

<u>No:</u>	BH2020/03236	<u>Ward:</u>	Withdean Ward
<u>App Type:</u>	Removal of Condition		
<u>Address:</u>	Block C 101-120 Kingsmere London Road Brighton BN1 6UW		
<u>Proposal:</u>	Removal of Condition 5 of application BH2020/02185 (Prior Approval for the erection of an additional two storeys to provide 9no self-contained flats (C3).) which states that the residents of the proposed development have no entitlement to a resident's parking permit.		
<u>Officer:</u>	Russell Brown, tel: 293817	<u>Valid Date:</u>	09.11.2020
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	04.01.2021
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	
<u>Agent:</u>	Dowsett Mayhew Planning, Miss Laura Bourke, 63A Ship Street Brighton BN1 1AE		
<u>Applicant:</u>	C/O Dowsett Mayhew Planning		

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 and the following Conditions and Informatives as set out hereunder.

Conditions:

1. The development hereby permitted shall be completed before 30 September 2023.
Reason: In order to comply with sub-paragraph (2) of the conditions of Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
2. No development, including demolition, shall take place until a report for the management of the construction of the development, which sets out the proposed development hours of operation and how any adverse impact of noise, dust, vibration and traffic on occupiers of the building and adjoining owners or occupiers will be mitigated, has been submitted by the developer and approved in writing by the local planning authority.
The construction shall be carried out in accordance with the approved report.
Reason: In order to comply with sub-paragraph (3) of the conditions of Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
3. The developer shall notify the local planning authority of the completion of the development as soon as reasonably practicable after completion. The notification shall be in writing and must include—
 - (a) the name of the developer;
 - (b) the address or location of the development; and

(c) the date of completion.

Reason: In order to comply with sub-paragraphs (4) and (5) of the conditions of Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

4. Any new dwellinghouse created under Class A shall remain in use as a dwellinghouse within the meaning of Class C3 of the Schedule to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the primary use as a dwellinghouse.

Reason: In order to comply with sub-paragraph (6) of the conditions of Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

Informatives:

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

Plan Type	Reference	Version	Date Received
Location Plan	A1120/01		9 November 2020

2. 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. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The application site is a flat-roofed four storey block of flats with a predominantly brick façade that is tile hung at the upper level, inset sections and forward projecting bays. It is one of a number of blocks of flats in the Kingsmere development on the east side of London Road (A23). Block C is situated on the northern side of the site set parallel to the eastern boundary and is the furthest block from London Road.
- 2.2. To the rear (east) of the site are the rear of properties on Lower Rock Gardens. The site falls within the Surrenden Controlled Parking Zone (CPZ), which was approved by the Environment, Transport and Sustainability Committee on 24th November 2020, but is not yet in operation. The closest one in operation is CPZ K opposite the site to the east.
- 2.3. The current application seeks to remove Condition 5 of BH2020/02185 which states that: Prior to the first occupation of the development hereby permitted, a scheme shall have been submitted to and approved in writing by the Local Planning Authority to provide that the residents of the proposed development have no entitlement to a resident's parking permit. This is because the applicant asserts that the condition was added prematurely and unreasonably.

3. RELEVANT HISTORY

- 3.1. **BH2020/02185:** Prior Approval for the erection of an additional two storeys to provide 9no self-contained flats (C3) to Block C. Approved 30/09/2020
- 3.2. **BH2020/00649:** Application for variation of conditions 1 and 3 of BH2016/02841 (Erection of roof extension to form four 2no bedroom flats with balustraded terrace gardens, cycle store and associated works.) to allow amendments to the approved drawings and confirm external materials. Approved 27/05/2020
- 3.3. **BH2019/00856:** Creation of 18no additional car parking spaces. Approved 16/08/2019
- 3.4. **BH2016/02841:** Erection of roof extension to form four 2no bedroom flats with balustraded terrace gardens, cycle store and associated works. Approved 16/03/2017

Of relevance:

- 3.5. **BH2020/03237:** Removal of Condition 5 of application BH2020/02186 (Prior Approval for the erection of an additional two storeys to provide 9no self-contained flats (C3).) which states that the residents of the proposed development have no entitlement to a resident's parking permit. Approved 04.01.2021
- 3.6. **BH2020/03238:** Removal of Condition 5 of application BH2020/02183 (Prior Approval for the erection of an additional two storeys to provide 18no self-contained flats (C3)) which required a scheme to provide that residents of the proposed development have no entitlement to a resident's parking permit. Approved 06.01.2021
- 3.7. **BH2020/03218:** Removal of Condition 5 of application BH2020/02187 (Prior Approval for the erection of an additional two storeys to provide 9no self-contained flats (C3).) which states that the residents of the proposed development have no entitlement to a resident's parking permit. Approved 04.01.2021
- 3.8. **BH2020/02183:** Prior Approval for the erection of an additional two storeys to provide 18no self-contained flats (C3) to Blocks A & B. Approved 30/09/2020
- 3.9. **BH2020/02186:** Prior Approval for the erection of an additional two storeys to provide 9no self-contained flats (C3) to Block D. Approved 30/09/2020
- 3.10. **BH2020/02187:** Prior Approval for the erection of an additional two storeys to provide 18no self-contained flats (C3). Approved 30/09/2020

4. REPRESENTATIONS

- 4.1. **Six (6) objections**, five of which were from residents of Block C within the consultation period, were received raising the following issues:
- The estate is currently over full capacity across a number of necessary amenities and there should absolutely not be any more flats / people / cars allowed on to the estate, which is congested, unhealthy and simply unattractive.
 - The neighbouring streets cannot cope with any additional cars, evidenced by the consultation for a controlled parking zone, which the majority of residents are in favour of.
 - Any additional parking would lead to an unacceptable overdevelopment of the Kingsmere estate and the destruction of our precious green space, peace and quiet.
 - Condition 5 is absolutely 'necessary' and 'reasonable'.
 - The car wash area at the top of the estate cannot be accessed due to the number of parked cars.
 - The amount of cars makes it dangerous for delivery and other large to turn round at the top of the estate.
 - Parents collecting their children from school park dangerously at the bottom of the estate due to the lack of space.
 - Cars back up leaving the estate onto the extremely busy London Road.
 - Much of problematic parking is due to the estate garages being bought by non-Kingsmere residents, contrary to the leases. Many of the garages are now owned by commercial companies and used for storage.

5. CONSULTATIONS

- 5.1. **Transport:** We have no objection to the removal of condition 5. The Controlled Parking Zone (CPZ) for the Surrenden Area that was under consultation when the existing application (BH2020/02183) was assessed by the LHA has since been approved by the Environment, Transport and Sustainability Committee on 24th November 2020. The previously noted parking stress in the area is likely to be reduced due to the upcoming scheme and therefore the LHA agrees that condition 5 may be removed as parking is likely to be managed to an acceptable level on-street.

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);
- Shoreham Joint Area Action Plan (October 2019)

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. RELEVANT POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part Two

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications but any greater weight to be given to individual policies will need to await the outcome of the Regulation 19 consultation which ended on 30 October 2020.

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP9	Sustainable transport

Brighton & Hove Local Plan (retained policies March 2016)

TR7	Safe development
QD27	Protection of amenity

8. CONSIDERATIONS & ASSESSMENT

- 8.1. The only consideration in the determination of this application relates to the impact of removing the entitlement of the residents of the proposed development to a resident's parking permit on overspill parking.
- 8.2. The condition references Local Plan Policy TR7 that requires developments to not increase the danger to users of adjacent pavements, cycle routes and roads and City Plan Part One Policy CP9 that prioritises minimising off-street car parking provision in accessible locations.
- 8.3. The applicant has stated that it is unclear as to how the additional users of the site could secure parking permits given residents do not live within a CPZ and are unable to apply for parking permits in other / nearby existing CPZs and in turn putting them under pressure.
- 8.4. Officers recognise that this condition was added prematurely to the application and that the LHA is satisfied that the previously noted parking stress in the area is likely to be reduced and managed to an acceptable level on-street due to the

upcoming Surrenden CPZ. Given that, it is considered acceptable to remove the condition.

- 8.5. It is noted that similar applications have already been approved under delegated powers to remove the erroneous condition on other blocks within Kingsmere.

9. CONCLUSIONS

- 9.1. This application is considered acceptable since it has been demonstrated that Condition 5 of BH2020/02185 regarding a restriction on future residents applying for car parking permits was added prematurely. As such, it is recommended that Condition 5 is removed.

10. EQUALITIES

- 10.1. None beyond those previously identified.