

<b><u>No:</u></b>	<b>BH2019/02306</b>	<b><u>Ward:</u></b>	<b>Withdean Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>40 Dyke Road Avenue Brighton BN1 5LE</b>		
<b><u>Proposal:</u></b>	<b>Demolition of existing single dwelling (C3) with associated garage and erection of three storey five bedroom single dwelling (C3)</b>		
<b><u>Officer:</u></b>	Helen Hobbs, tel: 290585	<b><u>Valid Date:</u></b>	03.09.2019
<b><u>Con Area:</u></b>	Tongdean	<b><u>Expiry Date:</u></b>	29.10.2019
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Morgan Carn Partnership Brighton BN1 6FA	Blakers House	79 Stanford Avenue
<b><u>Applicant:</u></b>	Mr & Mrs Hogley	Blakers House	79 Stanford Avenue Brighton BN1 6FA

## 1. RECOMMENDATION

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

1. The existing house makes a very positive contribution to the historic and architectural qualities of this part of Dyke Road Avenue and the wider Tongdean Conservation Area, and exhibits many of the common features of the area whilst at the same time being architecturally distinctive and reflective of the period in which this part of the conservation area was developed. No information or supporting evidence has been submitted with the application to justify its demolition and no benefits are evident from the application proposal that would outweigh the building's loss. It is therefore considered that the demolition of the existing building would fail to preserve the appearance and character of the area and would cause harm to the Tongdean Conservation Area. Furthermore the replacement dwelling would introduce a style of architecture not found anywhere else within the conservation area, resulting in a development that would be out of keeping and would fail to make a positive contribution to the streetscene and wider area. The proposal is therefore contrary to policies HE6 and HE8 of the Brighton and Hove Local Plan and CP12 and CP15 of the Brighton and Hove City Plan Part One.

### Informatives:

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

Plan Type	Reference	Version	Date Received
Proposed Drawing	1887-P-104		2 September 2019
Proposed Drawing	1887-P-105		2 September 2019
Proposed Drawing	1887-P-106		2 September 2019
Proposed Drawing	1887-P-107		2 September 2019
Proposed Drawing	1887-P-103		2 September 2019
Location and block plan	1887-P-101		2 September 2019
Report/Statement	Heritage Statement		2 September 2019
Report/Statement	Arboricultural Assessment		10 December 2019
Report/Statement	Design and Access		2 September 2019

## 2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The site relates to a detached dwelling on the northern side of Dyke Road Avenue, located within the Tongdean Conservation Area. The building is set back from the road and bounded by a brick wall with piers to the street elevation.
- 2.2. The application seeks permission for the demolition of the existing building and erection of a three storey five bedroom single dwelling.

## 3. RELEVANT HISTORY

- 3.1. PRE2018/00156 Demolition of existing house and erection of new larger replacement dwelling.
- 3.2. PRE2017/00324 Erection of new dwelling to the rear part of the garden of the existing house

## 4. REPRESENTATIONS

- 4.1. **Eleven (11)** letters have been received supporting to the proposed development for the following reasons:
  - Well designed
  - Good size
  - The existing house is derelict
  - The design is in keeping with Conservation Area
  - The vegetation at the front is being retained
- 4.2. **Two (2)** letters have been received objecting to the proposed development for the following reasons:
  - Loss of privacy
  - Overlooking
  - Loss of trees
  - Arts and Crafts Architectural style should be preserved

## **5. CONSULTATIONS**

### **5.1. Environmental Health: No Comment**

### **5.2. Arboricultural: Comment**

#### Initial Comment:

The Arboricultural Team are largely satisfied with the Arboricultural submission.

- 5.3. Trees T6 and T8 are highly visible Elm trees within the street scene close to the frontage of the site. It is claimed the trees have Elms disease and are proposed for removal. It has not been possible on site to confirm whether the trees are diseased due to the time of year. Given that the proposed removal of two trees significant in the local landscape setting, further clarification is required as to whether the trees are diseased before it can be accepted that the trees can be removed.

#### Updated Comment:

- 5.4. Amended information has been submitted making it clear that all references to the removal of the two Elm trees labelled T6 and T8 have been removed and these trees are now to be retained.

### **5.5. Heritage: Objection**

The proposal would fail to meet policies HE6 and HE8 and would fail to preserve the appearance and character of the conservation area as required by s72 of the Planning (Listed Buildings and Conservation Areas) act 1990. The application would therefore cause clearly demonstrable harm to the conservation area and, whilst this harm would be less than substantial under the terms of the NPPF, it must be given great weight. There are no benefits that may be weighed against that harm. The NPPG, at paragraph 019, states in respect of conservation areas that where the harm is less than substantial "the justification for a building's proposed demolition will still need to be proportionate to its relative significance and its contribution to the significance of the conservation area as a whole." The existing house has high significance as a very positive element of the conservation area that both exhibits many of the common features of the area whilst at the same time being architecturally distinctive and reflective of the period in which this part of the conservation area was developed.

### **5.6. Planning Policy: No Comment**

### **5.7. Sustainable Transport: Comment**

Recommend approval subject to the inclusion of conditions relating to the materials of the hard surfacing and securing cycle parking for the dwelling.

## **6. MATERIAL CONSIDERATIONS**

- 6.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan,

and all other material planning considerations identified in the "Considerations and Assessment" section of the report

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

## 7. **POLICIES**

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP8	Sustainable buildings
CP9	Sustainable transport
CP12	Urban design
CP15	Heritage

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

TR7	Safe Development
TR14	Cycle access and parking
QD5	Design - street frontages
QD15	Landscape design
QD16	Trees and hedgerows
QD18	Species protection
QD27	Protection of amenity
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes
HE6	Development within or affecting the setting of conservation areas ancient monuments and other important archaeological sites
HE8	Demolition in conservation areas

#### Supplementary Planning Documents:

SPD14	Parking Standards
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## 8. **CONSIDERATIONS & ASSESSMENT**

- 8.1. The main considerations in the determination of this application relate to the impact of the development on the character and appearance of the existing site, streetscene and the surrounding conservation area, impact on neighbouring amenity, the trees on site, transport network 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 housing land supply position is published in the SHLAA Update 2018 (February 2019). The figures presented in the SHLAA reflect the results of the Government's 2018 Housing Delivery Test which was published in February 2019. The Housing Delivery Test shows that housing delivery in Brighton & Hove over the past three years (2015-2018) has totalled only 77% of the City Plan annualised housing target. Since housing delivery has been below 85%, the NPPF requires that a 20% buffer is applied to the five year housing supply figures. This results in a five year housing shortfall of 576 net dwellings (4.5 years supply). In this situation, when considering the planning balance in the determination of planning applications, increased weight should be given to housing delivery in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).

**Design and Appearance:**

- 8.4. When considering whether to grant planning permission for development in a conservation area the council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
- 8.5. The proposal is to wholly demolish the existing house and replace it with a new dwelling which is designed to provide two storeys plus accommodation in the roof space. The existing house contributes very positively to the appearance and character of the conservation area. It dates from the primary period of development on this part of Dyke Road Avenue and is typical of the architectural free eclecticism and prevailing influences of this period, whilst in particular being part of a clutch of houses here that exhibit Arts and Crafts influences. Its scale, siting, form, roofline and relationship to soft landscaping are also very typical of the conservation area.
- 8.6. As the NPPF makes clear at paragraph 184, heritage assets are an irreplaceable resource. Policy HE8 in respect of demolition expects that proposals should retain buildings, structures and features that make a positive contribution to the character or appearance of a conservation area. It sets a high bar requiring evidence to demonstrate the building is beyond economic repair, viable uses cannot be found and that the redevelopment both preserves the area's character and would produce substantial benefits that would outweigh the buildings loss. No supporting case or evidence has been submitted to meet the first two criteria and there are no "substantial benefits" evident from the application proposal that would in any way outweigh the building's loss. Similarly there are no public benefits, as required by paragraph 196 of the NPPF, which outweigh the harm identified.
- 8.7. Similarly criteria (c) of policy HE6 (Development within or affecting the setting of conservation areas) seeks to ensure that developments do not result in a

harmful impact on the townscape and roofscape of the conservation area. In this case the proposed new dwelling is in a classical, Neo-Georgian style with hints of Art Deco in its central attic features. Classicism and Neo-Georgian are not represented at all in the Dyke Road Avenue part of the conservation area and barely represented in the later Tongdean Road and Avenue part of the conservation area. The existing house is much more typical of the area as a whole and, for example, the distinctive diamond pattern on its front gables can also be seen, in similar pattern, at 6 Tongdean Road. Moreover, the proposed new house lacks the typical features that are prevalent in the conservation area such as overhanging eaves, gables and tall chimneys and overall lacks the roof level interest of the historic buildings in the conservation area.

- 8.8. The proposed development would not make a positive contribution to local character and distinctiveness as the NPPF and policy HE6 expect.
- 8.9. A number of trees on the site are to be removed although the two important elms on the frontage are to be retained. The Arboricultural Team are satisfied with the arboricultural submission.
- 8.10. For all of the above reasons it is considered that the proposal would fail to meet policies HE6 and HE8 and would fail to preserve the appearance and character of the conservation area as required by s72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The application would therefore cause clearly demonstrable harm to the conservation area and, whilst this harm would be less than substantial under the terms of the NPPF, it must be given great weight. There are no heritage benefits that may be weighed against that harm. The NPPG, at paragraph 019, states in respect of conservation areas that where the harm is less than substantial "the justification for a building's proposed demolition will still need to be proportionate to its relative significance and its contribution to the significance of the conservation area as a whole." The existing house has high significance as a very positive element of the conservation area that both exhibits many of the common features of the area whilst at the same time being architecturally distinctive and reflective of the period in which this part of the conservation area was developed.

**Impact on Amenity:**

- 8.11. The proposed dwelling would be set in a similar location to the existing dwelling and would retain an appropriate separation from both side boundaries. The rear side wings of the proposed dwelling would project significantly further into the rear garden, than the existing footprint of the dwelling, however these elements would be single storey in height.
- 8.12. To the south, the proposed property would be set approximately 1.5m from the neighbouring property. The upper floor would be set in and would measure approximately 3m from the boundary. The neighbouring property, 38A Dyke Road Avenue, is a two storey dwelling sited along the majority of the shared boundary, set further back than the application property. The remainder of the boundary is in the form of a tall wall with heavy planting. There are no openings within the side elevation of No. 38A that look towards the application

site. Given the level of separation and screening on the boundary, it is considered that the proposal would not have a significant impact on this property.

- 8.13. To the north, the proposed property would be set approximately 1.7m from the shared boundary with the neighbouring property, 42 Dyke Road Avenue. The upper floor would be set in and would measure approximately 5.2m from the shared boundary. The side elevation of 42 Dyke Road has no openings facing the application site. Again the level of separation, coupled with the boundary screening, which is in the form of a fence and planting, the proposal would not have a significant impact on this property.
- 8.14. Large upper floor windows are being introduced on the side elevations which would look towards the adjoining properties. They are largely secondary windows and are a natural consequence of the proposed internal layout/room sizes. Whilst the use of obscure glazing and high level windows can help to mitigate the impact of overlooking and avoid prejudicing neighbours' from undertaking their own development, there are some concerns that the size of the windows and the rooms they are serving may make the use of obscure glazing and/or high level windows less of an option, especially as any permission would seek to ensure that any obscurely glazed are fixed shut, to prevent any overlooking or loss of privacy. It would therefore be expected that in redesigning the dwelling this matter is given further consideration.

**Sustainable Transport:**

- 8.15. For this development of 1 residential unit with 5 beds the minimum cycle parking standard is 2 cycle parking spaces in total. The application is proposing to install cycle parking in the rear of the garage but this is not a particularly convenient location given it is a relatively standard sized single garage. Further details could be conditioned if the proposal were acceptable in all other respects.
- 8.16. Changes are proposed to the existing vehicle access arrangements onto the adopted (public) highway and for this development this is deemed acceptable in principle.
- 8.17. The proposal would be provided with one parking space within the garage as shown on the proposed plans and three spaces on the forecourt as indicated within the Design and Access Statement. Whilst the overall number of spaces being provided would exceed the maximum number of parking spaces as advised within SPD14, this is not considered to be a concern or a reason for refusal.
- 8.18. A significant increase in vehicle trip generation as a result of these proposals is forecast, therefore any impact on carriageways will be minimal and within their capacity so the application is deemed acceptable and developer contributions for carriageway related improvements will not be sought.

**Sustainability:**

- 8.19. The Local Planning Authority seeks to secure sustainable energy efficiency and water usage in the construction of the proposed dwelling through the imposition of planning conditions.

**Other Issues:**

- 8.20. Parts of the front boundary wall have recently been removed as the wall was deemed structurally unsound and dangerous. These works require a separate planning application to regularise the demolition works within a conservation area and have not been considered under this current application.

9. **EQUALITIES**  
None identified.