

<b><u>No:</u></b>	<b>BH2020/03276</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>1A to 2B Whitehawk Road Brighton BN2 5FA</b>		
<b><u>Proposal:</u></b>	<b>Demolition of flat at 1A and the consequent erection of 3no. flats (C3) at 1st, 2nd and 3rd floor levels, resulting in a 4 storey building. Incorporated are; alterations to the 2no. existing ground level commercial units to create access points, the installation of 2no. rooflights and rear dormer in flat 2B, and associated works.</b>		
<b><u>Officer:</u></b>	Jack Summers, tel: 296744	<b><u>Valid Date:</u></b>	20.11.2020
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	15.01.2021
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	03.03.2021
<b><u>Agent:</u></b>	Jacob Chadwick Architects 49 Richmond Street Brighton BN2 9PD		
<b><u>Applicant:</u></b>	Mr Vijeyaratnam Thivakaran Post Office 1B-2B Whitehawk Road Brighton BN2 5FA		

## 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>
Proposed Drawing	0058/07	H	20 January 2021
Location Plan	0058/09	B	20 January 2021

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):

- I. Details of all brick, render and tiling (including details of the colour of render/paintwork to be used)
- II. Details of all cladding to be used, including details of their treatment to protect against weathering
- III. Details of the proposed window, door and balcony treatments

IV. Details 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 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

4. The windows in the north elevation, and the first floor window on the west elevation (servicing the communal hallway) of the development hereby permitted shall be obscure glazed and non-opening, unless the parts of the windows which can be opened are more than 1.7 metres above the floor of the room in which the window is installed, and thereafter permanently retained as such.  
**Reason:** To safeguard the privacy of the occupiers of the adjoining property and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
5. The development hereby permitted shall not be occupied until a scheme for the storage of refuse and recycling has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out and provided in full in accordance with the approved details prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.  
**Reason:** To ensure the provision of satisfactory facilities for the storage of refuse 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.
6. Access to the living flat roof hereby approved shall be for maintenance or emergency purposes only and the living 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.
7. No cables, wires, aerials, pipework (except rainwater downpipes as shown on the approved plans), meter boxes or flues shall be fixed to any elevation facing a highway.  
**Reason:** To safeguard the appearance of the building and the visual amenities of the locality and to comply with policy QD14 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.
8. The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development 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. None of the new build residential units hereby approved shall be occupied until each residential unit built has 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 Brighton & Hove City Plan Part One.
10. None of the new build residential units hereby approved shall be occupied until each residential unit built has achieved as a minimum, a water efficiency standard of 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 Brighton & Hove City Plan Part One.
11. No development above ground floor slab level of any part of the development hereby permitted shall take place until details of the construction of the green roofs have been submitted to and approved in writing by the Local Planning Authority. The details shall include a cross section, construction method statement, the seed mix, and a maintenance and irrigation programme. The roofs shall then be constructed in accordance with the approved details and shall be retained as such thereafter.  
**Reason:** To ensure that the development contributes to ecological enhancement on the site and in accordance with policy CP10 of the Brighton & Hove City Plan Part One.
12. Two or more bee bricks shall be incorporated within the external wall of the development hereby approved and shall be retained thereafter.  
**Reason:** To enhance the biodiversity of the site and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
13. Two or more swift bricks or swift boxes shall be incorporated within the external wall of the development hereby approved and shall be retained thereafter.  
**Reason:** To enhance the biodiversity of the site and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

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 should be aware that whilst the requisite planning permission may be granted, this does not preclude the department from carrying out an investigation under the Environmental Protection Act 1990, should any complaints be received.

3. The applicant is advised to contact [permit.admin@brighton-hove.gov.uk](mailto:permit.admin@brighton-hove.gov.uk) if they wish to suspend parking outside the application site during the delivery and construction period.
4. The applicant is advised that the application of translucent film to clear glazed windows does not satisfy the requirements of condition 4.
5. The applicant is advised that accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see Gov.uk website); two bodies currently operate in England: National Energy Services Ltd; and Northgate Public Services. The production of this information is a requirement under Part L1A 2013, paragraph 2.13.
6. The water efficiency standard required under condition 10 is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.
7. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.
8. Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer.

## **2. SITE LOCATION**

- 2.1. The application site is a corner plot on the north side of Bristol Gardens and west side of Whitehawk Road. It is currently occupied by a flat-roofed two-storey building; and a pitched roofed building that merges into the older terrace to which it is adjoined. Both buildings are currently in commercial use at ground floor level, with residential uses at first floor level.
- 2.2. The site is just across the road from the grade II listed boundary stone on the corner with Roedean Road.

## **3. RELEVANT HISTORY**

None relevant

## **4. APPLICATION DESCRIPTION**

- 4.1. Planning permission is sought to replace these two linked buildings with a part two, part three-storey building (with habitable roof-space) which would retain commercial uses at ground floor and residential above.
- 4.2. Pre-Application advise was given regarding this scheme in August 2020.

## 5. CONSULTATIONS

### External

- 5.1. Southern Water  
No objection subject to appropriate considerations being given to the protection of public assets during the construction phase of development.

### Internal

- 5.2. Planning Policy:  
No Comment
- 5.3. Private Sector Housing:  
All bedrooms should be a minimum of 6.51m<sup>2</sup> in terms of area if for a single occupant.
- 5.4. Sustainable Transport:  
No objection, subject to any permission granted being subject to conditions requiring that the scheme be made car-free and for further details being submitted and approved regarding secure cycle parking.
- 5.5. Urban Design:  
The overall scale of development appears acceptable, especially with regard to adjacent buildings to the west and south of the site, which are a scale of three storeys plus roof. Additional sunlight shading diagrams have demonstrated that the impact of proposed massing on daylight provision in gardens to the north is limited. Previous concern regarding elevational composition and fenestration design has been positively addressed. Proposals now appear more cohesive in their appearance, and the omission of incongruous roof and window elements from the western volume allows the proposed appearance to marry with the strength of form, generating a calm and simplified architecture which is appropriate to context.
- 5.6. The site benefits from a triple southerly aspect and as such has great potential to utilise passive design solutions to reduce reliance on mechanical heating, cooling and ventilation systems. All proposed units are at least dual aspect, which is indicative of a high-quality internal space. The lack of passenger lifts is a concern but is not considered to warrant refusal of the proposal.

## 6. REPRESENTATIONS

- 6.1. **Six (6)** letters have been received, objecting to the proposal on the following grounds:

- Increased parking stress
- Increase in traffic pollution
- The proposed building is too tall
- Loss of sunlight/overshadowing
- Loss of view
- Loss of privacy
- Noise nuisance from additional residential units
- Noise and odour issues from extraction fan
- Detrimental impact on property values

6.2. **One (1)** letter has been received, supporting the proposal for the following reasons:

- The proposal is an improvement over the existing building
- Additional housing

## 7. MATERIAL CONSIDERATIONS

7.1. 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

7.2. 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 Harbour JAAP (adopted October 2019);

7.3. 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.

## 8. RELEVANT POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One (CPP1)

SS1	Presumption in Favour of Sustainable Development
SA6	Sustainable Neighbourhoods
CP1	Housing delivery
CP2	Sustainable economic development
CP7	Infrastructure and developer contributions
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity

CP11	Flood risk
CP12	Urban design
CP13	Public streets and spaces
CP15	Heritage
CP19	Housing mix

Brighton & Hove Local Plan (BHLP) (retained policies March 2016)

TR7	Safe development
TR14	Cycle access and parking
SU9	Pollution and nuisance control
SU10	Noise nuisance
QD5	Design - street frontages
QD10	Shop Fronts
QD14	Extensions and alterations
QD27	Protection of amenity
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes
HE3	Development affecting the setting of a listed building

Brighton & Hove City Plan Part Two (CPP2)

Policies in the Proposed Submission CPP2 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 23rd April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications. The weight given to the key CPP2 policies considered in determining this application is set out below where applicable.

DM1	Housing, Accommodation and Community
DM18	High quality design and places
DM19	Maximising Development Potential
DM20	Protection of Amenity
DM23	Shop Fronts
DM29	The Setting of Heritage Assets
DM36	Parking and Servicing
DM40	Protection of the Environment and Health - Pollution and Nuisance
DM44	Energy Efficiency and Renewables

## **9. CONSIDERATIONS & ASSESSMENT**

- 9.1. The main considerations in the determination of this application relate to the principle of development; the design and appearance of the proposed development; the standard of accommodation that would be offered to future residents; and the impacts of the development on the amenities of local residents and business users; on the adopted public highway; and on the historic significance of the listed boundary stone.

Principle of Development

- 9.2. The CPP1 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.
- 9.3. The council's most recent housing land supply position published in the SHLAA Update 2020 shows a five year housing supply shortfall of 342 (equivalent to 4.7 years of housing supply). As the council is currently unable to demonstrate a five year housing land supply, increased weight should be given to housing delivery when considering the planning balance in the determination of planning applications, in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).
- 9.4. The application site currently provides two, three-bedroom flats, as existing the standard of accommodation creates a cramped form of accommodation in both units.
- 9.5. The proposal includes the demolition of the upper floor of no.1a and erection of a building that would include a total of four residential units; two at first floor level, one at second floor, and one at third floor. Two of these flats would be considered suitable for family accommodation and would contribute towards making up a shortfall in the housing market, in accordance with policy CP1 of the CPP1.
- 9.6. The proposal would retain both commercial ground floor units in accordance with policy CP2 of the CPP1.

#### Design and Appearance

- 9.7. The existing building, no.1a, is somewhat incongruous in the streetscene as a simple flat-roof structure sitting on the corner of Whitehawk Road and Bristol Gardens; it does not contribute positively to the character of the area and there is no objection to the remodelling of this building.
- 9.8. The additional height of the building will greatly increase its visual impact on the streetscene, however, it will be viewed in the context of views from the east and south, where there is a cluster of three storey buildings to the south of the site. The stepped approach would ensure a transition between the taller building on the corner to the 2 storey buildings to the north of the application site. The development complements the style of local terraces with a pitched roof and gable end, while the contemporary features will ensure a modern influence that is considered to make a positive contribution to the streetscene.
- 9.9. The Urban Design officer has commented on the application and has advised that the proposal is considered to be high quality and supports the proposal. Although concerns have been raised by local residents over the scale of the development, for the reasons above it is considered that the proposal would not appear out of character in the area.



- 9.10. Further details of all external materials is recommended to be secured by condition in order to ensure a high quality finish to the development.

Impact on Heritage Assets

- 9.11. It is considered that the proposal would represent a high-quality development and be a general improvement over the existing site. Although it incorporates more contemporary design features than many of the local buildings, it is complementary to the wider character of the area and thus it is considered that it would preserve the setting of the grade II listed boundary stone opposite the site.

Impact on Amenity

- 9.12. Due to the additional scale of the development and its proximity with neighbouring dwellings, it has the potential to impact on the amenities of local residents in terms of causing a loss of daylight and privacy.
- 9.13. New window openings on the north elevation have the potential to provide compromising views of private garden space; it is noted that these windows all service communal hallways. Not only does this limit the likelihood of them being used to look out of for any significant length of time, but it also means they could be fitted with obscure glazing and fixed shut without it impinging on the standard of accommodation for future residents.
- 9.14. The new west-facing dormer window may provide some views into neighbouring gardens; however, it is recognised that dormer windows are present just north of the application site and it is indicative of the kind of development that can be considered acceptable in terms of the impact it may have on residential amenity.
- 9.15. Other proposed west-facing fenestration includes a small window and a rooflight. Both are annotated as being obscure-glazed, and it is not considered that they would cause any harm to residential amenities. The window services the communal stairwell, whilst the rooflight services a hallway.
- 9.16. Windows and balconies on the east and south elevations of the property overlook public areas and are not considered to cause any harm to the amenities of local residents or business-users.
- 9.17. With regards to loss of daylight, the application is supported by thorough daylight studies that demonstrate that although the development would result in some loss of light, this would not be across any specific area of land for a significant length of time, mitigating much of the harm.
- 9.18. Given the site is at the south end of a terrace, with a second terrace running parallel directly to the west, it is considered that additional overshadowing would occur during the morning hours. The more desirable afternoon or early evening sunlight would not be affected since the shadow of the development would then be falling across Whitehawk Road rather than residential gardens. However, the resultant impact of the additional scale compared to the existing arrangement is not considered to result in such a harm that would warrant refusal of the application.

- 9.19. A condition is recommended restricting access to areas of flat roof for anything other than maintenance or in the event of an emergency. It is considered that access to these areas for use as an amenity space would cause a harmful sense of overlooking for neighbours in adjoining properties.

Standard of Accommodation

- 9.20. The 'Nationally Described Space Standards' (NDSS) were introduced by the Department for Communities and Local Government in 2015 to establish acceptable minimum floor space for new build developments. Although these space standards have not been formally adopted into the Brighton and Hove City Plan, policy DM1 of CPP2 proposes to adopt them and can now be given significant weight.
- 9.21. Unit 1, which takes up the majority of the first floor level, has a Gross Internal Area (GIA) of approximately 82.5m<sup>2</sup>. It is laid out as a two-bedroom, four bed-space property, requiring a GIA of at least 70m<sup>2</sup>, which it exceeds. The unit benefits from good circulation and provision of natural light, and large bedrooms.
- 9.22. Unit 2 is made up of the existing first floor flat at no.2b Whitehawk Road, minus the loft-level bedroom with the poor natural light. The proposed layout has retained Bedroom 2 which has an area of under 5m<sup>2</sup>; it is considered that this is unsuitable as a bedroom and the flat as a whole has been assessed as a one-bedroom, two bed-space property. The unit provides a GIA of approximately 52m<sup>2</sup>, which is acceptable. There are no other issues or concerns with regards to this flat.
- 9.23. Unit 3 takes up the whole of the second floor (with the exception of communal hallways) and has a GIA of approximately 106m<sup>2</sup>. It is laid out as a three-bedroom, six bed-space property which is required to have a minimum GIA of 95m<sup>2</sup>, which it exceeds. The unit benefits from good circulation and provision of natural light, and large bedrooms.
- 9.24. Unit 4 is set within the loft-space and has a GIA of approximately 42m<sup>2</sup>. It is laid out as a one-bedroom, two bed-space flat on the submitted plans, showing a double-bed, but given the size of the bedroom is approximately 9.5m<sup>2</sup> it is considered more appropriate to assess the scheme as a single occupancy flat. The slope of the roof would compromise some of the usable floorspace, however, the plans show that 34.5 sq metres of the layout is with 2.3 metres which is considered suitable. The GIA exceeds what the NDSS requires for a one-person flat, and it is considered that the layout would provide a decent standard of accommodation in terms of circulation space, outlook and natural light.
- 9.25. Concerns have been raised about the proposal causing a loss of a view. Views are not protected by the planning system; moreover, it is not considered that the additional bulk of the development would cause any harmful loss of outlook from existing windows on nearby dwellings. It is considered that the provision of a large green roof would be of greater visual interest than the existing building for those viewing the development from the west.

- 9.26. Further concerns have been raised that the proposal would lead to a harmful increase in noise output. The development would remain commercial at ground floor level with residential above; it is not considered that the additional residential units would cause noise disproportionate to what can reasonably be expected from a property in residential use and does not warrant refusal of the application. The council will retain the authority to investigate under the Environmental Protection Act 1990, should any noise complaints be received. Noise and odours from machinery associated with the commercial units are also a matter for investigation under this Act.

#### Impact on the Adopted Public Highway

- 9.27. The proposal would involve a net increase in two additional dwellings on the site; it is not considered that it would lead to a significant uplift in trip generation and the potential impact on the adopted public highway is considered to be acceptable.
- 9.28. The increase in the number of residential units and lack of off-street parking has the potential to exacerbate existing reported parking stress in the area. It is not considered appropriate to impose the car-free condition requested by the Local Highway Authority because parking in the local area and limiting the issue of parking permits is already covered through the management of the Controlled Parking Zone.
- 9.29. Notwithstanding the above, regarding the CPZ, it is not considered that the private vehicles associated with a net increase of only two residential units would cause such additional air pollution that it would warrant refusal of the scheme.
- 9.30. Cycle parking is provided at ground floor level; it is considered necessary to secure its implementation and retention in order to encourage sustainable transport to and from the site in the future.

#### Other Considerations

- 9.31. The Council has adopted the practice of securing minor design alterations to schemes with the aim of encouraging the biodiversity of a site, particularly with regards to protected species such as bumblebees and swifts. A suitably-worded condition will be attached to secure an appropriate number of bee bricks and swift bricks within the proposal in order to help meet the requirements of policy CP10 of the City Plan Part One.
- 9.32. Planning Practice Guidance states that the Courts have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property is not a material consideration.
- 9.33. The seed mix for the areas of green roof will need to be secured by condition in order to guarantee improved biodiversity for the site.

- 9.34. Some details of refuse and recycling facilities accessed from Bristol Gardens have been shown on the submitted plans, but it has been agreed for that further details can be secured by condition.

#### Conclusion

- 9.35. The proposal would replace two existing, suboptimal residential flats with four improved units; two of which would be suitable for family accommodation, whilst retaining the two commercial units. The creation of additional dwellings is given greater weight given that the LPA cannot currently demonstrate a five year housing land supply. Furthermore, it is considered that the proposal would provide visual interest to the streetscene and is a significant improvement over the current appearance of the site.
- 9.36. It is considered that the impacts on the amenities of local residents, and on the smooth running of the adopted public highway will be acceptable or are controlled through alternative regimes and do not warrant refusal of the scheme.
- 9.37. Each unit would provide acceptable standard of accommodation; however, the failure in the design to include level access to any of the units reduces the desirability of these units for persons with a mobility-related difficulty.
- 9.38. On balance, the benefits of the scheme are considered to outweigh the negative elements and the proposal is in accordance with policies TR14, QD5, QD10, QD14, QD27, HO5 and HE3 of the Brighton and Hove Local Plan; SA6, CP1, CP2, CP8, CP9, CP10, CP12, CP13, CP15 and CP19 of the City Plan Part One; and DM1, DM18, DM20, DM23, DM29, DM36 and DM44 of the City Plan Part Two.

## **10. COMMUNITY INFRASTRUCTURE LEVY**

- 10.1. Under the Regulations of the Community Infrastructure Levy (CIL) 2010 (as amended), Brighton & Hove City Council adopted its CIL on 23rd July 2020 and began charging on all CIL liable planning applications on and from the 5th October 2020. It is estimated that the amount of CIL liability for this application is £27,212.47. The exact amount will be confirmed in the CIL liability notice which will be issued as soon as it practicable after the issuing of planning permission.

## **11. EQUALITIES**

- 11.1. There is objection to the scheme given that it fails to offer level access to any of the residential units and would therefore fail to provide suitable accommodation to those with a mobility-related difficulty. It has been requested that a lift be incorporated to overcome this issue, but the agent has put forward the case that this would threaten the viability of the scheme.



