

No:	BH2019/03091	Ward:	Regency Ward
App Type:	Full Planning		
Address:	Lace House Flats 1 To 9 39 - 40 Old Steine Brighton BN1 1NH		
Proposal:	Replacement of existing aluminum framed double glazed windows with aluminum framed double glazed windows (retrospective).		
Officer:	Sam Bethwaite, 292138	tel: Valid Date:	17.10.2019
Con Area:	Valley Gardens	Expiry Date:	12.12.2019
Listed Building Grade:		EOT:	
Agent:	Hapa Architects 11 The Old Steine Brighton BN2 4JA		
Applicant:	Lace Wilson Properties 30-34 North Street Halilsham BN27 1DW		

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 windows by virtue of their design and method of opening relate poorly to the appearance of the building, the setting of the adjacent Listed Buildings and the character of the wider conservation area. Accordingly they are considered to be contrary to policies CP12 and CP15 of the Brighton & Hove City Plan Part One and policies QD14, HE3 and HE6 of the Brighton and Hove Local Plan (retained policies March 2016).

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	AL-100		16 October 2019
Location and block plan	L-01		16 October 2019

2. SITE LOCATION & APPLICATION DESCRIPTION

2.1. The site is a stand-alone five storey building divided into self-contained flats. Located at the southern end of the Valley Gardens, the site is highly visible when approaching from the North or East. It is within the Valley Gardens Conservation Area and is adjacent the Grade II* Listed Royal Albion Hotel and the Grade II Listed Royal York Buildings.

2.2. This application is seeking retrospective permission for the replacement of aluminium framed sash windows with aluminium framed casement windows.

3. RELEVANT HISTORY

3.1. BH2016/02600 - Prior approval for change of use from offices (B1) to residential (C3) to create 7no one bedroom flats and 2no two bedroom flats. - Prior Approval Required Approved 12.09.2016

4. REPRESENTATIONS

4.1. **Thirteen (13)** letters have been received, supporting the proposed development for the following reasons:

- Good design
- Windows are well suited and in keeping
- Building has been vastly improved over the previously dilapidated state
- Windows compliment contemporary design of site
- Renovation of the site has improved the feeling of the entire area
- The acoustic qualities of the windows are a very attractive feature of the site

4.2. **One (1)** letter has been received, commenting on the proposed development for the following reasons:

- The site had a foreboding feel prior to renovation with the damaged windows contributing to this, it has now been vastly improved

4.3. **One (1)** letter has been received from **Councillor Druitt**. A copy of their correspondence is attached.

5. CONSULTATIONS

5.1. **Heritage: Objection**

The building seemingly gained its current appearance as a Victorian-style building in around 1973. It is assumed that the pre-existing aluminium sash windows were installed at that date. These windows, in their style and pattern, contributed positively to the simple Victorian style of the building in this very prominent location within the conservation area and within the setting of the listed Royal Albion Hotel and Royal York buildings, both of which have traditional timber sash windows. The new windows as installed fail to match the traditional style and pattern of the previous windows, being uneven casements of clearly contemporary design which are at odds with the formality and symmetry of the building and so represent an incongruous feature. The key point is that the new windows should at the least be of a design and proportions similar to that of the previous sash windows - i.e. with a central meeting rail or transom rail.

5.2. There would of course be no objection to new windows that provide better acoustic performance but there is nothing to suggest that only this particular design, style and finish of windows could meet the required level of acoustic performance. Issues of safety from falls can be addressed in other ways, for example by having only the top half of a sash window opening and this has been

the solution in other cases. Regrettably there is no evidence that the applicant or architects sought to find a solution that would retain the more traditional appearance of the pre-existing window proportions.

- 5.3. The other window examples referred to in the application are not considered to be comparable as this is a unique building in an especially sensitive location. The Valley Gardens Conservation Area Study and Enhancement Plan notes that the southern side of Old Steine is dominated by the large scale buildings of the Royal Albion Hotel and the Royal York Buildings, which form a fitting backdrop and termination to the central public gardens when approached from the north, and also notes how sash windows are one of the unifying features of the area.
- 5.4. It is considered that the replacement windows, as a result of their incongruity with the building's style and the surrounding historic context, have clearly harmed the appearance of the Valley Gardens conservation area and have clearly harmed the settings of the adjacent listed buildings of the Royal Albion Hotel and Royal York Buildings. In each case this harm is considered to be less than substantial under the terms of the NPPF but must nevertheless be given great weight in accordance with paragraph 193. Paragraph 194 of the NPPF makes clear that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification.

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
CP12	Urban design
CP15	Heritage

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

SU10	Noise Nuisance
QD14	Extensions and alterations
QD27	Protection of amenity
HE3	Development affecting the setting of a listed building
HE6	Development within or affecting the setting of conservation areas
HE10	Buildings of local interest

Supplementary Planning Documents:

SPD09	Architectural Features
SPD12	Design Guide for Extensions and Alterations

8. CONSIDERATIONS & ASSESSMENT

- 8.1. The main considerations in the determination of this application relate to the impact of the existing windows on the appearance of the site, the wider Valley Gardens Conservation Area and the setting of the adjacent Listed Buildings.
- 8.2. Case law has held that the desirability of preserving a listed building or its setting or the character or appearance of a conservation area must be given "considerable importance and weight". 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.

Design and Appearance:

- 8.3. The previous windows were aluminium sash windows. The existing windows are aluminium casement windows. The visual differences are that the sash windows were divided centrally and opened by the top or bottom section sliding up or down. The existing windows are not divided centrally; having a larger upper section that is top hung and pivots out.
- 8.4. The existing windows jar with the setting of the site and the prevailing rhythm of the fenestration set by the adjacent properties and the wider conservation area, which is predominantly sliding sash windows. The site is highly visible when approaching from the North and the East. From these directions in particular the building is set against the adjacent Listed buildings of the Royal Albion Hotel (Grade II*) and the Royal York Buildings (Grade II). Both of these properties have timber sliding sash windows. As a result of this the existing windows by virtue of their different proportions and opening style appear out of keeping.
- 8.5. Windows are a key architectural feature and in this instance the prominence of the site in a conservation area and the close proximity of Listed Buildings mean the details are critical to the acceptability of the appearance of the site. It is considered that the existing windows are not acceptable as they represent an incongruous feature that harms the appearance of the building, the setting of the adjacent Listed Buildings and the character of the wider Valley Gardens Conservation Area.

- 8.6. For the reasons outlined above the existing windows are considered to be contrary to policies CP12 and CP15 of the Brighton & Hove City Plan Part One and policies QD14, HE3 and HE6 of the Brighton and Hove Local Plan (retained policies March 2016).
- 8.7. The works represent less than substantial harm but the test for the Local Planning Authority is whether there is a public benefit from the use of these windows that would outweigh this harm. The application states that the window design was necessary to comply with Building Regulations requirements relating to protection against falls and means of escape. However, it has not been demonstrated that a more appropriate sash window design could not have been made to meet these criteria, as has happened on other properties within the city, for example by having only the top half of a sash window opening. In the circumstances, it is considered that no public benefit has been demonstrated to outweigh the identified harm.
- Impact on Amenity:**
- 8.8. Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 8.9. The existing windows replaced the previous windows and were fitted into existing apertures. As a result of this they have not provided any additional views towards surrounding properties and have not had an impact on amenity.

9. EQUALITIES
None identified.

