delivery  
CP8 Sustainable buildings  
CP9 Sustainable transport  
CP12 Urban design  
CP14 Housing density  
CP15 Heritage  
CP19 Housing mix

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

TR7 Safe Development  
TR14 Cycle access and parking  
SU10 Noise Nuisance  
QD5 Design - street frontages  
QD15 Landscape design  
QD27 Protection of amenity  
HO5 Provision of private amenity space in residential development  
HE3 Development affecting the setting of a listed building  
HE6 Development within or affecting the setting of conservation areas

#### Supplementary Planning Documents:

SPD03 Construction & Demolition Waste  
SPD09 Architectural Features  
SPD14 Parking Standards

## **8. CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations in the determination of this application relate to the principle of the development, the visual impact of the development on the character and appearance of the East Cliff Conservation Area and wider streetscene, the impact upon the adjacent listed building, the standard of accommodation provided, any potential impact on the amenities of neighbouring properties, transport and sustainability issues.
- 8.2 The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually.
- 8.3 The Council's most recent land supply position was published in the 2017 SHLAA Update (February 2018) which showed a marginal surplus (5.0 years supply). However, the inspector for the recent planning appeal on Land south of Ovingdean Road (APP/Q1445/W/17/3177606) considered that the Council's delivery timescales for two sites were over-optimistic and concluded that there would be a five year supply shortfall of at least 200 dwellings. The Council's five year housing land supply figures are currently being updated as part of the annual monitoring process and an updated five year housing position will be published later this year. In the interim, when considering the planning balance in the determination of planning applications, increased weight should be given to housing delivery in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).
- 8.4 The application site has been subject to two previous proposals which were both for two storey dwellings and were both refused planning permission by the Local Planning Authority on the grounds of harmful impacts on the amenity to the properties at Clarendon Terrace (BH2005/05030 and BH2010/02596). The reasons for refusal are set out under the history section above. Both applications were subsequently dismissed at appeal.
- 8.5 Under the first appeal decision (APP/Q1445/A/06/2021441) relating to application BH2005/05030, the appeal inspector stated:

*"Although the proposed is, in many respects, an imaginative and careful design which aims to respond to the constricted and sensitive context of the site, and it would potentially make effective use of a brownfield site, I am concerned that the proposed dwelling would be detrimental to the living conditions of the occupiers of Clarendon Terrace. On balance, therefore, the proposal would be in conflict with Policy QD27 of the Brighton and Hove Local Plan."*

- 8.6 Under the most recent appeal decision (APP/Q1445/A/11/2153786) relating to application BH2010/02596, the appeal inspector stated:

*"Despite having found that the proposed development would not be harmful in a number of respects, and that there would be a positive enhancement to the character and appearance of the area due to the design of the building, these findings must be weighed against the main issues in this appeal. There has been no change in circumstances since the date of the previous dismissed appeal for the same scheme, insofar as it relates to the relationship with the adjoining properties: there is the same Local Plan and the same circumstances pertaining to the appeal site. I therefore come to the same consistent decision as previously and find that the conflict with Policy QD27 on the main issue outweighs other matters, and so the appeal is dismissed."*

- 8.7 The current scheme has sought to address the previous concerns of the proposal and is discussed below.

### **8.8 Principle of Development**

The application site forms a vacant plot of land located in a built up area, adjacent to buildings in residential use. The two previously refused schemes did not raise an issue with the principle of the site being redeveloped. Furthermore, this was not an issue raised by the two previous refusals and appeal decisions. The proposal for a new dwelling on this site would make efficient use of this land, and the principle of a residential dwelling in this area is considered acceptable.

### **8.9 Design and Appearance:**

The proposed new dwelling would be similar in design and appearance to the two previously refused schemes, in that it would be set notably down into the existing ground level due to a considerable degree of excavation to the site, with a painted render finish and flat roof. The flat roof would be finished with a green roof system. The design is simple and offers a contemporary solution similar to the previous schemes, albeit the scheme now proposes a single storey dwelling.

- 8.10 The previous schemes were not refused on design and during the most recent appeal (APP/Q1445/A/11/2153786), the inspector stated,

*"The Design of the proposed building is creative in addressing the street scene considerations of the site. It would be a positive enhancement to the character and appearance of the East Cliff Conservation Area due to the removal of the unsightly 'gap' appearance of the appeal site. The building would also sit comfortably adjoining the listed buildings of Chesham Place."*

- 8.11 The main difference between the previously refused schemes and this current scheme is that the proposed new dwelling would be single storey in height. The single storey design would result in a reduction in the overall bulk of the dwelling.

### **8.12 Heritage**

No heritage objections were raised regarding the previously refused schemes. The proposed property will be positioned below the height of the boundary wall along Chesham Place and would not be readily visible from the public realm. As such, the new dwelling would not have a detrimental impact on the Conservation Area.

The impact of the proposed development on the conservation area and streetscene is limited to the proposals for the front boundary along Chesham Place. The application includes the repair of the front railings, the addition of a gate, and the reinstatement of render and mouldings to the section of wall north of the timber gate and the replacement of this gate with a new painted timber one. The improvements fronting Chesham Place would have a positive impact and make a significant improvement to the streetscene and these works are secured by condition.

Initial concerns were raised regarding the potential loss of a historic northern wall which sub-divided the application site and the properties at 1-3 Clarendon Terrace to the south. Further information was provided through the course of the application addressing this issue and confirmed that the two walls which previously sub-divided the space have been removed and the harm has already occurred and cannot practically be reversed. As such the proposed development would not increase the level of harm.

For these reasons the proposal is not considered to cause any harm to the streetscene, character and appearance of the East Cliff Conservation Area, or the setting of a Listed Building.

#### **8.13 Standard of Accommodation:**

The proposal would create a single storey, two bedroom dwelling with an open plan kitchen/dining/living area. The dwelling would have an internal floor space area of 63.3sqm which exceed the nationally described space standards for a single storey, two bed, three person dwelling, which requires a minimum size of 61sqm. Bedroom 1 measures 14.9sqm, and bedroom 2 measures 7.8sqm which also meet the minimum bedroom standards.

The scale and layout of the proposed dwellinghouse would provide an acceptable standard of accommodation with sufficient natural light and outlook throughout.

The application proposes a small centrally located courtyard, and additional patio area to the rear. It is acknowledged that the amenity area is small; however it is considered that it would provide adequate usable private amenity space appropriate to the scale and character of the development in accordance with policy HO5. In addition, it is noted that the site would be located close to the seafront and this would also provide for some of the recreational needs of the potential occupiers of the proposed dwelling.

#### **8.14 Impact on Amenity:**

The previous refused schemes were refused on amenity grounds in terms of loss of outlook for the occupants of the existing properties at Clarendon Terrace.

The first appeal decision (APP/Q1445/A/06/2021441) relating to application BH2005/05030 stated:

*"The proposed dwelling would be somewhat dwarfed by the flank wall of Chesham Place...but the dwelling would be in substantially closer proximity to the lower ground floor properties of Clarendon Terrace than the flank wall. As a consequence, I consider that it would appear intrusive and result in a loss of outlook to the occupiers of properties on the lower ground floor of Clarendon Terrace".*

Under the most recent appeal decision (APP/Q1445/A/11/2153786) relating to application BH2010/02596, the main issue was the effect of the proposed development on the living conditions of adjoining occupiers in Clarendon Terrace, with particular reference to outlook. The appeal inspector stated:

*"I still have concerns regarding the outlook from adjoining properties to the predominant side elevation of the proposed house...There is no change in the proposed development from the scheme dismissed by the previous Inspector appointed by the Secretary of State, and so I come to a similar finding that the proposed development as shown would cause a loss of outlook to the adjoining residents of Clarendon Terrace..."*

The current revised scheme has sought to address these previous concerns. The proposed dwelling would be single storey in height and would be sunken into the site. The height of the dwelling would not exceed the height of the existing boundary fence between the application site and 1-3 Clarendon Terrace.

As such, the revised scheme would not result in loss of outlook for the occupants at 1-3 Clarendon Terrace and it is considered that the proposed scheme has overcome the previous reason for refusal.

In addition, the design of the dwelling would ensure that there would be no unreasonable loss of privacy or overlooking to the adjoining occupants.

Furthermore, given the existing boundary fence, and that the new dwelling would not exceed the height of this, it is considered that the proposal would not result in a loss of light to the rear of the adjacent properties.

It is noted that concerns have been raised regarding the design of the flat roof and the potential for it to be used as a terrace. A condition will be applied to restrict the use of the flat roof as amenity space. Thus no harm would occur to residents from this aspect of the proposed development.

#### **8.15 Sustainable Transport:**

The application identifies an area for cycle parking and details of the secure cycle parking will be secured by condition.

The proposed level of car parking (zero spaces) is in line with the maximum standards and is therefore deemed acceptable in this case. The site located within Controlled Parking Zone (H) and in the absence of a parking survey a car free condition will be attached.

There is not forecast to be a significant increase in vehicle trip generation as a result of these proposals therefore any impact on carriageways will be minimal and within their capacity so the application is deemed acceptable.

It is likely that the development will result in an increase in pedestrian and mobility and visually impaired trip generation. In order to ensure that the proposed development provides for the needs of pedestrians and the mobility and visually impaired, a condition is recommended securing pedestrian crossing improvements (dropped kerbs with paving and tactile paving) at the junction of and across Chesham Road (east) with Clarendon Terrace. This is to improve access to and from the site to the various land uses in the vicinity of the site.

**8.16 Sustainability:**

City Plan Part One policy CP8 requires new residential development demonstrate efficiency in the use of water and energy, setting standards that mirror the national technical standard for water and energy consumption. Conditions are proposed to ensure the development meets these standards as set out in policy CP8.

**9. EQUALITIES**

9.1 None identified.