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|--------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|----------------------|
| <b><u>No:</u></b>                    | <b>BH2020/01973</b>                                                                                                                                                                                    | <b><u>Ward:</u></b>        | <b>Withdean Ward</b> |
| <b><u>App Type:</u></b>              | <b>Full Planning and Demolition in CA</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 with associated garage and erection of three storey, five bedroom single dwelling (C3) with reconstruction of front boundary wall and landscaping works.</b> |                            |                      |
| <b><u>Officer:</u></b>               | Helen Hobbs, tel: 290585                                                                                                                                                                               | <b><u>Valid Date:</u></b>  | 21.07.2020           |
| <b><u>Con Area:</u></b>              |                                                                                                                                                                                                        | <b><u>Expiry Date:</u></b> | 15.09.2020           |
| <b><u>Listed Building Grade:</u></b> |                                                                                                                                                                                                        | <b><u>EOT:</u></b>         |                      |
| <b>Agent:</b>                        | Morgan Carn Architects<br>Brighton BN1 6FA<br>United Kingdom                                                                                                                                           | Blakers House              | 79 Stanford Avenue   |
| <b>Applicant:</b>                    | Mr And Mrs Hogley<br>Brighton BN1 6FA                                                                                                                                                                  | C/o Morgan Carn Architects | 79 Stanford Avenue   |

## 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:

- 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 heritage or other benefits have been justified to 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, due to its width and scale, would be out of keeping with the spacious character of the area and would therefore result in further harm to the streetscene and surrounding conservation 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:

| <b>Plan Type</b> | <b>Reference</b> | <b>Version</b> | <b>Date Received</b> |
|------------------|------------------|----------------|----------------------|
| Proposed Drawing | 2005-P-103       | A              | 21 July 2020         |

|                         |              |   |              |
|-------------------------|--------------|---|--------------|
| Proposed Drawing        | 2005-P-104   | A | 21 July 2020 |
| Proposed Drawing        | 2005-P-105   | A | 21 July 2020 |
| Proposed Drawing        | 2005-P-106   | A | 21 July 2020 |
| Proposed Drawing        | 2005-P-107   | A | 21 July 2020 |
| Proposed Drawing        | 2005-P-110   | A | 21 July 2020 |
| Proposed Drawing        | NJCL 523-2 A |   | 21 July 2020 |
| Proposed Drawing        | NJCL 523-2 B |   | 21 July 2020 |
| Proposed Drawing        | NJCL 523-2 C |   | 21 July 2020 |
| Location and block plan | 2005-P-101   | A | 21 July 2020 |

## 2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. This application 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 enclosed with 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 single three storey, five bedroom dwelling.

## 3. RELEVANT HISTORY

- 3.1. **BH2019/02306** Demolition of existing single dwelling (C3) with associated garage and erection of three storey five bedroom single dwelling (C3). Refused at Planning Committee Meeting 08.01.2020 with the following reason given:
- 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.
- Pre-Application Advice
- 3.2. **PRE2018/00156** Demolition of existing house and erection of new larger replacement dwelling.

- 3.3. **PRE2017/00324** Erection of new dwelling to the rear part of the garden of the existing house

#### 4. REPRESENTATIONS

- 4.1. Twelve (12) letters have been received supporting to the proposed development for the following reasons:
- Good Design
  - The existing house is derelict and in a poor state
  - The design is in keeping with Conservation Area
- 4.2. **Cllr Vanessa Brown** supports the application. A copy of her representation is attached to this report.

#### 5. CONSULTATIONS

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

- 5.2. **Heritage:** Objection

The proposal would fail to meet any of the criteria of policies HE6 and HE8 of the Brighton and Hove Local Plan.

- 5.3. The proposed house, due to its excessive width, is not considered to preserve or enhance the conservation area and therefore fails to meet policy HE6 and particularly criteria (a) and (d). The reinstatement of the front boundary wall, which was part-demolished without permission, is welcomed subject to detail.

- 5.4. Under the terms of the NPPF the proposal would cause very clear harm to the Tongdean conservation area as a designated heritage asset. This harm would be at the upper end of 'less than substantial' under paragraph 196 of the NPPF. No heritage benefits have been identified that may be weighed against the harm. The NPPG states that "disrepair and damage and their impact on viability can be a material consideration in deciding an application", but as set out above in respect of policy HE8, it has not been demonstrated that the existing house, which makes a very positive contribution to the conservation area, is beyond economic repair and that demolition and replacement is the only viable option.

- 5.5. **Planning Policy:** No Comment

- 5.6. **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.

- 5.7. **Arboriculture:** Comments from application BH2019/02306

No objections to the proposals. The Arboricultural report submitted by the applicant is satisfactory.

## 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 |
|-------|-------------------|

## 8. CONSIDERATIONS & ASSESSMENT

- 8.1. The main considerations in the determination of this application relate to the principle of the development, its design and heritage impacts, particularly in relation to the conservation area. The impact on neighbouring amenity, the trees on site, transport network and sustainability issues are also considered.

**Principle of the Development:**

- 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).
- 8.4. The present proposal would result in the loss of

**Design and Heritage Impacts:**

- 8.5. 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. Case law has held that the desirability of preserving the character or appearance of a conservation area must be given "considerable importance and weight".
- 8.6. The proposal is to wholly demolish the existing house and replace it with a new three storey dwelling. It differs from the previous, refused application through the inclusion of a building survey, and amendments to the design, particularly the front elevation.
- 8.7. However, the existing house contributes very positively to the appearance and character of the conservation area. It dates from the primary period of development of this part of Dyke Road Avenue and is typical of the architectural free eclecticism and prevailing influences of this period, 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.
- 8.8. 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 out three criteria for exceptions to this and requires that all three criteria are met.

- 8.9. With regard to criterion (a), this requires that supporting evidence is submitted which demonstrates that the building is beyond economic repair. A survey report (dated April 2020) has been submitted which provides a rough estimate of costs of c.£490,000 to bring the property back into a good state of repair. It should be noted that this survey report is based upon a number of assumptions. It is not known what level of survey was commissioned at the time of purchase. However, in the absence of any information on the value (as opposed to purchase price) of the house - both as existing and if repaired and marketed - it cannot however be assessed whether these repair costs are uneconomic. Therefore criteria (a) has not been satisfied.
- 8.10. Criterion (b) requires the applicant to demonstrate that no viable alternative uses can be found. No statement or information has been provided in response to this criteria. An option may be conversion to two or more separate dwellings for example.
- 8.11. Criterion (c) (which also relates to policy HE6 with regard to the design of the proposed replacement dwelling) requires that the redevelopment both preserves the area's character and would produce substantial benefits that would outweigh the building's loss. The design of the proposed house, as it would be seen from public viewpoints, is considered to be appropriate to the character and appearance of the area, but the footprint of the proposed house is too large, in particular in terms of its width across the site. The urban grain of the area, with detached houses on large plots, has a spacious character, and houses have gaps between that distinguish each one from the next and enable visual permeability of rear gardens and trees. The proposed house would occupy almost the full width of the plot, and in oblique views would lead to an uncharacteristic terracing effect. Whilst the design is otherwise acceptable in principle, the replacement house would not "produce substantial benefits that would outweigh the building's loss" as required by this criterion.
- 8.12. The one aspect of the development's design which is supported is the reinstatement of the front boundary wall, which was part-demolished without permission, subject to detail.
- 8.13. The supporting text to policy HE8 states that "the planning authority will not grant consent to demolish a building in a conservation area, simply because redevelopment is economically more attractive, or because the developer acquired the building at a price that reflected the potential for redevelopment rather than the condition and constraints of the existing building".
- 8.14. Overall, for the reasons set out above, it is considered that the proposal has failed to meet any of the criteria of policy HE8 and all criteria must be met.

- 8.15. The proposed house, despite the design revisions, due to its excessive width, is not considered to preserve or enhance the conservation area and therefore fails to meet policy HE6 and particularly criteria (a) and (d).
- 8.16. Under the terms of the NPPF the proposal would cause very clear harm to the Tongdean conservation area as a designated heritage asset. This harm would be at the upper end of 'less than substantial' under paragraph 196 of the NPPF. No heritage benefits have been identified that may be weighed against the harm. The NPPG states that "disrepair and damage and their impact on viability can be a material consideration in deciding an application", but as set out above in respect of policy HE8, it has not been demonstrated that the existing house, which makes a very positive contribution to the conservation area, is beyond economic repair and that demolition and replacement is the only viable option.
- 8.17. 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 or other public 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.

### **Landscaping**

- 8.18. The site has a number of established trees along the front boundary and to the rear of the site, none of which are covered by a Tree Preservation Order. The applicant has submitted an Arboricultural Assessment report. It is proposed to remove eight trees from the site, the majority of which are located at the front of the site. The report confirms that the trees to be removed are classed as low quality or diseased. The larger trees along the front boundary which are classified as good quality trees are to be retained, which will retain a similar level of screening as the existing situation. The loss of the identified trees is therefore considered acceptable.
- 8.19. The report states that tree protection measures should be put in place during the construction works and if the application were acceptable on all other grounds, a condition could be attached to secure these measures.

### **Standard of Accommodation:**

- 8.20. The dwelling would comprise of 5/6 bedrooms located on the first and second floors. Communal living spaces would be provided on the ground and basement levels. The overall layout of the dwelling is considered acceptable and all rooms would be of a good size and would have good levels of light and outlook.

**Impact on Amenity:**

- 8.21. The proposed dwelling would be set in a similar location to the existing dwelling and would retain some 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.
- 8.22. 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 be 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 in terms of amenity.
- 8.23. To the north, the proposed property would be set approximately 2m from the shared boundary with the neighbouring property, 42 Dyke Road Avenue. The upper floor would be set in and would be located approximately 6m from the shared boundary. The side elevation of 42 Dyke Road has no openings facing the application site. Again given the level of separation, coupled with the boundary screening, which is in the form of a fence and planting, it is not considered that the proposal would have a significant impact on this property.
- 8.24. Large upper floor windows are proposed on the side elevations which would look towards the adjoining properties. They are largely secondary windows and therefore if the proposal were acceptable in all other respects, a condition could be attached ensuring the windows are obscure glazed and fixed shut, to prevent any overlooking or loss of privacy, if the proposal were acceptable in all other respects.

**Sustainable Transport:**

- 8.25. For this development of one residential unit with five beds, the minimum cycle parking standard is two cycle parking spaces in total. The applicant is proposing to install cycle parking in the rear of the garage. Although this is a somewhat inconvenient location, further details could be required by condition if the proposal was acceptable in all other respects.
- 8.26. The applicant is not proposing changes to the existing vehicle access arrangements onto the adopted (public) highway and for this development this is deemed acceptable in principle.
- 8.27. 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.



- 8.28. 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 and developer contributions for carriageway related improvements will not be sought.

**Sustainability:**

- 8.29. Were the proposal acceptable the Local Planning Authority would seek to secure sustainable energy efficiency and water usage through the imposition of planning conditions together with the introduction of bee bricks/swift boxes.

9. **EQUALITIES**  
None identified.

