

<u>No:</u>	BH2022/00026	<u>Ward:</u>	Preston Park Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Parkside Mansions 34 Preston Park Avenue Brighton BN1 6HG		
<u>Proposal:</u>	Conversion of residential care home (C2) to 5no two bedroom and 1no one bedroom flats (C3), incorporating two storey rear extension, revised fenestration and associated alterations (retrospective) to address non-compliance with the plans approved in relation to planning permission BH2019/0200, with amendments to the parking allocation and to the red line boundary.		
<u>Officer:</u>	Sonia Gillam, tel: 292265	<u>Valid Date:</u>	05.01.2022
<u>Con Area:</u>	Preston Park	<u>Expiry Date:</u>	02.03.2022
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	13.07.2022
<u>Agent:</u>	Mohsin Cooper 7 Hove Manor Parade Hove Street Hove BN3 2DF		
<u>Applicant:</u>	Mr D Frizzell 85 Church Road Hove BN3 2BB		

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.

Plan Type	Reference	Version	Date Received
Proposed Drawing	D.001	E	17 May 2022
Proposed Drawing	D.002	A	15 January 2020
Proposed Drawing	AA.010		15 May 2020
Other	Materials Details		15 May 2020
Other	Email agent re dormer cheeks materials		2 June 2020

2. Not used.
3. The vehicle parking area shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles and motorcycles belonging to the occupants of and visitors to the development hereby approved and shall be maintained so as to ensure their availability for such use at all times.
Reason: To ensure that adequate parking provision is retained and to comply with policy CP9 of the Brighton & Hove City Plan Part One and SPD14: Parking Standards.

4. No enclosures shall be erected within the site, around the rear patio areas as proposed or elsewhere, except in accordance with details which have been submitted to and approved by the Local Planning Authority.
Reason: In the interests of the amenities of occupiers whose habitable areas may adjoin such enclosures and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan, and Policies DM20 and DM21 of the Submission City Plan Part 2.
5. A bee brick 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.
6. The ground floor windows in the northern elevation of the property and the ground floor windows in the southern elevation of the rear extension 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, and Policies DM20 and DM21 of the Submission City Plan Part 2.
7. Development shall be carried out and maintained in accordance with the samples of materials, details and plans with regards to the rear extension, patios, and dormer windows, as approved under application BH2020/01330.
Reason: To ensure a satisfactory appearance to the development in the interests of the visual amenities of the area and to comply with policies QD14 and HE6 of the Brighton & Hove Local Plan, CP12 and CP15 of the Brighton & Hove City Plan Part One and DM18, DM21 and DM26 of the Proposed Submission Brighton & Hove City Plan Part Two.
8. Within two (2) months of the date of this permission, details of secure cycle parking facilities for the occupants of, and visitors to, the development shall be submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use within two (2) months of the details being approved and shall thereafter be retained for use 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 policies TR14 of the Brighton & Hove Local Plan and DM36 of the Proposed Submission Brighton & Hove City Plan Part Two, and SPD14 Parking Standards.
9. The refuse and recycling storage facilities indicated on the approved plans shall be retained for use at all times.
Reason: To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policy QD27 of the Brighton & Hove Local Plan,

Policy DM21 of the Submission City Plan Part 2, 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.

10. Not used
11. Within two (2) months of the date of this permission, a Scheme of Management of the vehicle and any other forms of parking and stopping in the car park area shall be submitted to and approved in writing by the Local Planning Authority. The scheme must at least include the following measures:
 - Details of how the car parking space will be allocated and managed;
 - Details of measures to ensure that the car parking space is for the sole use of its allocated owner and/or those they permit to use said space.The above works must be implemented prior within two (2) months of the details being approved and thereafter be maintained as such.

Reason: To ensure the development maintains a sustainable transport strategy and to comply with policies TR7, TR12, TR14 and TR18 of the Brighton & Hove Local Plan, CP9 of the City Plan Part One, DM33 and DM36 of the Submission Brighton & Hove City Plan Part Two, and SPD14 Parking Standards.

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. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.

2. SITE LOCATION

- 2.1. The application property is a large detached Victorian property with two front gables, on the east side of Preston Park Avenue, overlooking Preston Park. The existing property (previously a care home) is in use as six residential flats. The original plot has been sub-divided and the rear garden now contains two recently constructed single dwellinghouses.
- 2.2. The site is within the Preston Park Conservation Area and overlooks Preston Park which is a grade II registered park and garden.

3. RELEVANT HISTORY

- 3.1. **BH2021/03695** Application to vary condition 3 of planning permission BH2019/02007 to amend the wording of the condition to read as follows: The vehicle parking areas shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles and motorcycles and shall be maintained so as to ensure their availability for such use at all times. Refused 13.12.2021 for the following reasons:

1. *The variation proposed to condition 3 of BH2019/02007 would result in the development failing to provide adequate parking provision on the application site, resulting in overspill parking and impacts on highway capacity, contrary to policy CP9 of Brighton & Hove City Plan Part One and SPD14: Parking Standards.*
 2. *The proposed variation to condition 3 of BH2019/02007 would fail to be necessary or relevant to the development permitted, by virtue of allowing use of the parking area for third parties, that are not occupants or visitors to dwellings within the site boundary, and would thereby be contrary to paragraph 56 of the National Planning Policy Framework.*
 3. *The proposed variation to condition 3 of BH2019/02007 would result in a change of use of the land in use as parking spaces to that of commercial parking, contrary to Policies CP9 of Brighton & Hove City Plan Part One, Policy QD27 of the Brighton & Hove Local Plan, and Policy DM20 of City Plan Part Two.*
- 3.2. **BH2021/03045** Application for variation of condition 3 of application BH2019/02007 (Conversion of residential care home (C2) to 5no two bedroom and 1no one bedroom flats (C3), incorporating two storey rear extension, revised fenestration and associated alterations (part-retrospective)) to state: The vehicle parking areas shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles and motorcycles belonging to the occupants of and visitors to the development hereby approved, or occupants of and visitors to the development hereby approved under BH2020/01832 and shall be maintained so as to ensure their availability for such use at all times. Refused 12.10.2021.
- 3.3. **BH2021/02150** Application for variation of condition 1 of BH2019/02007 (Conversion of residential care home (C2) to 5no two bedroom and 1no one bedroom flats (C3), incorporating two storey rear extension, revised fenestration and associated alterations (part-retrospective).) to allow amendments to the approved drawings to provide additional car parking space. Refused 04.08.2021.
- 3.4. **BH2020/01330** Application for Approval of Details reserved by Condition 7 (Materials and Window Details) of application BH2019/02007. Approved 08.06.2020
- 3.5. **BH2019/02007** Conversion of residential care home (C2) to 5no two bedroom and 1no one bedroom flats (C3), incorporating two storey rear extension, revised fenestration and associated alterations (part-retrospective). Approved 27.02.2020.

There is an open Planning Enforcement Case:

- 3.6. **ENF2020/00472** Breach of conditions 3 (car parking), 8 (cycle parking) and 9 (refuse and recycling) of BH2019/02007. BCN served re condition 3 on 19/4/22.
- 3.7. With regard to the two dwellinghouses to the rear of the site, the following permissions are relevant:

- 3.8. **BH2022/00027** Application to vary condition 1 of planning permission BH2020/01832 to allow amendments to approved drawings. Under consideration.
- 3.9. **BH2021/02436** Application for approval of details reserved by condition 11 (external surfaces materials) of application BH2020/01832. Approved 25.07.2021.
- 3.10. **BH2020/03352** Application for approval of details reserved by conditions 11 (material samples) and 12 (landscaping) of BH2020/01832. Approved 27.01.2021.
- 3.11. **BH2020/01832** Erection of 2no dwellings (C3) to the rear of existing building with associated landscaping. Approved 4.9.2020

4. APPLICATION DESCRIPTION

- 4.1. The application seeks planning permission under Section 73a of The Town and Country Planning Act to vary condition 1 of planning permission BH2019/02007 to allow amendments to the approved drawings to amend the red boundary line and parking allocation.
- 4.2. Planning permission (BH2019/02007) was secured in 2020 for conversion of the residential care home (C2) to 5no two bedroom and 1no one-bedroom flats (C3). The development has been undertaken and is occupied.
- 4.3. There are 3no. existing vehicular parking spaces to the front forecourt which are approved for the use of the flats.
- 4.4. This application seeks to amend the red boundary line on the plans so that only 1no. parking space would be retained for the flats.
- 4.5. A concurrent application (BH2022/00027) is being considered which proposes to alter the red boundary line on the plans so that the two dwellinghouses to the rear of the site would have use of the other 2no. parking spaces
- 4.6. It should be noted that previous applications designed to achieve the above have been refused by virtue of various planning technicalities relating to sub-division of the site. The amendment to the red boundary line proposes to overcome the reasons for refusal.
- 4.7. Amended plans have been received during the life of the application which further amend the red line and retains the area allocated for the cycle storage to the side boundary, the Local Planning Authority re-consulted on this amendment. Additionally, Notice has been served on relevant properties since submission of the application to address issues raised in objections received.

5. REPRESENTATIONS

- 5.1. **Eight (8)** letters have been received objecting to the proposed development for the following reasons:
- Loss of residential amenity
 - Deny parking to residents and visitors of development
 - Loss of cycle storage
 - Poor access and insufficient space/ highway safety
 - Commercial use of parking area
 - Neighbouring development to the rear should be 'car free'
 - Developer has sold parking space to rear house
 - False ownership declaration
 - Planning breaches
- 5.2. Following re-consultation on the 20/05/2022 regarding amended plans received **five (5)** further representations have been received. No further grounds of objection were noted to those set out above.
- 5.3. Objections relating to legal complications regarding freehold/ leasehold, developer profit and detrimental impact on property values are noted, however these issues are not material planning considerations.

6. CONSULTATIONS

- 6.1. **Sustainable Transport:** No objection subject to condition re car park management plan.

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. **POLICIES**

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

CP1 Housing delivery

CP8 Sustainable buildings

CP9 Sustainable transport

CP12 Urban design

CP13 Public streets and spaces

CP14 Housing density

CP15 Heritage

CP19 Housing mix

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

TR7 Safe Development

TR14 Cycle access and parking

SU9 Pollution and nuisance control

SU10 Noise Nuisance

QD5 Design - street frontages

QD14 Extensions and alterations

QD15 Landscape design

QD27 Protection of amenity

HO5 Provision of private amenity space in residential development

HO11 Residential care and nursing homes

HE6 Development within or affecting the setting of conservation areas

HE11 Historic parks and gardens

Brighton & Hove City Plan Part 2

The Inspector published her Final Report into the Examination of the City Plan Part Two 19 July 2022. The Report is a material consideration. The Inspector has concluded that with her recommended changes (the schedule of changes as appended to the Report) that the Plan is sound and can be adopted. The Inspector's report concludes the examination of City Plan Part Two. City Plan Part Two policies, as amended by the Inspector's schedule of Main Modifications, can be afforded significant weight but they will not have full weight until the City Plan Part Two is formally adopted.

DM1 Housing Quality, Choice and Mix

DM18 High quality design and places

DM20 Protection of Amenity

DM21 Extensions and alterations

DM22 Landscape Design and Trees

DM26 Conservation Areas

DM29 The Setting of Heritage Assets

DM33 Safe, Sustainable and Active Travel

DM36 Parking and Servicing

DM37 Green Infrastructure and Nature Conservation

DM40 Protection of the Environment and Health - Pollution and Nuisance

Supplementary Planning Documents:

SPD03 Construction & Demolition Waste
SPD09 Architectural Features
SPD11 Nature Conservation & Development
SPD12 Design Guide for Extensions and Alterations
SPD14 Parking Standards
SPD17 Urban Design Framework

9. CONSIDERATIONS & ASSESSMENT

9.1. The merits of the scheme as a whole have been considered as part of the preceding permission (BH2019/02007). The principle of the change of use of the property from a care home to flats was justified. The proposed design, siting and units of the development have not been significantly altered and the assessment of this application will therefore relate to that aspect of the current scheme that differs from the previous application, namely the change to the red boundary line on the plans and the revised parking allocation for the flats.

Sustainable Transport:

9.2. There are three car parking spaces in total on the front forecourt of the site which are approved for use by the occupants and visitors to the six flats. The retention of the parking spaces for the occupants of and visitors to the flats is secured by a condition on the original planning permission:

The vehicle parking areas shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles and motorcycles belonging to the occupants of and visitors to the development hereby approved and shall be maintained so as to ensure their availability for such use at all times.

Reason: To ensure that adequate parking provision is retained and to comply with policy CP9 of the Brighton & Hove City Plan Part One and SPD14: Parking Standards

9.3. It is understood that 1no. parking space is in the ownership of a flat occupant and at least 1no. parking space is now in the ownership of a house to the rear of the site. Therefore, a breach of the aforementioned condition has occurred. A breach of condition notice was served by the Council on the 19th April 2022.

9.4. The applicant proposes to regularise the situation by altering the red site boundary line to ensure that 1 no. parking space is retained for the flats. The intention is to provide 2no. parking spaces for the rear dwellinghouses that currently do not have on-site parking.

9.5. The application refers to parking surveys that have been provided and accepted previously in July 2019 and an updated survey from December 2021 has also been submitted as part of this application. These indicate that there is sufficient available parking on-street in the local area to cover any on-street parking demand caused by the proposals. The Council's Highways Officer has been consulted on the scheme and has no objections as outlined below.

- 9.6. The applicant makes the case, with regard to the loss of two parking spaces for the flatted development, that the forecast overspill parking to occur from the proposal should be comfortably available on-street. Additionally, the rear dwellinghouses would now have access to the parking spaces, therefore the overall demand for on-street parking should not increase when considering to the two applications together in terms of parking demand. It is merely allocated differently across the two sites.
- 9.7. It is noted that the site is within a Controlled Parking Zone therefore residents of the flats would require a permit to park. However, as no harmful impact in parking overspill onto the highway is expected from to the proposal, the Highways Officer has advised that the application does not warrant refusal in policy terms and is therefore acceptable, subject to a car park management plan, to ensure the parking space is only accessible to the residential unit it is allocated to and managed appropriately.
- 9.8. It is recommended that measures include 'permit holder only' signs and removable lockable bollards. This would prevent excessive movements in the area and manoeuvres on site by residents vying for the space. The car park management plan can be secured by condition.
- 9.9. Given the lack of objection from the Council's Highways Team, it is considered that the alteration to the site boundary and loss of parking spaces for the flats is justified. The re-allocation of the parking spaces is acceptable.
- 9.10. It is noted that the previous application had a condition relating to converting the redundant vehicle crossover back to a footway by raising the existing kerb and footway on Preston Park Avenue. It is recommended that this condition is deleted, as the Council's Heritage Team has stated that it would wish to see the historic footpath paving retained.

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 23 July 2020 and began charging on all CIL liable planning applications on and from the 5 October 2020. 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

None identified

12. CLIMATE CHANGE/BIODIVERSITY

- 12.1. The scheme provides housing within an existing building and the site is within a sustainable location with good access to public transport links and local facilities.

Cycle parking is conditioned to be provided, reducing reliance on cars. A bee brick is also secured.