

**SUBSTANTIAL OR CONTROVERSIAL DEVELOPMENT OR DEPARTURES
FROM POLICY**

<u>No:</u>	BH2010/00206	<u>Ward:</u>	GOLDSMID
<u>App Type</u>	Full Planning		
<u>Address:</u>	Former Legal & General Building 2 Montefiore Road Hove		
<u>Proposal:</u>	Change of Use of Basement, Ground and Second Floors only from (B1) offices to specialist orthopaedic and sports injury clinic (D1).		
<u>Officer:</u>	Jason Hawkes, tel: 292153	<u>Valid Date:</u>	23/02/2010
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	25 May 2010
<u>Agent:</u>	Lewis & Co Planning, Paxton Business Centre, Portland Road, Hove		
<u>Applicant:</u>	BOSIC & Glanmore Investments Limited, c/o Lewis & Co Planning		

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions

1. BH01.01 Full planning permission.
2. BH02.08 Satisfactory refuse and recycling storage.
3. BH05.09 General Sustainability measures.
4. Notwithstanding the submitted Travel Plan, prior to the occupation of the building, a more detailed Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The use of the facilities shall be carried out in accordance with the agreed Travel Plan. The Travel Plan must be reviewed on an annual basis by undertaking a staff and patient survey and updating the travel plan where appropriate. A named person from the occupier, who will be responsible for the development and implementation of the Travel Plan should be communicated to the Transport Planning Department as soon as is feasible.
Reason: In order to address potential car borne traffic implications and to promote alternative modes of transport, therefore complying with policy TR7 of the Brighton & Hove Local Plan.
5. The basement, ground and second floor shall only be used for a specialist orthopaedic and sports injury clinic and for no other purpose (including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
Reason: The Local Planning Authority would wish to retain control over any subsequent change of use of these premises in the interests of

safeguarding the amenities of the area and to comply with policy QD27 of the Brighton & Hove Local Plan.

6. The use hereby permitted shall not be open to customers except between the hours of 08.00 and 18.00 on Mondays to Fridays and 08.00 and 12.00 on Saturdays and not at anytime on Sundays, Bank or Public Holidays.

Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

Informatives:

1. This decision is based on the Planning Supporting Statements, BREEAM Statement, Energy Assessment, Transport and Parking Report, Biodiversity Checklist, Design and Access Statement, Marketing Information from Stiles Harold Williams, Waste Minimisation Statement and drawing nos.100/001, 002, 200/001, 002, 003, 004, 005, 006, 007, 008, 009 & 010 received on the 27th January, 15th & 23rd February and 31st March 2010.
2. This decision to grant Planning Permission has been taken:

- (i) having regard to the policies and proposals in the Brighton & Hove Local Plan set out below:

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR4	Travel plans
TR7	Safe development
TR14	Cycle access and parking
SU2	Efficiency of development in the use of energy, water and materials
SU10	Noise nuisance
SU13	Minimisation and re-use of construction industry waste
QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods
QD14	Extensions and alterations
QD27	Protection of amenity
HO19	New community facilities
EM5	Release of redundant office floorspace and conversions to other uses

Supplementary Planning Document

SPD03: Construction and Demolition Waste

SPD08: Sustainable Building Design

Supplementary Planning Guidance

SPGBH4: Parking Standards; and

- (ii) for the following reasons:

The proposed development would not result in a significant impact on the amenity of any adjacent properties and is considered appropriate in terms of its impact on highway safety. The loss of offices within the building is

also deemed acceptable and the scheme would also result in the occupation of an empty building to the advantage of the local economy. The scheme is also in accordance with development plan policies.

2. The applicant is advised that any proposed alterations to the façade of the building, such as air conditioning units, and any new advertisements may require planning permission / advertisement consent. The applicant is advised to refer to the Council's guidance on advertisements in Supplementary Planning Document 8: Advertisements for further assistance.
3. The East Sussex Fire & Rescue Service Safety Office has recommended the installation of sprinkler systems for the building. Information concerning guidance and standards for domestic and commercial sprinkler systems is available by reference to British Standard Codes of Practice. For further information, please contact the Safety Officer on (01323) 462130.
4. Guidance on the structure and content of a suitable Travel Plan can be found on the following link: http://www.brighton-hove.gov.uk/downloads/bhcc/Travel_Guidance_final_with_pic_banner.pdf. The plan should indicate a commitment for sustainable travel to the site to be promoted to patients using the facility, as well as for staff based there. The occupiers should commit to undertaking a staff and patient survey on an annual basis, with the first survey undertaken within three months of the first occupation. This will determine the baseline from which targets for sustainable transport use will be set in discussions with the local authority Travel Plan team. Brighton & Hove Cit Council has survey software available to assist the occupier with the staff and patient survey if required. The occupier should commit to using this software. Following the annual staff and patient survey, the occupier should submit a brief Travel Plan Review to the local authority Travel Plan team, that should discuss how the occupier is performing against the agreed sustainable transport targets and, depending on progress being made, new targets will be set for the subsequent year.
5. The supporting information indicates the provision of a 'keep clear' space on the adjacent highway for the proposed use. This approval of Planning Permission is taken entirely without prejudice to any decision the Council may make with regard to changes to the parking arrangements and traffic orders. Prior to implementing the 'keep clear' space you should ensure that you have the necessary permission and are urged to contact the Parking Strategy Team (address: Parking Strategy, Room 323, Hove Town Hall, Norton Road, Hove, East Sussex, BN3 3BQ; email signs.lines@brighton-hove.gov.uk; tel 01273 293804).
6. In relation to condition 3, in accordance with Supplementary Planning Document 8: Sustainable Building Design, details should be submitted

which indicate no additional net annual CO2 emissions from the new development, a reduction in water consumption and a minimisation of surface water run-off.

2 THE SITE

The application site relates to a four-storey (over basement) building that was originally constructed in 1890, as a furniture depository for Hanningtons store. The building is located on the corner of Montefiore Road and Davigdor Road. It was built as six separate but connected units. One of the units on the centre west of the site was removed in the 1970's and the buildings were interconnected to provide large floor plates that exist today.

The last use of the building was as Class B1 offices occupied by Legal and General. The building has been vacant since Legal and General moved to their new headquarters in the City Park development in 2005. The building includes a central enclosed outside amenity area and also has a car parking area to the rear for 25 car parking spaces including one disabled space and 14 cycle parking spaces.

There is a parade of shops directly opposite the main entrance of the building at 1-17 Montefiore Road. Coptic Orthodox Church is immediately opposite the site across Davigdor Road and adjacent to the building to the west is an additional office block.

3 RELEVANT HISTORY

Planning permission was originally granted for the change of use of the building to offices in 1958 (M/5475/58). Permission was also granted in 1973 for alterations and additions to provide further office accommodation (M/17176/73). Following this permission was granted for signage and external alterations to the building, most of which relate to the use of the building by Legal & General.

The most recent permission was granted in 2004 to replace the existing standby generator bulk fuel tank with new tank (BH2004/03536/FP).

4 THE APPLICATION

Permission is sought for the change of use of the basement, ground and second floors only from (B1) offices to specialist orthopaedic and sports injury clinic (D1). The scheme retains the first and third floor as separate offices which will be accessed via the southern entrance from Davigdor Road. The Brighton Orthopaedic and Sports Injury Clinic (BOSIC) will utilise the main entrance from Montefiore Road. BOSIC will have use of the internal lifts which will be altered so they do not stop at the separate offices on the first and second floors. The proposed use will also have part use of the rear car parking area which includes a cycle store. No external alterations are proposed in this application.

5 CONSULTATIONS

External:

Neighbours: None received.

Brighton & Hove Primary Care Trust: No objections to this change of use.

Environment Agency: No objections.

East Sussex Fire & Rescue Service: No objection. A recommendation is made for the installation of sprinkler systems.

Internal:

Sustainable Transport: No objection. The Transport Statement says that there is a residual on-street capacity within 200m of the site of 168 car parking spaces. The worst case scenario for additional demand can be accommodated in Montefiore Road, if necessary. The statement refers to a 'keep clear' restriction space with a loading bay in Montefiore Road. This must be run past the Network Management Team to ensure they are happy with the works. The applicant will have to pay for the financial costs of this work. A condition is recommended requiring the completion of a Section 106 agreement for the applicant to contribute £27,000 towards public transport improvements in the area.

Workplace Travel Plan Officer: No objection subject to a condition requiring the submission of a more detailed Travel Plan to be completed and submitted to the council and agreed in writing prior to occupation. A named person from the occupier, who will be responsible for the development and implementation of the Travel Plan should be communicated to the Transport Planning Department as soon as is feasible.

Planning Policy: The Policy Section has concerns that policies EM5 and HO19 have not been fully met. Policy EM5 requires applications for changes of use to offices to demonstrate the offices are fully redundant. Policy HO19 supports the creation of community facilities against tests for accessibility for all, the scheme demonstrating benefits to socially excluded groups and the provision of childcare facilities. The suggested undertaking to return to proposed D1 areas of the building to B1 use on the exit of this particular user is welcomed.

Economic Development Team: The team fully supports the application. It is felt that, having regard to the layout, size, car parking spaces and location of the building, in economic terms the premises has been actively marketed for some considerable time and the scheme results in flexibility in tenure and space.

Environmental Health: No objection. Any additional plant or machinery will be required to show that these will not cause a noise disturbance to neighbouring premises.

6 PLANNING POLICIES

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR4	Travel plans
TR7	Safe development
TR14	Cycle access and parking
SU2	Efficiency of development in the use of energy, water and materials
SU10	Noise nuisance
SU13	Minimisation and re-use of construction industry waste
QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods
QD14	Extensions and alterations
QD27	Protection of amenity
HO19	New community facilities
EM5	Release of redundant office floorspace and conversions to other uses

Supplementary Planning Document

SPD03: Construction and Demolition Waste

SPD08: Sustainable Building Design

Supplementary Planning Guidance

SPGBH4: Parking Standards

7 CONSIDERATIONS

The main considerations in the determination of this application relate to the principle of the change of use, loss of offices, the impact on neighbouring residential amenity and the local area, transport issues and sustainability. The scheme does not include any external alterations, therefore the impact on the appearance of the building or surrounding area is not a material consideration in the determination of this proposal.

Loss of offices

The scheme results in the loss of 4,700m² of office floor space at basement, ground and second floor. Policy EM5 of the Brighton & Hove Local Plan states that planning permission will not be granted for the change of use of office premises or office sites to other purposes, unless they are genuinely redundant because the site is unsuitable for redevelopment or the premises are unsuitable and cannot be readily converted to provide different types of office accommodation or where a change of use is the only practicable way of preserving a building of architectural or historic interest.

Montefiore House was formally one of the locations in the city for Legal and General until they consolidated their operations around the city onto one site at City Park in 2005. The commercial agent (Stiles Harold Williams) has provided a detailed letter setting out the campaign that has been undertaken

over the past five years. The agent has also provided an up to date assessment of the prevailing vacancy rates over 5,000sq ft in Brighton. This demonstrates that there is an adequate supply of vacant large offices in the city centre and edge of centre locations to ensure that the part change of use of this building would not result in an unacceptable short fall in the supply of office accommodation in the city.

The Economic Development Team also supports the scheme, stating that since the relocation of Legal and General, the building has been actively marketed by local commercial agents and has been the subject of a few potential occupiers where the size of the premises met their initial requirements. However, none of these enquiries resulted in a re-let of the space. The main reasons being cited by the potential occupiers for not considering the space further was the internal layout of the space, the location of the building and the lack of car parking provided for the size of space on offer.

The economic development officer responsible for sites and premises has visited the building with potential occupiers and also the commercial agents and has confirmed that the space, in its current layout, is not best suited to modern B1 office requirements. The floors are set out with 5 offices, each totalling in the region of 2,500ft². However, there is little if any possibility of opening these out to create larger space because of the difference in levels through the building from the north to the south. Significant amounts of useable space would be lost to open up the floors with the need for ramped access between the offices etc.

The building in its current form provides 27 car parking spaces for some 58,997ft² of B1 office space equating to 1 space per 2,185ft². Other similar style offices currently on offer in the city centre are providing 1 space per 750ft² and out of town 1 space per 350ft² making this site less attractive to potential occupiers.

The location of the building is another key factor that has influenced potential occupier's decision making process as although it is well served by buses, the building is almost equidistant from Brighton & Hove train stations with employees and visitors having a long walk to get to the building.

Taking all the above into consideration the commercial agents marketing the site has introduced over the marketing campaign levels of flexibility to encourage potential occupiers ranging from the whole building, a floor by floor basis and also individual units on each of the floors. There have also been significant reductions in the rental income being sought for the space resulting in the office space being offered at £10 - £12 per ft² which is more akin to modern warehousing style rental levels. There has been some limited interest in the building for alternative uses which has included elements of residential because of the location however both the Economic Development Team and Planning Policy have emphasised the need to retain employment

on the site.

The application proposes a change of use of three of the floors (basement, ground and second floors) from B1 office to D1 use for a specialist orthopaedic and sports injury clinic in accordance with the Department of Health's Musculoskeletal Framework and this is covered in some detail in the supporting information submitted. The Economic Development Team feel that in essence there is a need in the city for a bespoke building to provide such a facility. The remaining two floors (first and third floors) in the building will also remain as B1 office space and will be refurbished to bring them up to a more modern specification and will be offered as individual units up to 2,500ft² each.

The applicant states that the proposal will provide employment for 100 jobs, however, this does not include the two floors of offices that will remain in B1 use. These two floors will provide in the region of 25,000ft² of B1 office space which based on the offPAT employment densities for general office use of 4.9 jobs per 1000ft² equates to a further 122 jobs which would be welcomed both in economic development terms.

Although the total employment levels in the whole building will be less than previously provided when occupied by Legal and General, the added benefits that the application will bring in the form of higher value jobs associated with the orthopaedic sports injury clinic compared to office based jobs and bringing a redundant building back into operational use far outweigh the reduction in employment levels in the building when previously fully occupied.

It is therefore considered that in economic development terms the premises have been actively marketed for some considerable time and flexibility in tenure and space has been introduced and it also confirmed that the site has been marketed on the city councils commercial property database for the full period it has been marketed. The scheme is therefore in accordance with policy EM5.

Community Facilities

Policy HO19 states that planning permission will be granted for community facilities, which includes health centres and D1 uses where it can be demonstrated that:

- a. the design and use of the facility will ensure its accessibility to all members of the community;
- b. there is no unacceptable impact on residential amenity or on the amenities of the surrounding area;
- c. the location is readily accessible by walking, cycling and public transport; and
- d. adequate car and cycle parking, including provision for people with disabilities, is provided.

The proposal would provide a state of the art medical facility which would

improve the provision of orthopaedic care in the city for all residents and would be available to both NHS and private patients. The scheme is therefore deemed in accordance with the above policy. Matters relating to impact of amenity will be addressed later in the report.

BOSIC consider the vacant building at 2 Montefiore Road as the ideal solution to a shortfall in accommodation for a musculoskeletal outpatient's clinic in the city. The supporting information states that in 2007, the Department of Health produced a musculoskeletal framework document, which outlines the direction of travel for musculoskeletal outpatient care with communities across the United Kingdom. The Department of Health's view is the musculoskeletal outpatient clinics need to occur in a more community setting and not within the hospital Trusts. Ideally, these should be in buildings where all healthcare professionals can work simultaneously and seamlessly to provide an effective service for the assessment and treatment of these patients. No such facility exists within Brighton & Hove.

Amongst the larger healthcare community, clinics have already been set up at Mid-Sussex Healthcare to treat patients. There is no dedicated clinic or building for this service to take place within the city of Brighton & Hove. A bespoke building dedicated to the treatment of these patients is widely recognised within the healthcare community as the ideal solution for the problems faced by this large patient population group within the city.

BOSIC consider that the vacant building at 2 Montefiore Road is the ideal solution to this accommodation shortfall. It is a modern building which will be designed specifically for multidisciplinary clinical assessment and treatment. The proposed use would provide specialist orthopaedic medical service for both private and NHS patients on a referral basis from doctor's surgeries. The basement, ground and second floors would be the main medical areas providing x-ray, C-arm (x-ray image equipment) and MRI scanner facilities as well as a physiotherapy gymnasium and ancillary staff room, training / meeting room and the main reception and waiting area.

The Policy Section has raised concerns that policies EM5 and HO19 have not been fully met by the proposal. It was felt that insufficient evidence had been submitted to indicate that the building had been fully marketed to comply with policy EM5. Policy HO19 supports the creation of community facilities and includes tests which the Policy Section felt had not been fully met. These include demonstrating accessibility for all, demonstrating benefits to socially excluded groups and the provision of childcare facilities.

To overcome concerns regarding lack of evidence to comply with policy EM5, additional marketing evidence has been supplied by the commercial agent with evidence of the marketing of the building. Further comments from the Policy team are expected at the time of writing the report. In some respects, the tests of policy HO19 have not been fully met as the site is not readily accessible by public transport or by walking. It is important to note that the

building is located on the no.7 bus route which connects Hove and Brighton train stations with the Marina. A more suitable site would be a central location close to a train station and more bus routes. As stated, this building is ideal for BOSIC and the application includes a transport assessment which demonstrates that the proposed use would not have an unacceptable impact on the local road network and that the transport demands for the building can be accommodated within the development and surrounding streets. Further analysis of the transport demands of the proposal are outlined below.

The Policy Section has also stated that the suggested undertaking to return to proposed D1 areas of the building to B1 use on the exit of this particular user is welcomed. This is not deemed necessary, partly because it is felt that policy EM5 has been appropriately met. Additionally, allowing part of the building to remain in Class D1 will enable an alternative community facility to take over the ground, first and second floors if and when BOSIC vacate the premises.

Impact on amenity

Brighton & Hove Local Plan policy QD27 requires new development to respect the existing amenity of neighbouring properties. It is felt that the proposed D1 medical use will not result in a significant impact on the amenity of any adjacent premises. Noise and disturbance from the D1 use would not be significantly more intrusive than the existing consented B1 use. Additionally, the scheme does not include any external alterations or additional plant or machinery which would result in an impact on the amenity of adjacent properties.

Transport issues

Brighton & Hove Local Plan policy TR1 requires new development to address the related travel demand, and policy TR7 requires that new development does not compromise highway safety.

The scheme includes a Transport Assessment which has been prepared in support of the application. As agreed with Sustainable Transport the scope of the assessment is primarily focussed on the trip generation of the proposed D1 use and patient parking demand that could be generated by the scheme. The statement estimates that based on similar clinics run by BOSIC, the surgery will cater for 70 and 100 patients each day during the week. Appointments are scheduled at 20 minute intervals and last between 20 and 60 minutes. The proposal includes 25 parking spaces which are located to the north of the site. 15 spaces will be for use by BOSIC, 9 spaces for the remaining B1 use and one space for disabled parking. There are also 14 cycle parking spaces provided within the parking area.

The assessment explores the trip generation with surveys undertaken of parking occupancy and the utilisation of parking and space parking capacity on Montefiore Road and other surrounding roads. Parking on the surrounding roads is within Controlled Parking Zone Area O and there are also pay and

display parking and shared use bays. The car parking occupancy surveys conducted assessed whether there is sufficient parking capacity to accommodate potential parking caused by patients of the proposed clinic. The parking surveys results found that a total of 239 parking spaces were occupied meaning that 168 parking spaces were available at the time of the survey. This represents a parking occupancy of 58.7%.

The surveys also found that a total of 35 parking spaces were available on Montefiore Road itself. The parking surveys demonstrate that there is a residual parking capacity on roads near the site to accommodate patient parking demand. By applying the worst case scenario assuming that all patient parking could be generated at the same time that a maximum parking demand for 23 spaces could be generated. Given the worst case scenario of 23 patents requiring parking, the survey demonstrated that there was a residual parking capacity of 168 spaces on roads surrounding the site. This level of space capacity should easily be able to accommodate the parking demand without any problems occurring.

In conclusion, using the TRICS database, the trip generation exercise found that the proposed site will have a negligible effect on total daily vehicle trips to and from the site. The Council's Transport Manager has stated that they are satisfied with the Transport Assessment submitted subject to the comments from the Council's Travel Plan Officer (outlined below) and a condition requiring the contribution of £27,000 from the applicant through a Section 106 agreement. The contribution is to be spent on installing real-time bus information signs and REACT boxes at the two bus stops on Montefiore Road. As the application includes a suitable Transport Assessment which shows that the scheme will not result in an unacceptable on parking due to trip generation analysis, it is felt that the scheme will not result in an unacceptable demand on traffic or parking in the area. The previous use of the building is also a consideration and the proposed D1 use will not result in a further demand on traffic in the area than the existing B1 use. For these reason, it was not felt necessary or justified to require the contribution of £27,000.

The survey submitted also includes a Travel Plan included in the Transport Assessment which sets out strategies and potential measures which could be adopted within the site. The Council's Workplace Travel Plan Officer has stated that the Travel Plan lacks sufficient detail and a condition is recommended requiring the submission of a more detailed Travel Plan to completed and submitted to the council and agreed in writing prior to occupation. A named person from the occupier, who will be responsible for the development and implementation of the Travel Plan should be communicated to the Transport Planning Department as soon as is feasible. An appropriate Travel Plan will outline a range of sustainable transport solutions to be put in place to minimise the impacts of the scheme on the surrounding environment.

The supporting information refers to 'keep clear' space for the proposed use. This area is outside the ownership of the site on the adjacent highway and is likely to be directly outside the front entrance on Montefiore Road. The area will have to be implemented with the agreement of the Council's Parking Strategy Team. No plans of the area have been submitted and for this reason, the due to the lack of detail the Parking Strategy have been unable to comment on the acceptability of the space. As the acceptability of the area cannot be guaranteed it would be unfeasible to condition the implementation of the area. Additionally, the implementation of the area is not pivotal to the approval of the scheme. An informative is to be added to the decision stating that, prior to implementing the 'keep clear' space, the applicants should ensure that they have the necessary permission and are urged to contact the Parking Strategy Team. This approval of Planning Permission is taken entirely without prejudice to any decision the Council may make with regard to changes to the parking arrangements and traffic orders.

Sustainability

Policy SU13 and Supplementary Planning Document 03 on Construction and Demolition Waste seek to reduce construction waste and require a Waste Minimisation Statement demonstrating how elements of sustainable waste management have been incorporated into the scheme in order to reduce the amount of waste being sent to landfill. A suitable statement has been submitted with the application.

Policy SU2 of the Brighton & Hove Local Plan requires new development to demonstrate a high level of efficiency in the use of water, energy and materials. Supplementary Planning Document 08 on Sustainable Building Design also requires major applications for non-residential conversions to indicate no additional net annual CO2 emissions from new development, a reduction in water consumption and a minimisation of surface water run-off.

As part of the application, a BREEAM pre-assessment has been submitted indicating that the scheme will meet a BREEAM 'very good' rating. As the building is existing and the building fabric will be retained, the building materials will achieve an A+ rating as no new carbon will be emitted due to manufacture of virgin construction materials for the building as it is already in situ. Therefore the embodied energy of the development will be very low and 100% of the materials credits can be awarded. It is anticipated that that the total energy consumption of the site will be reduced due to the proposed change of use of the building. The use results in a much lower occupancy than the previous B1 use with much lower energy being consumed.

The submitted BREEAM statement outlines a commitment to sustainability but does not specifically state how the scheme will result in no additional net annual CO2 emissions from the new development or a reduction in water consumption, as required by SPD8. Consequently, a condition is recommended requiring the submission of details of sustainability measures which cover the required elements, as outlined in the SPD.

Conclusion

The proposed use by Brighton Orthopaedic Sports Injury Clinic result in the part occupation of a large building which has been empty for a number of years and the use will revitalise the economy of the local area as well as resulting in the remaining office space becoming more viable. The scheme has also justified the loss of the office space and will provide a community facility for the whole of the city. The submitted Travel Plan and Sustainability details have also demonstrated that the scheme is appropriate in terms of the impact on demand for travel and sustainability and the scheme will not result in a detrimental impact on the amenities of any adjacent properties.

8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

The proposed development would not result in a significant impact on the amenity of any adjacent properties and is considered appropriate in terms of its impact on highway safety. The loss of offices within the building is also deemed acceptable and the scheme would also result in the occupation of an empty building to the advantage of the local economy. The scheme is also in accordance with development plan policies.

9 EQUALITIES IMPLICATIONS

The proposal provides suitable access for people with disabilities.

BH2010/00206 Former Legal & General Building, 2 Montefiore Road



Date: 04/05/2010 02:53:00

Scale 1:1250

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No:	BH2010/00637	Ward:	SOUTH PORTSLADE
App Type	Extension to Time Limit Full Planning		
Address:	67 Norway Street, Portslade		
Proposal:	Application to extend time limit for implementation of previous approval BH2007/01655 for a replacement warehouse on southern part of site including mezzanine floor and covered loading bay.		
Officer:	Jason Hawkes, tel: 292153	Valid Date:	02/03/2010
Con Area:	N/A	Expiry Date:	01 June 2010
Agent:	N/A		
Applicant:	Infinity Foods Co-operative Ltd, Mr Martyn Laidlaw, 67 Norway Street Portslade		

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves to **GRANT** Planning Permission, subject to the following Conditions and Informatives:

Conditions:

1. BH01.01 Full Planning Permission.
2. BH03.02 Samples of materials (Non Cons Area).
3. BH06.02 Cycle parking details to be submitted.
4. The premises shall not be open or in use except between the hours of 0700 and 1900 on Monday to Friday, between 1000 and 1600 on Saturdays, and between 1000 and 1230 on Sundays and Bank Holidays.
5. A scheme for the soundproofing of the building shall be submitted to the Local Planning Authority and no development shall be commenced until a scheme is approved by the Local Planning Authority. The use of the premises shall not commence until all soundproofing works have been carried out to the satisfaction of the Local Planning Authority. The soundproofing works shall be maintained thereafter to the satisfaction of the Local Planning Authority.
Reason: To safeguard the amenities of the occupiers of adjoining properties in accordance with policies QD1, QD2 and QD27 of the Brighton & Hove Local Plan
6. A scheme for the suitable treatment of all plant and machinery against the transmission of sound and/or vibration shall be submitted to and approved by the Local Planning Authority. The scheme shall ensure that the noise associated with plant and machinery incorporated within the development shall be controlled such that the Rating Level, measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed a level 5dB below the existing LA90 background noise level. The Rating Level and existing background noise

levels are to be determined in accordance with the guidance provided in BS 4142:1997. The use of the premises shall not commence until all specified works have been carried out to the satisfaction of the Local Planning Authority.

Reason: To safeguard the amenities of the occupiers of adjoining properties in accordance with policies QD1, QD2 and QD27 of the Brighton & Hove Local Plan.

7. No commercial vehicle movements nor any loading or unloading of vehicles shall take place except between the hours of 0700 and 1900 Monday to Friday, between 1000 and 1600 on Saturdays and between 1000 and 1230 on Sundays and Bank Holidays.

Reason: To safeguard the amenities of the occupiers of adjoining properties in accordance with policies QD1, QD2 and QD27 of the Brighton & Hove Local Plan.

8. The east-facing windows shall not be glazed otherwise than with obscured glass and shall be fixed shut unless any other means can otherwise be agreed in writing by the Local Planning Authority, and shall be thereafter permanently retained as such.

Reason: To safeguard the privacy of the occupiers of the adjoining properties and to comply with policies QD1, QD2 and QD27 of the Brighton & Hove Local Plan.

9. No development shall take place until a scheme for the storage of refuse and recycling has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in full as approved prior to occupation 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 policies SU2, SU14 and QD27 of the Brighton & Hove Local Plan.

10. No further expansion of the mezzanine floor beyond that shown in the approved drawings shall be carried out unless with the express consent of the Local Planning Authority, to whom a new planning application must be made.

Reason: To allow the Local Planning Authority to consider the transport implications associated with any further expansion of this warehouse use, in accordance with policies TR1 and TR4 of the Brighton & Hove Local Plan.

11. The applicant shall submit a travel plan, indicating the measures to be applied to assure the council of the applicant's sustainable travel proposals for staff and any visitors, within 6 months of occupation of the premises. The travel plan shall thereafter be adhered to for the duration of the use hereby permitted and be resubmitted for the council's written approval every 12 months thereafter.

Reason: To ensure that traffic generation is adequately managed by encouraging the use of walking, cycling and public transport, in compliance with policies TR4 and TR14 of the Brighton & Hove Local Plan.

12. BH05.05A BREEAM – Pre-Commencement (New build non-residential)

(60% in energy and water sections of relevant BREEAM assessment within overall 'Excellent').

13. BH05.06A BREEAM – Pre-Occupation (New build non-residential) (60% in energy and water sections of relevant BREEAM assessment within overall 'Excellent').
14. 08.01 Contaminated land.
 - (i) The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Local Planning Authority:
 - (a) a desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS10175:2001 - Investigation of Potentially Contaminated Sites - Code of Practice;
and, unless otherwise agreed in writing by the Local Planning Authority,
 - (b) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS10175:2001;
and, unless otherwise agreed in writing by the Local Planning Authority,
 - (c) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include the nomination of a competent person to oversee the implementation of the works.
 - (ii) The development hereby permitted shall not be occupied or brought into use until there has been submitted to the Local Planning Authority verification by the competent person approved under the provisions of (i) (c) above that any remediation scheme required and approved under the provisions of (i) (c) above has been implemented fully in accordance with the approved details (unless varied with the written agreement of the Local Planning Authority in advance of implementation). Unless otherwise agreed in writing by the Local Planning Authority such verification shall comprise:
 - a) as built drawings of the implemented scheme;
 - b) photographs of the remediation works in progress; and
 - c) certificates demonstrating that imported and/or material left in situ is free from contamination.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under (i) (c).

Reason: To safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan.
15. No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be completed in accordance with the details and timetable agreed.

Reason: To prevent pollution of controlled waters in accordance with policy SU3 of the Brighton & Hove Local Plan by ensuring the provision of a satisfactory means of surface water disposal.

16. If, during development, any visibly contaminated or odorous material not previously identified is found to be present at the site, it must be investigated. The Planning Authority must be informed immediately of the nature and degree of contamination present. The developer shall submit a Method Statement which must detail how this unsuspected contamination shall be dealt with.

Reason: To ensure that the development complies with approved details in the interests of protection of Controlled Waters.

17. Clean, uncontaminated rock, subsoil, brick rubble, crushed concrete and ceramic only shall be permitted as infill material.

Reason: To prevent pollution of controlled waters in accordance with policy SU3 of the Brighton & Hove Local Plan.

18. Prior to commencement of development, the developer must advise the local authority (in consultation with Southern Water) in writing of the measures which will be undertaken to protect the public sewers. These works shall be carried out in accordance with the approved details.

Reason: The applicant has not provided details of means of disposal of foul drainage from the site, to comply with policies SU3, SU4 and SU5 of the Brighton & Hove Local Plan.

19. No development shall take place within the application site until the applicant has secured the maintenance of an on-site watching brief by a suitably qualified and experienced archaeologist during construction work in accordance with written details which have been submitted to and approved in writing by the Local Planning Authority. In the event of important archaeological features or remains being discovered which are beyond the scope of the watching brief to excavate and record and which require a fuller rescue excavation, then construction work shall cease until the applicant has secured the implementation of a further programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

Reason: In order to provide a reasonable opportunity to record the history of the site and to comply with policy HE12 of the Brighton & Hove Local Plan.

20. BH05.10 Hardsurfaces.

The hard surface hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.

Reason: To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policy SU4 of the Brighton & Hove Local Plan.

Informatives:

1. This decision is based on the application form received on the 27th March

2010.

2. This decision to grant Planning Permission has been taken:

i. having regard to the policies and proposals in the Brighton & Hove Local Plan set out below:

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR4	Travel plans
TR7	Safe development
TR14	Cycle access and parking
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU3	Water resources and their quality
SU4	Surface water run-off and flood risk
SU5	Surface water and foul sewage disposal infrastructure
SU9	Pollution and nuisance control
SU10	Noise nuisance
SU11	Polluted land and buildings
SU13	Minimisation and re-use of construction industry waste
SU14	Waste management
QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods
QD15	Landscape design
QD27	Protection of amenity
EM1	Identified employment sites (industry and business)
EM7	Warehouses (B8)

Planning Policy Statement

PPS23: Planning and Pollution Control

Supplementary Planning Document

SPD03: Construction and Demolition Waste

SPD08: Sustainable Building Design

Supplementary Planning Guidance

SPGBH4: Parking Standards; and

ii. for the following reasons:

The principle of the development has been accepted under BH2007/01655 and the site has not significantly changed since permission was granted in 2007. There have been some changes in local planning policy guidance relating to sustainability. This issue can be controlled by suitably worded conditions. The development remains acceptable in principle.

3. This site lies on Head Deposits overlying Tarrant Chalk, the latter classified as a Major Aquifer under the Environment Agency's "Policy and Practice for the Protection of Groundwater". This groundwater resource must be protected from pollution. There is a shallow groundwater table

beneath this site therefore this location is particularly sensitive with respect to pollution issues. Groundwater is therefore potentially at risk from activities at the site.

4. The proposed development lies on Vale Road (ref: WR3-011), a former landfill site that accepted unknown waste material. It is not known whether the former landfill site is gassing or has the potential to produce gas. The applicant should be advised of the presence of the former site as they may wish to carry out their own risk assessment. The Local Authority's own Environmental Health, Contaminated Land & Building Control sections would wish to address the issue of subsurface gas when finalising the construction details of any new or modified structures on the site as they may require that the development will proceed in such a way as to minimise the possibility of landfill gas entering any enclosed structures on the site. Details shall be submitted to and approved by the Local Planning Authority, together with the building construction techniques to be incorporated into the development (if applicable).
5. Prior to being discharged into any watercourses, surface water sewer or soakaway system, all surface water drainage from parking areas, roads and hardstandings shall be passed through trapped gullies to BS 5911:1982, with an overall capacity compatible with the site being drained. All surface water from roofs shall be piped direct to an approved surface water system using sealed down pipes. Open gullies should not be used.
6. Care should be taken during site works to ensure that all fuels, lubrication oils and any other potentially contaminating materials should be stored (for example in bunded areas secured from public access) so as to prevent accidental/unauthorised discharge to ground. All Pollution Prevention Guidelines information may be freely viewed and downloaded from the NetRegs section of the Environment Agency website. The website address is:
www.environment-agency.gov.uk/netregs/resources/278006.
7. The primary responsibility for safeguarding land and other property, including neighbouring land, against unacceptable risk from contamination rests with the owner and that where development is proposed, the developer is responsible for ensuring that development is safe and suitable for use for the purpose for which it is intended. The phased risk assessment should be carried out also in accordance with the procedural guidance and UK policy formed under the Environmental Protection Act 1990. The local planning authority has determined the application on the basis of the information made available to it.
8. The applicant is advised that the above condition on land contamination has been imposed because the site is known to be or suspected to be contaminated. Please be aware that the responsibility for the safe

development and secure occupancy of the site rests with the developer. To satisfy the condition a desktop study shall be the very minimum standard accepted. Pending the results of the desk top study, the applicant may have to satisfy the requirements of (i) (b) and (i) (c) of the condition. It is strongly recommended that in submitting details in accordance with this condition the applicant has reference to Contaminated Land Report 11, Model Procedures for the Management of Land Contamination. This is available on both the DEFRA website (www.defra.gov.uk) and the Environment Agency website (www.environment-agency.gov.uk).

9. A formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Southern Water's Network Development Team (Wastewater) based in Otterbourne, Hampshire or www.southernwater.co.uk
10. No mechanical excavations shall take place above or within 0.5m of the Low Pressure and Medium Pressure gas system and 3m of the Intermediate Pressure gas system. You should, where required, confirm the position of mains using hand dug trial holes. As there are underground electricity cables in the proposed area, the applicant is advised to contact EDF Energy Networks Connections, Projects South, Bircholt Road, Parkwood, Maidstone, Kent, ME15 9XH (tel: 0845 234 0040).
11. The key to controlling what occurs within this facility is to control access and minimise the number of access/egress points. There should be a main entrance for visitors, with a reception area. Signage should be displayed around the site directing visitors to that point. The fire exits should be devoid of any external furniture and alarmed back to the office. There should be signage displayed warning of the consequences of opening those doors other than in an emergency.
12. So far as physical security is concerned, all ground floor doors and windows should be glazed with laminated glass. They should accord with LPS1175 SR3. Any final exit doors that are outward opening should have hinge bolts fitted. The roller shutter doors should have an isolation switch and any manual chains should be secured with a close-shackled padlock. There should be a wiring harness suitable for a centrally monitored alarm system. Lighting will be an important consideration, both around the building and in the car park.
13. IN05.07A Informative - Site Waste Management Plans (3+ housing units (new build), 11+ housing units (conversion) or over 200sq m non-residential floorspace (new build))
The applicant is advised that new legislation on Site Waste Management

Plans (SWMP) was introduced on 6 April 2008 in the form of Site Waste Management Plans Regulations 2008. As a result, it is now a legal requirement for all construction projects in England over £300,000 (3+ housing units (new build), 11+ housing units (conversion) or over 200sq m non-residential floorspace (new build)) to have a SWMP, with a more detailed plan required for projects over £500,000. Further details can be found on the following websites: www.netregs.gov.uk/netregs/businesses/construction/62359.aspx and www.wrap.org.uk/construction/tools_and_guidance/site_waste_2.html

14. IN05.06A Informative: BREEAM

The applicant is advised that details of the BREEAM assessment tools and a list of approved assessors can be obtained from the BREEAM websites (www.breeam.org). Details about BREEAM can also be found in Supplementary Planning Document SPD08 Sustainable Building Design, which can be accessed on the Brighton & Hove City Council website (www.brighton-hove.gov.uk).

15. IN05.10 Informative – Hardsurfaces

The applicant is advised that advice regarding permeable and porous hardsurfaces can be found in the Department of Communities and Local Government document 'Guidance on the permeable surfacing of front gardens' which can be accessed on the DCLG website (www.communities.gov.uk).

2 THE SITE

This application relates to a large single storey industrial building with sawtooth roof, forming the southernmost part of an industrial estate on Norway Street, designated as an employment site in the Brighton & Hove Local Plan. It is accessed by a small road opposite St Aubyn's Road. The surrounding area is residential, with a park, including children's play area, located immediately west.

3 RELEVANT HISTORY

Planning permission was granted in August 2007 for a replacement warehouse on the southern part of the site including mezzanine floor and covered loading bay (**BH2007/01655**). This decision included conditions which have been summarised below:

- Development to be commenced within 3 years from the date of the permission.
- Samples of materials to be submitted for approval.
- Opening hours restricted to 0700 and 1900 Monday to Friday and between 1000 and 1600 on Saturdays, and at no time on Sundays and Bank Holidays.
- Scheme for sound proofing to be submitted for approval.
- Scheme for suitable treatment of all plant and machinery for approval.
- No commercial movements nor any loading of vehicles between the hours of 0700 and 1900 Monday and Friday, 1000 and 1600 on Saturdays and

- between 1000 and 1230 Sundays and Bank Holidays.
- The east facing windows shall not be glazed other than with obscured glass.
 - Scheme for storage of refuse and recycling to be submitted for approval.
 - No further expansion of the mezzanine level.
 - Travel Plan to be submitted for approval.
 - Site Waste Minimisation Statement to be submitted for approval.
 - Details of sustainability measures to be submitted for approval.
 - Submission of following for approval:
 - A desk study
 - Site investigation scheme.
 - Results of the site investigation scheme and risk assessment.
 - A verification report on the completion of the works.
 - Scheme for the provision of surface water drainage to be submitted for approval.
 - Clean, uncontaminated rock etc to be used as infill material.
 - Prior to development, the developer must advise the local planning authority in writing of measures to protect local sewers.
 - Prior to development, an on-site watching brief to be submitted by an archaeologist for approval of local planning authority.

Later in 2004, a certificate of lawfulness application was submitted to establish the use of the premises for the manufacture/assembly/finishing, (i.e. storage of furniture). This application (**BH2004/02510/CL**) was granted, although noting in an informative that the whole property has a lawful use as a mixture of B1 and B8, with neither use being exclusive, and does not specify how these two uses are spread within the building.

Earlier in 2004 a planning application for the use of the premises as mixed B1, B8 and A1 was refused due to the loss of employment floorspace, impact on surrounding shopping centres and traffic considerations .(Ref: **BH2004/02404/FP**).

In 1956 Planning Permission was granted for the use of the premises as a warehouse. It is understood that the premises gradually became B1 (Business) use and, on noting a return to a storage and distribution use, an application was requested by the council to duly regularise the operations. Thus in 1994, an application was submitted and Planning Permission subsequently granted for the change of use from B1 to B8 (ref: **3/94/0556(F)**).

4 THE APPLICATION

Approval is sought for a new planning permission to replace the extant planning permission (BH2007/01655) in order to extend the time limit for implementation. The extant permission expires on **20/08/2010**.

Planning permission was granted in 2007 for the demolition of the existing warehouse (comprising a floor area of 1452 sq m, including a small

mezzanine area and ancillary office space) on the southern part of the site and replacement with a new warehouse building (comprising a floor area of 1236 sq m, including a slightly larger mezzanine area) and a new covered loading bay on the north-east corner. Office floorspace will be expanded from 38 sq m to 182 sq m.

5 CONSULTATIONS

External:

Neighbours: 7 emails have been received from **58 St Andrews Road** and **12, 49 (x2), 51 & 53 Norway Street (x2)** objecting to the scheme on the following grounds:

- Objections are raised to this application as they were to the previous scheme.
- Due to the size of the warehouse, the large lorries that use the site will increase in numbers and it will be like living on a factory estate.
- The current business has no respect for the local neighbourhood. A lorry shed at the back was erected two years ago which has obscured views and caused damage.
- This area used to be quiet and is now like a small industrial estate.
- Any increase in height will result in a loss of light.
- Infinity Foods illegally cut down trees for a lorry canopy.
- Infinity Foods has outgrown the site in view of both trade and location. An alternative industrial site would be more appropriate.
- The scheme is unnecessary further development to an already sizeable plot. The impact of further heavy laden vehicles operating in an area burdened with one way traffic will be too much for local residents.
- The noise and deliveries out of hours shows a lack of respect for the residential properties.

Sussex Police: No objection.

Environment Agency: No objection subject to the same conditions as previously proposed under BH2007/01655.

Southern Water: No objections. The comments made on BH2007/01655 remain the same.

East Sussex Fire & Rescue Service: No objection. A recommendation is made for the installation of sprinkler systems.

Internal:

Sustainable Transport: No objection subject to conditions that the development shall not be occupied until cycle parking areas have been implemented in accordance with details submitted for the approval of the local planning authority and car parking areas have been provided in accordance with the approved plans.

Environmental Health: No objection subject to the carry over of the same

conditions attached to BH2007/01655.

Planning Policy: This application raises no new policy issues. Although the South East Plan seeks the retention of existing employment floorspace, which was adopted in 2009, the policy framework is unchanged from 2007 as far as this application is concerned because it retains employment floorspace.

6 PLANNING POLICIES

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR4	Travel plans
TR7	Safe development
TR14	Cycle access and parking
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU3	Water resources and their quality
SU4	Surface water run-off and flood risk
SU5	Surface water and foul sewage disposal infrastructure
SU9	Pollution and nuisance control
SU10	Noise nuisance
SU11	Polluted land and buildings
SU13	Minimisation and re-use of construction industry waste
SU14	Waste management
QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods
QD15	Landscape design
QD27	Protection of amenity
EM1	Identified employment sites (industry and business)
EM7	Warehouses (B8)

Planning Policy Statement

PPS23: Planning and Pollution Control

Supplementary Planning Document

SPD03: Construction and Demolition Waste

SPD08: Sustainable Building Design

Supplementary Planning Guidance

SPGBH4: Parking Standards

7 CONSIDERATIONS

The development proposed in this application for extension to the time limit for implementation has already been judged to be acceptable in principle in 2007. The extant consent expires on 20/08/2010. The determining issues to consider relate to whether there have been any material changes to the site, or change in local and national policy that would now render the proposed development unacceptable.

A site visit has revealed that there have been no material changes to the site since the grant of the previous consent. Therefore issues relating to the principles of development, design and appearance of the development, the impact on amenity, archaeology, land contamination and environmental health remain identical to the previous application. In terms of transport generation and parking, the Council's Sustainable Transport Manager has no objection subject to an additional condition requiring details of cycle parking areas to be submitted for approval prior to development commencing and thereafter retained. Additionally, there have been no changes in local or national policy that would affect the above issues and planning conditions would again be used to ensure the development remains acceptable.

In terms of the immediate adjoining properties, there have been no material changes in circumstances and there are no extant planning permissions for development which have been granted since 2007 which would be materially affected by the extension of the time limit.

Sustainability

The Local Plan Policy on Sustainability, Policy SU2, is now supplemented by an adopted Supplementary Planning Document on Sustainability Building Design (SPD08). This was adopted in 2008 and was not a material consideration under BH2007/01655.

The extension to the time scale for this consent must be assessed under adopted guidance. The SPD requires major developments for new build non-residential to achieve 60% in energy and water sections of relevant BREEAM assessment within overall 'Excellent' and to undertake a feasibility study on rainwater harvesting and grey water recycling systems. The applicant has stated that they can achieve the required standards and are happy for conditions to be attached to the planning decision requiring evidence that the development is registered with BRE under BREEAM, the submission of Design Stage Certificate and Post Construction Review Certificate that the development achieves a rating of 60% in energy and water sections of relevant BREEAM assessment within overall 'Excellent'. To fully meet the requirements of SPD08, the assessments should include a feasibility study on rainwater harvesting and grey water recycling systems.

Conclusion

The principle of the development has been accepted under BH2007/01655 and this has not changed. There have been some changes in the policy relating to sustainability which can be addressed by suitably worded conditions. Approval is therefore recommended.

8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

The principle of the development has been accepted under BH2007/01655 and the site has not significantly changed since permission was granted in 2007. There have been some changes in local planning policy guidance relating to sustainability. This issue can be controlled by suitably worded

conditions. The development remains acceptable in principle.

9 EQUALITIES IMPLICATIONS

The building would have to meet Part M of the Building Regulations.



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Scale 1:1250



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<u>No:</u>	BH2010/00498	<u>Ward:</u>	HOLLINGDEAN & STANMER
<u>App Type</u>	Full Planning		
<u>Address:</u>	Former Esso Petrol Filling Station, Hollingdean Road		
<u>Proposal:</u>	Redevelopment of the site providing for the erection of a part 2, 3, 4 and 5 storey building comprising 24no residential units and associated external amenity space.		
<u>Officer:</u>	Aidan Thatcher, tel: 292265	<u>Valid Date:</u>	26/02/2010
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	28 May 2010
<u>Agent:</u>	Lewis & Co Planning, Paxton Business Centre, Portland Road, Hove		
<u>Applicant:</u>	Southern Primary Housing Ltd, Mr Richard Hill, Hole Farmhouse, Woodmancote, Henfield		

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 9 of this report and resolves that it is **MINDED TO GRANT** planning permission subject to the applicant entering into a Section 106 Obligation and to the following Conditions and Informatives:

S106:

- £46,337 towards off-site open space to be used at Saunders Park;
- £11,584 towards the maintenance of the open space at Saunders Park;
- £40,097 towards education contributions (£17,243 primary and £22,854 secondary);
- £18,000 towards sustainable transport infrastructure within the vicinity of the site;
- All 24 of the units shall be affordable housing (100%);
- Two of the units shall be fully wheelchair accessible (8.3%); and
- Provision of city car club space including 2 years free membership and a 20% discount card for residents together with Traffic Regulation Order for the provision of city car club on-street parking space.

Conditions:

1. BH01.01 Full Planning.
2. BH02.06 No cables, aerials, flues and meter boxes.
3. The development hereby approved shall not be occupied until the refuse and recycling facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter 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.
4. No development shall take place until samples of the materials (including colour of render, paintwork and colourwash, paving) to be used in the

construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and to comply with policy QD1 of the Brighton & Hove Local Plan.

5. BH04.01A Lifetime Homes.
6. BH05.01B Code for Sustainable Homes – Pre-Commencement (New Build residential) – [Code Level 4].
7. BH05.02B Code for Sustainable Homes – Pre-Occupation (New Build residential) – [Code Level 4].
8. BH05.10 Hardsurfaces.
9. Notwithstanding the details provided on drawing no. 3218.PL.100A approved as part of this application, revised details of the cycle storage facility shall be submitted to and approved in writing by the Local Planning Authority. The revised facilities shall show a minimum of 32 accessible spaces. These facilities shall be fully implemented and made available for use in strict accordance with the approved details prior to the occupation of the development hereby permitted 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 policy TR14 of the Brighton & Hove Local Plan.
10. BH07.11 External lighting.
11. Noise associated with plant and machinery incorporated within the development shall be controlled such that the Rating Level, measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed a level 5dB below the existing LA90 background noise level. Rating Level and existing background noise levels to be determined as per the guidance provided in BS 4142:1997.
Reason: To safeguard the amenities of the area in accordance with policies SU9, SU10 and QD27 of the Brighton & Hove Local Plan.
12. BH07.07 Soundproofing plant/machinery.
13. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.
Reason: In the interests of the protection of controlled waters (groundwater) as the site overlies a principal aquifer and is located within a Source Protection Zone 1 area and to ensure compliance with policies SU11 and SU3 of the Brighton & Hove Local Plan.
14. Prior to occupation of any part of the development hereby approved, a verification report demonstrating completion of the works set out in the current planning application regarding contaminated land shall be submitted to and approved, in writing, by the Local Planning Authority.

The report shall include results of sampling and monitoring carried out in accordance with the current planning application to demonstrate that the site is fit for use.

Reason: In the interests of the protection of controlled waters (groundwater) as the site overlies a principal aquifer and is located within a Source Protection Zone 1 area and to ensure compliance with policies SU11 and SU3 of the Brighton & Hove Local Plan.

15. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

Reason: In the interests of the protection of controlled waters (groundwater) as the site overlies a principal aquifer and is located within a Source Protection Zone 1 area and to ensure compliance with policies SU11 and SU3 of the Brighton & Hove Local Plan.

16. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in strict accordance with any such approved details.

Reason: In the interests of the protection of controlled waters (groundwater) as the site overlies a principal aquifer and is located within a Source Protection Zone 1 area and to ensure compliance with policies SU11 and SU3 of the Brighton & Hove Local Plan.

17. (i) A detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a competent person to oversee the implementation of the works.

(ii) The development hereby permitted shall not be occupied or brought into use until there has been submitted to the local planning authority verification by a competent person approved under the provisions of condition (i) that any remediation scheme required and approved under the provisions of condition (i) has been implemented fully in accordance with the approved details (unless varied with the written agreement of the local planning authority in advance of implementation). Unless otherwise agreed in writing by the local planning authority such verification shall comprise:

- a) as built drawings of the implemented scheme;
- b) photographs of the remediation works in progress;
- c) certificates demonstrating that imported and/or material left in situ is free from contamination.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under condition (i).

Reason: To safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan.

18. The development shall be completed in strict accordance with the recommendations of the Noise Assessment prepared by Environmental Assessment Services Ltd, dated January 2007 (Revised January 2010) submitted on 22.02.10, that is acoustic double glazing on the north and west elevations, thermal double glazing on the south and east elevations, and acoustic ventilators for all habitable rooms (including balconies which incorporate full glazed enclosures) facing onto the north and west facades. The development shall be implemented in strict accordance with the approved details and retained as such thereafter.
Reason: To safeguard the health of future residents or occupiers of the site and to comply with policies SU9 and SU10 of the Brighton & Hove Local Plan.
19. Prior to the commencement of development, full details of the proposed passive ventilation system shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in strict accordance with the approved details and retained as such thereafter and the passive ventilation shall be fully operational prior to the first occupation of any of the flats hereby approved.
Reason: To ensure the occupants of the units do not suffer from adverse air quality and to comply with policies SU9 and QD27 of the Brighton & Hove Local Plan.
20. The north facing windows to the ground floor unit, fronting onto Hollingdean Road, shall be fixed shut and non-opening and shall be retained as such thereafter.
Reason: To ensure the occupants of the units do not suffer from adverse air quality and to comply with policies SU9 and QD27 of the Brighton & Hove Local Plan.
21. The first, second and third floor east facing windows (with the exception of the square living room windows) shall not be glazed otherwise that with obscured glass and non-opening, unless the parts of the windows that can be opened are more than 1.7m 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 properties and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
22. The projecting balconies to the first and second floors, closest to the eastern boundary of the site shall be fitted with an obscure glazed screen to the eastern elevation to a minimum height of 2.1m and thereafter permanently retained as such.
Reason: To safeguard the privacy of the occupiers of the adjoining properties and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
23. BH11.01 Landscaping/planting scheme.
24. BH11.02 Landscaping/planting (implementation/maintenance).
25. The existing crossovers and dropped kerb lines shall be reinstated in strict accordance with a scheme to be submitted to and agreed in writing with the Local Planning Authority. Reason: In order to improve the quality of the public realm, to create a safe pedestrian environment and to

- comply with policies QD1 and TR7 of the Brighton & Hove Local Plan.
26. Prior to the occupation of the development, a sample of the sustainable transport pack to be distributed to occupiers shall be provided to the Local Planning Authority for written approval. The packs shall then be distributed in strict accordance with the pack as agreed.

Reason: To ensure the information provided to future occupiers is sufficient and represents up-to-date information and to comply with policy TR1 of the Brighton & Hove Local Plan.

Informatives:

1. This decision is based on drawing nos. 3218.PL.002, 3218.EXG.002, EXG.003, EXG.004, PL.001A, PL.003A, PL100A, PL.101A, PL.102A, PL.103A, PL.104A, PL.110, PL.200A, PL.201A, PL.700A, PL.701A, Waste Minimisation Statement, Biodiversity Checklist, Sustainability Checklist, Noise Assessment submitted on 22.02.10, Planning Statement submitted on 24.02.10, Design and Access Statement, Daylight and Overshadowing Report, Transport Statement, Code for Sustainable Homes Interim Report, Air Quality Assessment and Decommissioning Closure Report submitted on 25.02.10, Ground Investigation Report and Desk Study Report submitted on 26.02.10 and drawing nos. 3218.PL.300B and 301B submitted on 23.04.10.
2. This decision to grant Planning Permission has been taken:
 - (i) having regard to the policies and proposals in the Brighton & Hove Local Plan set out below:

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR2	Public transport accessibility and parking
TR3	Development in areas of low public transport accessibility
TR4	Travel Plans
TR7	Safe Development
TR8	Pedestrian routes
TR11	Safe routes to school and school safety zones
TR12	Helping the independent movement of children
TR13	Pedestrian network
TR14	Cycle access and parking
TR18	Parking for people with a mobility related disability
TR19	Parking standards
SU1	Environmental impact assessment
SU2	Efficiency of development in the use of energy, water and materials
SU3	Water resources and their quality
SU4	Surface water run-off and flood risk
SU5	Surface water and foul sewage disposal infrastructure
SU9	Pollution and nuisance control
SU10	Noise nuisance
SU11	Polluted land and buildings

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SU12	Hazardous substances
SU13	Minimisation and re-use of construction industry waste
SU14	Waste management
SU15	Infrastructure
SU16	Production of renewable energy
QD1	Design - quality of development and design statements
QD2	Design - key principles for neighbourhoods
QD3	Design - efficient and effective use of sites
QD4	Design - strategic impact
QD5	Design - street frontages
QD6	Public art
QD7	Crime prevention through environmental design
QD15	Landscape design
QD16	Trees and hedgerows
QD26	Floodlighting
QD27	Protection of amenity
QD28	Planning Obligations
HO1	Housing sites and mixed use sites with an element of housing Affordable housing - a definition
HO2	Affordable housing - 'windfall' sites
HO3	Dwelling type and size
HO4	Dwelling densities
HO5	Provision of private amenity space in residential development
HO6	Provision of outdoor recreation space in housing schemes
HO7	Car free housing
HO13	Accessible housing and lifetime homes
HO21	Provision of community facilities in residential and mixed use scheme

Supplementary Planning Guidance Notes

SPGBH 4: Parking Standards

Supplementary Planning Documents

SPD03 Construction and Demolition waste

SPD08 Sustainable Building Design

Planning Advice Notes

PAN03 Accessible Housing and Lifetime Homes

PAN05 Design and Guidance for Storage and Collection of
Recyclable Materials and Waste; and

(ii) for the following reasons:-

The proposed development would integrate effectively with the scale, character and appearance of the street scene and wider area, would cause no undue loss of light or privacy to adjacent occupiers and would be of appropriate materials to ensure that it would integrate effectively with the wider area. The units would achieve acceptable levels of living conditions for the future occupiers in relation to air quality, levels of natural light and ventilation and amenity space. Subject to condition, the proposals would have an acceptable impact on sustainability objectives and cause no detrimental impact on highway safety. Therefore, the

proposal is considered to be in accordance with development plan policies.

3. The applicant is advised that details of Lifetime Homes standards can be found in Planning Advice Note PAN 03 Accessible Housing & Lifetime Homes, which can be accessed on the Brighton & Hove City Council website (www.brightonhove.gov.uk).
4. The applicant is advised that details of the Code for Sustainable Homes can be found on the Planning Portal (www.planningportal.gov.uk), on the Department for Communities and Local Government website (www.communities.gov.uk) and in Supplementary Planning Document SPD08 Sustainable Building Design, which can be accessed on the Brighton & Hove City Council website (www.brightonhove.gov.uk).
5. The applicant is advised that advice regarding permeable and porous hardsurfaces can be found in the Department of Communities and Local Government document 'Guidance on the permeable surfacing of front gardens' which can be accessed on the DCLG website (www.communities.gov.uk).
6. The applicant is advised to contact Southern Water to agree the measures to be taken to protect/divert the public water supply main. Southern Water can be contacted via Atkins Limited, Southern House, Capstone Road, Chatham, Kent, ME5 7QA, 01634 824103, www.atkingsglobal.com.
7. Notice is given that Section 35 of the East Sussex Act 1981 may apply to this development. This gives Local Authorities the power to reject applications deposited under the Building Regulations, unless after consultation with the fire authority they are satisfied that the plans show adequate means of access for the fire service.
8. The applicant is advised that new legislation on Site Waste Management Plans (SWMP) was introduced on 6 April 2008 in the form of Site Waste Management Plans Regulations 2008. As a result, it is now a legal requirement for all construction projects in England over £300,000 (3+ housing units (new build), 11+ housing units (conversion) or over 200sq m non-residential floorspace (new build)) to have a SWMP, with a more detailed plan required for projects over £500,000. Further details can be found on the following websites: www.netregs.gov.uk/netregs/businesses/construction/62359.aspx and www.wrap.org.uk/construction/tools_and_guidance/site_waste_2.html.

3 THE SITE

The application relates to the site of a former Esso service station located on Hollingdean Road, at the junction with Hughes Road. Hughes Road leads around westward to a small industrial estate. A service road leading to the

rear of the nearby Sainsbury's supermarket extends off Hughes Road, to the immediate rear of the site. The application site is therefore surrounded by roads on three sides.

The site has been cleared of all buildings associated with the previous use. While the site is relatively level, the land level rises to the rear of the site, and a retaining wall addresses the resulting level change between the site and the access to the Sainsbury's service area.

The surrounding area is comprised of a mix of commercial and residential uses. The site is located at the end of a residential terrace of two storey properties. This terrace extends eastward from the site to the Vouge Gyratory. Residential use also dominates the northern side of Hollingdean Road, although this includes a large single storey commercial building located directly opposite the application site. To the west of the site, on the opposite side of Hughes Road is a two storey commercial building positioned on an elevated site above Hollingdean Road. Further to the west are further small scale commercial uses.

To the rear of the site, the land level rises up to Richmond Road within the Roundhill Conservation Area. A two storey office building on Richmond Road and other residential terrace properties are visible to the rear of the site.

The site is not within a Conservation Area, although the elevated area to the rear of the site (Richmond Road, D'Aubigny Road) is part of the Roundhill Conservation Area. The site is not subject to any specific designation within the Brighton & Hove Local Plan. For clarity, the existing use of the site is considered to be sui generis.

4 RELEVANT HISTORY

BH2007/00561: Redevelopment of the site to provide a part single, part 3, part 4, part 5, part 6, part 7 storey building, comprised of 35 affordable residential units and three car parking spaces – Refused 11/06/2007. Appeal dismissed 12/02/2008.

BN85/15/F: redevelopment of the existing petrol station – Approved March 1985.

5 THE APPLICATION

Full planning permission is sought for residential redevelopment of the site. The specific proposal is based on the erection of a block of 24 flats up to five storeys in height. All of the units would be transferred to an RSL as affordable units.

Two car parking spaces would be provided at ground floor level within the building. These car parking spaces would be allocated to occupiers of the two wheelchair units proposed, which would also be located at ground floor level.

Small garden areas would be provided for ground floor flats, and all remaining flats would have balcony/terrace areas. Communal roof terraces would also be provided at third and fourth floor levels. A landscaped area would be provided at the western end of the site.

6 CONSULTATIONS

External

Neighbours: 5 letters of objection have been received from the occupiers of nos. 6, 8, 10 & 42 Hollingdean Road and Unit 11 Centenary Industrial Estate on the following grounds:

- Loss of light;
- Overshadowing;
- Increased parking stress;
- Increased traffic;
- Impact of pollution on future residents;
- Too large a development for the site;
- Overdevelopment; and
- It would be out of character with the existing street scene.

Sussex Police: The location is an average crime risk area when compared with the rest of Sussex. I was extremely pleased to see the Design & Access Statement completed with a full description of the crime prevention measures to be incorporated within the development. Due to my previous correspondence with the architect and in view of the above I have no further comment to make from a crime prevention viewpoint.

East Sussex Fire and Rescue Service: No comment to make.

Environment Agency: Have no objections, in principle, to the proposal as submitted provided Planning Conditions are imposed in respect of contamination, surface water drainage and piling.

Internal

Children, Families and Schools: If this application were to proceed would seek a contribution towards the cost of providing educational infrastructure for the school age pupils this development would generate. In this instance would seek a contribution in respect of primary education of £17,243 and secondary education of £22,854.

Planning Policy: Affordable housing is welcomed and the mix of housing should address the City's priority needs. This still appears to be overdevelopment with high density at the expense of communal and individual space for day to day activities. There are concerns that as an affordable scheme, it offers little communal informal open space especially for casual play by younger children, given that the only park is across a busy main road and inaccessible unless they can be escorted. Balcony areas vary but some appear too small to be usable by the number of people in the particular flat. The site has been designed with the only greenery not in a

protected accessible space as part of an integral landscaped design but on the fringe of the scheme by the busy main road and HGV access route. All the flats should be capable of being adapted for wheel chair use and meet the council's minimum space standards. Wheelchair adapted units should comply with the government's parking advice and disabled occupants should be able to access on site communal areas or the off site recreation facilities.

Housing Strategy: Generally across the City the required tenure split for affordable housing will be 55% social rented and 45% intermediate: shared ownership/intermediate rent. For individual the exact tenure split will be guided by up to date assessments of local housing need and site/ neighbourhood characteristics. This scheme will provide 24 units for rent. Given the current market conditions, tenure mix in the area and local priorities/ housing need we would have no objection to the proposed mix.

The affordable housing units should be owned and managed by a Registered Social Landlord who has entered into a nomination agreement with the City Council and provide us with 100% nomination rights in the first instance and 75% thereafter. In this instance Southern Housing Group one of our preferred partners will own and manage the scheme.

We understand the scheme will be built to meet or exceed the Homes & Communities Agency's current Design & Quality Standards (April 2007) incorporating the Building for Life Criteria and Code for Sustainable Homes Level 3 as a minimum

The scheme will meet Secure by Design principles as agreed by Police Architectural Liaison Officer

Private outdoor amenity space is provided in the form of balconies and terraces and have access to a shared roof terrace

Two of the units will be built to the Council's wheelchair accessible standard as set out in the Planning Advice Note - Lifetime Homes & Accessible Housing (PAN 03). We would recommend that the Access Officer is consulted to ensure the scheme complies with Policy HO13.

Locally to ensure the development of new homes are of a good standard, that are flexible and adaptable and fit for purpose all new affordable homes must be built to the following minimum internal space standards All the units comply with our internal space standards

1 Bedroom / 2 person homes	51 ² m
2 Bedroom / 3 person homes	66 ² m
2 Bedroom / 4 person homes	76 ² m
3 Bedroom / 5 person homes	86 ² m

These minimum internal space standards are based on the English

Partnership's space standards (revised from November 2007).

For the City as a whole the preferred affordable housing mix in terms of unit size and type to be achieved is 40% one bedroom units, 50% two bedroom units and 10% three bedroom and or larger. In this case the scheme will provide 16.7% x 1 bed homes, 75% x 2 bed homes and 8.3 % 3 bed homes. We would prefer to see an additional 3 bed unit. Up to date assessments of housing needs (for example, the Strategic Housing Market Assessment April 2008) show that although the greatest need (numerically) is for smaller one and two bedroom properties, there is significant pressure on larger family sized homes. For this reason we welcome proposals that include higher proportions of family sized homes.

A local lettings plan will be drawn up with Housing Strategy to ensure that the scheme is appropriately managed

Urban Design:

Initial comments

The Urban Characterisation Study shows the development site to be on the edge of the inner suburban section of the Lewes Road corridor. This section of the road is described as ' Dominated by large scale educational and commercial uses interspersed with vacant land and small scale residential and retail uses. No consistency or cohesion, and hostile to pedestrians'. This portion of the corridor has low densities of approximately 15 dwellings per hectare, and is described as 'dominated by other uses'. The study describes Saunders Park as 'the only green space along the route but is underused by small children due to its location on a busy road and severed from most surrounding residential development and so suffers from drug and alcohol offences and violent crime'.

The Urban Characterisation Study places this site adjacent to Roundhill Crescent character area of Roundhill Neighbourhood. Roundhill Crescent character area is described as 'an historic residential area that follows the steep contours of the slope up to the ridgeline, giving long views over the city. Medium high density with a mix of scale. Predominantly Victorian, ranging from grand four storey converted houses to small two storey houses, but with significant area of low rise 1960s blocks of flats to the south'.

The site is not considered to be within the Lewes Road tall buildings corridor, nor suitable for a tall building. The site is in a separate block, not off the main Lewes Road, and is separated from the taller buildings adjacent to Lewes Road by a line of two storey terraced housing.

This application is lower and less dense than the earlier appeal scheme which, backed up by the appeal decision, was considered to be an overdevelopment of the site. This proposal is no longer expected to fit in with the requirements of the Council's Tall Buildings guidance.

There are concerns about the layout of the individual flats and the lack of communal space. Because the development is fairly tight against the street, and of high density, some shared amenity/ outdoor space would reasonably be expected within the site. A courtyard within the site could also provide for some level of dual aspect and air flow to the otherwise single aspect dwellings. The north facing apartments also face on to the busy thoroughfare, and although there are fewer balconies on this façade, the environment on these balconies would not be acceptable.

The trees shown in the design statement are worryingly close, and not considered to be possible on such a tight site without causing damage to the building. The illustrative drawings in the Design & Access Statement could therefore be considered to be misleading.

The relationship between the proposed block and the neighbouring properties has, however, been better resolved. The ground floor is considered to provide a more attractive frontage than the previous (appeal) proposal. The pointed corners are a strange feature, as are the colour choices for the façade and the balconies, which do not reflect the colours chosen by Mondrian. The pointed features are considered unconvincing, and look better on the elevational drawings than on the 3D illustrations.

The living environment, particularly within the 1st floor and 2nd floor north facing dwellings, needs further thought and refinement before this application can be recommended for approval. Without resolving these issues the conclusion is that this proposal is an overdevelopment of the site.

Comment on revised elevation details

Would prefer the appearance without the angled parapet walls. On issue of colour of the render, I was responding to the 'Mondrian' claim in the design and access statement and I would also like the render to be self-coloured. As suggested this could be part of the conditions.

Sustainable Transport:

No parking for able bodied residents is proposed. This is consistent with SPG4, which sets maximum standards, 36 in this case, but fails to comply with policy HO7 on car free housing. Because the site is not in a CPZ there can be no guarantee that the development will be car free. In these circumstances applicants are expected to fund substantial measures to enable and encourage the use of sustainable modes and demonstrate that displaced parking will not be a problem.

The applicants propose to set up a car club for residents. This should be required and controlled by a condition requiring the implementation of a car club, as described in Appendix 1 of the applicant's Transport Statement, prior to occupation. The proposal in Appendix 1 is satisfactory. In addition, the marketing information which it is proposed to distribute to residents should be expanded to form a travel pack containing information on other sustainable

modes. The content of this pack should be agreed with the Council prior to occupation and the pack distributed to occupants as they move in. A TRO payment should also be required if an on street car club bay is proposed near the site. A contribution of £18,000, to be spent on sustainable modes measures in the vicinity of the site, has been agreed. This amount has been calculated using the standard contributions formula. Possible appropriate uses of this money would be the replacement of the Melbourne Street southbound bus stop shelter at a better site, improvements to the Lewes Rd. cycle lanes, and provision of dropped kerbs for pedestrians locally.

In defence of the proposal to provide no general parking, the applicants have pointed out that this is consistent with central government guidance, that the development would consist of small affordable units at a site which is highly accessible by sustainable modes, and that the absence of parking together with positive action to encourage the use of sustainable modes would tend to reduce car ownership. With reference to the potential problem of displaced parking, the applicants have made reference to a parking study they arranged in support of an appeal concerning a previous application for this site in 2007. The surveys in this study showed that there was an average of 46 on street spaces available within 6 minutes walk of the site. Most of these spaces were in Upper Hollingdean Rd. and Southmount (off Davey Drive).

Although the failure to comply with policy HO7 must be considered, it is concluded in view of the information above (i.e. in the previous two paragraphs) that the proposal for no general parking should be conditionally accepted.

It is proposed to provide 2 disabled parking bays, 1 for each accessible unit. This is satisfactory.

SPG4 requires at least 32 cycle parking spaces. The applicants propose to provide 44 but this is achieved by 'double stacking' which necessitates lifting the bike up to use half of the spaces. This is unsatisfactory as the choice of cycle use must be available to people who are not fit or strong enough to lift their bikes. Revised plans showing at least 32 spaces which are easily useable, sheltered and secure should be required by condition.

The local accident record has been examined and this does not give rise to concern regarding the proposed vehicular access to Hollingdean Rd. The standard condition requiring that the crossover works should be carried out in accordance with the Council's requirements as Highway Authority should be attached to any consent.

Environmental Health:

Noise

Having examined the submitted reports, they conclude the following findings which will need to be incorporated into the final build to protect the residents and these are as follows:

1. From the readings obtained, the site falls into a category C of PPG24 which as below requires planning permission should not normally be granted and that measures are necessary to mitigate against the noise.
2. For the Southern Façade, thermal double glazing should be adequate, however for the North and West facades the extent of the reduction in noise required (36dB(A)) exceeds the attenuation provided by standard thermal double glazing and that suitable acoustic double glazing should be sufficient.
3. It is however apparent that if an individual wished to open their window, the guidelines recommended in the World Health Organisation for sleep and daytime levels would be exceeded.
4. The report goes on to state that acoustic ventilators for North and West facades are required and that these need to achieve a 36dB(A) reduction in noise levels.

The above measures are therefore integral to ensuring that the end occupiers are not subject to adverse noise levels.

Potentially Contaminated Land

Noted a number of submissions with the application including a decommissioning report by URS on behalf of Esso and a desk study and intrusive study by Soils Limited engaged on behalf of the applicant to check the condition of the site.

Recommend approval subject to conditions.

Air Quality

Recommend:

- Passive ventilation with air intakes at top and rear of the property.
- Sealed units at the ground floor residential space nearest to Hollingdean Road.

The development is recommended without objection on air quality grounds.

7 PLANNING POLICIES

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
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SU10	Noise nuisance
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PAN03 Accessible Housing and Lifetime Homes

PAN05 Design and Guidance for Storage and Collection of Recyclable

Materials and Waste

8 CONSIDERATIONS

The main considerations in the determination of this application are the principle of the development, impact on street scene and wider area, amenity issues, transport issues, affordable housing, education contributions, air quality, contaminated land and sustainability issues.

Principle of Development (Land Use: Amount and Use)

The site was previously in use as a service station, which is a sui generis use. There are no Development Plan policies that resist the loss of this use.

PPS3 on Housing states that urban land can often be significantly underused and advocates the better use of previously-developed land for housing. It is considered that the application site where the new building is proposed constitutes previously-developed land and in principle the construction of a residential scheme could make an efficient use of this site in accordance with PPS3, subject to compliance with other development control considerations.

As a windfall site, development of the site for affordable housing is considered to be consistent with key Development Plan objectives. However, the site is subject to existing constraints of contamination, noise exposure and air quality and neighbouring commercial development. The principle of residential use of the site is therefore subject to the development scheme satisfactorily addressing these constraints.

Impact on street scene and wider area

Policy QD1 relates to design and the quality of new development. It confirms that all proposals for new buildings must demonstrate a high standard of design and make a positive contribution to the visual quality of the environment.

Policy QD2 relates to design and key principles for neighbourhoods. It confirms that new development should be designed to emphasise and enhance the positive qualities of the local neighbourhood, by taking into account the local characteristics, including:

- a. Height, scale, bulk and design of existing buildings;
- b. Topography and impact on skyline;
- c. Natural and developed background or framework against which the development will be set;
- d. Natural and built landmarks;
- e. Layout of street and spaces;
- f. Linkages with surrounding areas;
- g. Patterns of movement within the neighbourhood; and
- h. Natural landscaping.

Policy QD3 relates to efficient and effective use of sites and confirms that new development will be required to make efficient and effective use of a site,

including sites comprising derelict or vacant land and buildings.

The visual appearance of the site would be fundamentally altered to accommodate the proposed development.

It is noted that there is substantial planning history and previous pre-application advice regarding the scale, form, bulk, massing and design of the various proposals already put forward for the site. The current proposals are the smallest of all those put forward.

The plans show the height of the proposal as being two storey where it meets the existing terraced development fronting Hollingdean Road. This steps up gradually to its full height of five storeys, although it is noted that the fifth storey is set back from the front elevation.

In general terms, the scale, bulk and massing of the development represents a built form of a more acceptable scale than the previous schemes and one that would integrate more effectively with the street scene and wider area.

The plans have been amended during the course of the application in order to address the concerns raised from the design officer. These amendments included altering the design of the parapet walls on the west elevation from having angled tops to being straight. This provides a more utilitarian appearance to the building, and assists in providing cohesion between the north and west elevations.

Alterations have also been proposed relating to the pallet of materials proposed, which now includes blockwork, coloured and plain render, aluminium, and zinc cladding together with coloured glazing to the balcony balustrades.

Whilst the principle of these materials is acceptable, full samples are to be required by condition in order that their relationship with each other and that on the wider area can be fully assessed.

It is therefore considered that the proposed scheme now integrates effectively with the street scene and wider area and thus would comply with the local development plan.

Amenity Issues

For Neighbours

Policy QD27 relates to protection of amenity and confirms that permission will not be granted where development 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.

Again, this issue has been carefully considered during the previous application/appeal and pre-application processes. As the scale of the

proposal has been reduced from the previous proposal, and the footprint altered to retain an increased distance from the existing neighbouring properties fronting Hollingdean Road, there is not considered to be any overbearing bulk issues arising from the development.

The content of the submitted Daylight and Overshadowing report have been fully considered. This confirms that whilst there will be an impact on the surrounding properties, the impact would still result in the levels of light received by the impacted properties to be in excess of the minimum standards set by the BRE guidance.

It is noted that the previous appeal scheme, which was significantly larger than the current proposal, did not give rise to any concerns or objections regarding loss of light or overshadowing at application or appeal stage (from the Council or the Inspector), and thus due to the fact the development is now considerably lower, it is considered unreasonable to raise objections to the scheme on this basis at this stage.

Having regard to the above, it is not considered that an objection on these grounds could be sustained.

The previous scheme gave rise to concerns from overlooking, particularly from the proposed balcony and terraces. The potential harmful impact arises most notably from the residential properties to the east of the site. These properties comprise Victorian 2 storey properties, which were constructed and are still in use as flats. These units each appear to have a rear garden area, which have the potential to be overlooked from the proposed development. There are 2 no. rear balconies at first and second floor in close proximity to the eastern boundary. These are shown on the application drawings as having a high level obscure glazed screen to ensure that no overlooking could arise from these. There is also a third floor level communal terrace to the front (although set back from the front elevation) and a fourth floor rear private terrace. These are not considered to give rise to any undue overlooking to the east due to the height, positioning of buildings between and separation distance to the boundary and thus would be acceptable without any additional mitigation.

There are a number of windows in the eastern elevation from ground to third floor level. Some of these are high level, some are shown as being obscure glazed (or both) and others are shown as normal windows without any mitigation to restrict the views from the proposed units to the existing properties and gardens to the east. It is considered that the first, second and third floor windows within this elevation would be required to be obscure glazed, with the exception of the windows furthest south (where views would not be possible). This will protect the amenities of the adjoining occupiers and is required by condition as part of this recommendation.

There are also a significant number of windows and balconies within the

northern elevation, which provide views across Hollingdean Road. These are not considered to give rise to any undue overlooking issues, as the relationship between the proposed building and those on the opposite side of the road is to be expected in a built up area such as this.

For Future Residents

Brighton & Hove Local Plan policy HO13 requires that all new residential units should comply with Lifetime Homes standards, and, on larger schemes such as this proposal, 5% of units are built to a wheelchair accessible standard. The scheme includes two wheelchair standard units at ground floor level. These units would also have access to a designated car parking space each. The floorplans submitted confirm that all properties will be lifetime homes compliant, and the scheme makes provision for 2 no. wheelchair accessible units (8.7%) and thus the scheme conforms to HO13.

The units all meet the size standards set out for affordable homes, and thus are considered to provide a sufficient standard of accommodation for the future occupiers.

The scheme does include a number of single aspect units, however where possible, units have double and even triple aspect. This is considered to ensure that the units receive sufficient levels of natural light during differing times of the day.

That said, there are a number of single aspect north facing units proposed, one on the second floor, and two on the first floor. Whilst this is regretted, due to the footprint of the building this is inevitable, without providing an internal courtyard (to which there is not considered to be sufficient depth of the site to allow for). On balance, and considering that these have been kept to a minimum, representing just 3 out of 24 units (12.5%) this is considered to be acceptable.

The remainder of the single aspect units are south facing and thus would provide for sufficient levels of natural light.

Policy HO5 requires the provision of private usable amenity space in new residential development.

The submitted plans ensure that each of the units has dedicated private amenity space. The ground floor units have ground floor level garden areas, whilst those on the upper floors incorporate terraces or balconies. It is noted that some of the balconies are north facing, which means that they will receive little sunlight, particularly as these are recessed into the building itself. However, these are kept to a minimum, and are restricted to those units with a single aspect facing north only. Where it has been possible to include east, south or west facing balconies/terraces, this opportunity has been taken.

It is also noted that the size of the balconies are somewhat limited. That said,

the provision does provide for space to have a small ‘bistro’ style table and chairs set, thus proving that they are just acceptable in terms of usability.

Therefore, on balance it is considered that the scheme provides an acceptable element of usable outside space for each of these units and thus complies with HO5.

Brighton & Hove Local Plan policy HO6 requires that new residential development provides outdoor recreational space, specifying that 2.4 hectares per 1000 population accommodated within the development should be provided. This is not provided within the site, although it is noted that there is communal terrace space at third and fourth floor levels. In recognition that development schemes will seldom be capable of addressing the whole requirement on a development site, the policy allows for contributions towards the provision of the required space on a suitable alternative site.

Therefore a contribution should be provided towards the nearest suitable local open space that is safely accessible by children from the development. The submitted Planning Statement states that the site is too small and could therefore not accommodate provision and recommends a contribution towards Saunders Park to address HO6.

Saunders Park is situated on the north side of Hollingdean Road which due to the relatively busy nature of the road means that it is considered unsuitable for independent play by young children. This site is within a central location and the proposed housing mix would include family accommodation. There are no sites any closer that could provide for independent play space and it is considered that the financial contribution should be provided towards the facilities and maintenance at Saunders Park. In these circumstances and in light of the improved situation with on site private amenity space a contribution can be accepted and is requested by a legal agreement which forms part of this recommendation. The sums to be included within the s106 are £46,337 for the improvement works and £11,584 towards maintenance.

Brighton & Hove Local Plan policies SU9 and SU10 state that permission will not be granted for residential development where the future occupiers would be adversely affected by noise nuisance.

The application is supported with a noise assessment which concludes that the site falls within noise exposure category C, with road noise being the dominant noise source. Given the demand for additional housing it is not considered that this exposure would preclude residential development of the site. However, suitable measures are required to provide suitable noise insulation. These measures are acoustic double glazing on the north and west elevations, thermal double glazing on the south and east elevations, and acoustic ventilators for all habitable rooms (including balconies which incorporate full glazed enclosures to those which are north facing) facing onto the north and west facades.

See also the air quality section below which deals with additional measures which would be required to the ground floor north facing windows to protect against poor air quality as well as noise.

Both these measures provide the opportunity for the future occupiers to have an alternative source of fresh air without requiring the need to open the window, thus resulting in poor noise exposure and/or air quality. Whilst this is not ideal, it does provide for an alternative source of fresh air which would ensure the living conditions of these occupiers would be acceptable.

Transport

Policy TR1 confirms that development proposals should provide for the demand for travel they create and maximise the use of public transport, walking and cycling.

Policy TR2 relates to public transport accessibility and parking and confirms that permission will only be granted where the development proposal has been assessed to determine the level of accessibility to public transport.

Policy TR14 confirms that all proposals for new development and change of use should provide facilities for cyclists in accordance with the parking guidance.

The scheme provides two disabled parking spaces within the development. These are to serve each wheelchair accessible unit. The Inspector's comments on the previous appeal indicated that this ratio of car parking spaces to wheelchair accessible units would be acceptable and as such remains acceptable as part of this application.

Policy HO7 will grant permission for car free housing in locations with good access to public transport and local services and where there are complementary on-street parking controls and where it can be demonstrated that the development will remain genuinely car-free over the long term. The most practical way of achieving this is to restrict residents parking permits within Controlled Parking Zones. No vehicular parking spaces are proposed. However, the site is not within a Controlled Parking Zone, so residents would therefore be able to park on the surrounding residential streets.

The comments from the Council's Sustainable Transport Team confirms that the proposal would not lead to an undue increase in on street parking demand to an extent that public safety would be affected, particularly having regard to the number of available parking spaces within a 6 minute walk of the site, in Upper Hollingdean Road and Southmount (off Davey Drive).

That said, in order to mitigate against the impact of the lack of parking provision on site, a contribution of £18,000 towards the provision of sustainable transport improvements within the vicinity of the site. Such measures could include the replacement of the Melbourne Street southbound bus stop, improvements to the Lewes Road cycle lanes and provision of

pedestrian dropped kerbs. This would assist with ensuring that the application would be TR1 complaint and thus is recommended as forming part of the s106 agreement.

The applicants have also proposed the provision of a car club and providing all residents within the development with 2 years free membership and a 20% discount card. This is considered to be acceptable and forms part of the legal agreement.

The applicants also confirm that they will provide a travel pack providing information to the future residents on all sustainable transport modes within the vicinity of the site outlining the options available to them.

Policy TR19 requires development to meet the maximum parking levels set out within Supplementary Planning Guidance Note 4 'Parking Standards'. An area is shown for cycle parking within the building at the ground floor which would equate approximately 24 square metres. The drawings confirm that a total of 44 cycle parking spaces would be provided, to be double stacked. Whilst the number of cycle parking spaces would be acceptable, the nature of the stacking gives rise to concern as the upper storage racks may not be fully accessible to all the residents. Therefore, alternative cycle parking provision would be required to ensure that these would be fully accessible, and as such a condition is recommended to ensure that a minimum of 32 fully accessible secure spaces are provided.

Affordable Housing

The application proposes that all of the proposed 24 units would be transferred to a Registered Social Landlord as affordable housing. This provision would be welcomed by the Local Planning Authority, and is to be secured through a legal agreement.

Education contributions

Policy QD28 relates to planning obligations and confirms that obligations will be sought in relation of a variety of issues, including education, when they are necessary, relevant to planning, directly related to the proposed development, fairly and reasonably related in scale and kind to the proposed development and reasonable in all other aspects.

The comments from Children, Families and Schools are noted, in that they are requiring education contributions totalling £40,097 (£17,243 primary and £22,854 secondary) in order to mitigate the impact arising from the development. It is also noted that affordable housing generates a significant need for education places within the city and thus whilst the contribution has been made using private units, the contribution is extremely low compared to the future need.

The applicants have disputed the level of contribution requested as during the course of the previous (2007) application and appeal, a total education

contribution of £21,627 was agreed, despite the development including 35 units in total (11 more units).

However, the original request towards education contributions as part of the 2007 application was £63,824, and the applicants have not provided any justification or evidence as to why, or indeed to support their claim that this was reduced to £21,627. Therefore, the contribution requested in this respect is considered to have been reduced in-line with the reduction in scale of development and therefore the requested contribution of £40,097 is not considered to be unreasonable and thus is the figure to form part of the s106 agreement.

Air Quality

The application site is located within an air quality management area. Brighton & Hove Local Plan policy SU9 states that planning permission will not be granted for development within an air quality hotspot, where this would result in detrimental impact on future occupiers.

This was included as a reason for refusal on the 2007 application. It is noted that in the lead up to the associated appeal a mechanical system for ventilation was proposed and as such this reason for refusal was not pursued.

A full Air Quality survey has been submitted as part of the re-submission detailing the air quality issues surrounding the site. The report concludes that the following measures would need to be incorporated into the scheme to ensure an acceptable standard of accommodation would be created:

- Sealed windows to the ground floor north facing unit (fronting onto Hollingdean Road);
- Sympathetic tree planting to the Hollingdean Road frontage;
- Passive or mechanical ventilation system with air intakes at the top and rear of the property (where air quality is at its most desirable).

Whilst a ventilation system is not ideal, in terms of the amenities of the future occupants (as discussed above) it would allow for the future occupants to receive fresh air within the units without having the need to open their windows. This is a widely accepted alternative method of receiving fresh air and ventilation when windows cannot be opened, and has been used elsewhere within Brighton & Hove.

It is considered that a passive ventilation would be the only viable option, as mechanical ventilation would be too energy intensive. As such a condition is recommended to ensure full details of a passive ventilation system be submitted to and approved by the LPA, and that the ground floor north facing windows are sealed shut and that there is suitable landscaping to the site.

Therefore on balance, it is considered that the scheme would be SU9 compliant.

Contaminated Land

PPS23 states that Local Planning Authorities should pay particular attention to development proposals for sites where there is a reason to suspect contamination, such as the existence of former industrial uses, or other indications of potential contamination, and to those for particularly sensitive use such as a day nursery or housing likely to be used by families with children. In such cases, the Local Planning Authority should normally require at least a desk study of the readily-available records assessing the previous uses of the site and their potential for contamination in relation to the proposed development. If the potential for contamination is confirmed, further studies by the developer to assess the risks and identify and appraise the options for remediation should be required.

Policy SU11 will permit the development of known or suspected polluted land where the application is accompanied by a site assessment and detailed proposals for the treatment, containments an/or removal of the source of contamination, appropriate to the proposed future use and surrounding land uses and to prevent leaching of pollutants. Permission will not be granted for the development of polluted land where the nature and extent of contamination is such that even with current methods of remediation as a result of the proposed development people, animals and/or the surrounding environment would be put at risk. Where the suspected contamination is not felt to be significant or not high risk, permission may be granted subject to conditions requiring a site investigation and any necessary remedial measures.

The site was previously in use as an Esso service station, and there is therefore significant risk that the site suffers from some form of contamination.

A number of contamination reports have been submitted as part of this application, including a decommissioning report confirming that the site has in fact been decontaminated.

The comments from both the Environment Agency and the Council's Environmental Health team are noted, in that they do not consider there to be any adverse contaminated land issues arising from the development, subject to conditions relating to unsuspected contamination, a verification report, infiltration methods, restrictions on piling, and remedial works.

It is therefore considered that the scheme would be acceptable in this regard.

Sustainability

Any new residential building upon the site would need to conform to the requirements of SPD08. This means that a fully completed Sustainability Checklist is required, and the building must meet Level 4 of the Code for Sustainable Homes as a minimum.

In addition, and to conform to the requirements of policy SU2, any

development must demonstrate that issues such as the use of materials and methods to minimise overall energy use have been incorporated into siting, layout and design.

The applicants have submitted a Sustainability Checklist with the application and have detailed a commitment to reach Code Level 3 of the CSH; there has been no commitment to try to achieve zero net annual CO2 emissions from energy use however they have committed to joining the Considerate Constructors Scheme.

A Code for Sustainable Homes Interim Report has been prepared by Bespoke Builder Services Ltd and submitted as part of this application.

This confirms that the residential scheme can meet Code Level 3, with a percentage of 64.72%, whereas SPD08 requires Code Level 4, which is a minimum of 68%. Whilst the submitted Interim Report is useful in detailing how sustainable the development may be, a condition can be imposed to ensure the development meets the relevant target of code level 4. There is sufficient flexibility in-built into the wording of the condition so if the scheme genuinely cannot meet code level 4, if the applicant provides sufficient justification, then a lower level may be permitted.

In relation to policy SU2, measures have been indicated in the application that reduce fuel use, carbon dioxide emissions and water consumption. Composting facilities will be located in each flat and there is a communal waste collection/recycling area within the building.

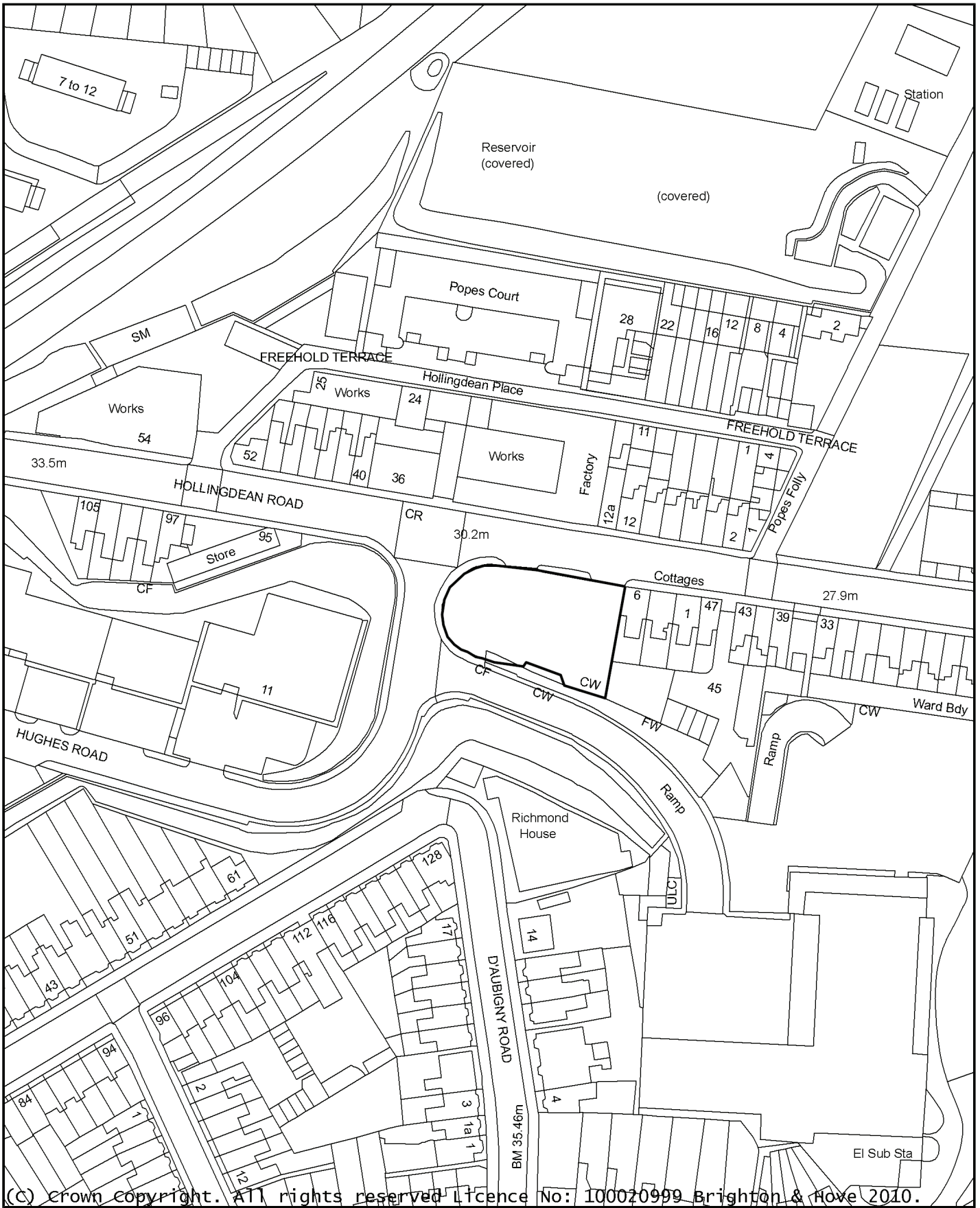
9 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

The proposed development would integrate effectively with the scale, character and appearance of the street scene and wider area, would cause no undue loss of light or privacy to adjacent occupiers and would be of appropriate materials to ensure that it would integrate effectively with the wider area. The units would achieve acceptable levels of living conditions for the future occupiers in relation to air quality, levels of natural light and ventilation and amenity space. Subject to condition, the proposals would have an acceptable impact on sustainability objectives and cause no detrimental impact on highway safety. Therefore, the proposal is considered to be in accordance with development plan policies.

10 EQUALITIES IMPLICATIONS

The development accords with to Lifetime Homes and Wheelchair accessible standards.

BH2010/000498 Former Esso Petrol Filling Station, Hollingdean Road



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LIST OF MINOR APPLICATIONS

<u>No:</u>	BH2010/00097	<u>Ward:</u>	PATCHAM
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Mill House, Overhill Drive, Brighton		
<u>Proposal:</u>	Erection of 3 detached two storey dwellings and a single detached bungalow.		
<u>Officer:</u>	Anthony Foster, tel: 294495	<u>Valid Date:</u>	28/01/2010
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	25 March 2010
<u>Agent:</u>	Town & Country Planning Solutions, Sandhills Farmhouse, Bodle Street Green, Hailsham		
<u>Applicant:</u>	Mr A Maysey, Mill House, Overhill Drive, Patcham, Brighton		

This application was deferred at the last meeting on 28/04/10 for a Planning Committee site visit. This report has been amended to reflect further representations.

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions

- 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.
- Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extension, enlargement or other alteration of the dwellinghouse(s) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.
Reason: The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and to the character of the area and for this reason would wish to control any future development to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
- No development shall take place 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 in full as approved 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.

4. No development shall take place until samples of the materials (including colour of render, paintwork and colourwash) to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and to comply with policy QD1 of the Brighton & Hove Local Plan.

5. The new dwellings shall be constructed to Lifetime Homes standards to the satisfaction of the Local Planning Authority.

Reason: To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.

6. Unless otherwise agreed in writing by the Local Planning Authority, no residential development shall commence until:

- (a) evidence that the development is registered with the Building Research Establishment (BRE) under the Code for Sustainable Homes and a Design Stage Report showing that the development will achieve Code level 3 for all residential units have been submitted to the Local Planning Authority; and

- (b) a BRE issued Interim Code for Sustainable Homes Certificate demonstrating that the development will achieve Code level 3 for all residential units has been submitted to, and approved in writing by, the Local Planning Authority.

A completed pre-assessment estimator will not be acceptable.

Reason: To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.

7. Unless otherwise agreed in writing by the Local Planning Authority, none of the residential units hereby approved shall be occupied until a Building Research Establishment issued Final Code Certificate confirming that each residential unit built has achieved a Code for Sustainable Homes rating of Code level 3 has been submitted to, and approved in writing by, the Local Planning Authority.

Reason: To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.

8. No development shall take place until a written Waste Minimisation Statement, confirming how demolition and construction waste will be recovered and reused on site or at other sites, has been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in strict accordance with the approved details.

Reason: To ensure that the development would include the re-use of

limited resources, to ensure that the amount of waste for landfill is reduced and to comply with the Brighton & Hove Waste Local Plan and SU13 of the Brighton & Hove Local Plan and Supplementary Planning Document 03 Construction and Demolition Waste.

9. The hard surface hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.
Reason: To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policy SU4 of the Brighton & Hove Local Plan.
10. The development shall not be occupied until details of cycle parking have been submitted to and approved in writing by the Planning Authority and the areas shall thereafter be retained for that use and shall not be used other than for the parking of cycles
Reason: In order that the development site is accessible by non-car modes and to meet the objectives of sustainable development to comply with policies TR1 and TR14 of the Brighton & Hove Local Plan.
11. Prior to the commencement of development on site, detailed drawings, including levels, sections and constructional details of the proposed road[s], surface water drainage, outfall disposal and crossover to be provided, shall be submitted to and approved in writing by the Local Planning Authority. The approved works shall be completed in their entirety prior to the first occupation of the residential units hereby approved.
Reason: In the interests of highway safety and for the benefit and convenience of the public at large to comply with policy TR7 of the Brighton & Hove Local Plan.
12. The development shall not be occupied until parking areas have been provided in accordance with the approved plans or details which have been submitted to and approved in writing by the Planning Authority and the areas shall thereafter be retained for that use and shall not be used other than for the parking of motor vehicles
Reason: To ensure the safety of persons and vehicles entering and leaving the access and proceeding along the highway to comply with policies TR7 and TR19 of the Brighton & Hove Local Plan.
13. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping, which shall include hard surfacing, means of enclosure, planting of the development, indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development.
Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD1 and QD15 of the Brighton & Hove Local Plan.
14. All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the

development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. All hard landscaping and means of enclosure shall be completed before the development is occupied.

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD1 and QD15 of the Brighton & Hove Local Plan.

15. No development shall commence until fences for the protection of trees to be retained have been erected in accordance with a scheme which has been submitted to and approved in writing by the Local Planning Authority. The fences shall be retained until the completion of the development and no vehicles, plant or materials shall be driven or placed within the areas enclosed by such fences.

Reason: To protect the trees which are to be retained on the site in the interest of the visual amenities of the area and to comply with policies QD1 and QD16 of the Brighton & Hove Local Plan.

16. No development shall commence until an Arboricultural Method Statement is submitted to and approved by the Local Planning Authority. The Statement shall include details relating to the levels of the site within the Root Protection Areas and details regarding service runs.

Reason: To protect the trees which are to be retained on the site in the interest of the visual amenities of the area and to comply with policies QD1 and QD16 of the Brighton & Hove Local Plan.

17. The proposed first floor bathroom window of Unit 1 shall not be glazed otherwise than with obscured glass 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.

Informatives:

1. This decision is based on Planning Statement, Transport Statement, Sustainability Statement, Arboricultural, Landscape and Ecology Report, Site waste Management Plan, and drawing nos 0726/1.01, /2.03 Rev B, /2.12, submitted on 14 January 2010 and drawing nos. 0726/2.17, /2.19 submitted on 28 January 2010 and Design and Access Statement, drawing nos. 0726/2.01 Rev F, /2.02 Rev C, /2.04 Rev D, /2.05 Rev D, /2.06 Rev C, /2.14 Rev C, /2.15 Rev C, /2.18 Rev A submitted on 3 March 2010.
2. This decision to grant Planning Permission has been taken:
 - i) having regard to the policies and proposals in the Brighton & Hove Local Plan set out below, including Supplementary Planning Guidance and Supplementary Planning Documents:

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR7	Safe development
TR14	Cycle parking
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU4	Surface water run-off and flood risk
SU9	Pollution and nuisance control
SU10	Noise pollution
SU13	Minimisation and re-use of construction industry waste
SU15	Infrastructure
QD1	Design – Quality of development and design statements
QD2	Design – Key principles for neighbourhoods
QD3	Design – Efficient and effective use of sites
QD4	Design – Strategic impact
QD15	Landscape design
QD16	Trees and hedgerows
QD17	Protection and integration of nature conservation features
QD18	Species protection
QD27	Protection of amenity
QD28	Planning obligations
HO3	Dwelling type and size
HO4	Dwelling Densities
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

Supplementary Planning Guidance Documents: (SPG's)

SPGBH 4	Parking Standards
SPGBH 9	A Guide for Residential Developers on the Provision of Outdoor Recreation Space (Draft)

Supplementary Planning Document

SPD03	Construction & Demolition Waste
SPD06	Trees and Development Sites
SPD08	Sustainable Building Design; and

- ii) for the following reasons:
 The proposal is an effective and efficient re- use of residential land which will result in an additional 4 family dwellings, whilst maintaining the character and appearance of the area. Furthermore the development would not adversely affect the amenities of neighbouring properties, or the surrounding highways network. The loss of protected trees on the site would be mitigated by additional planting.
3. The applicant is advised that details of Lifetime Homes standards can be found in Planning Advice Note PAN 03 Accessible Housing & Lifetime Homes, which can be accessed on the Brighton & Hove City Council

website (www.brighton-hove.gov.uk).

4. The applicant is advised that details of the Code for Sustainable Homes can be found on the Planning Portal (www.planningportal.gov.uk), on the Department for Communities and Local Government website (www.communities.gov.uk) and in Supplementary Planning Document SPD08 Sustainable Building Design, which can be accessed on the Brighton & Hove City Council website (www.brighton-hove.gov.uk).
5. The applicant is advised that details of the Council's requirements for Site Waste Management Plans and Waste Minimisation Statements can be found in Supplementary Planning Document SPD03 Construction and Demolition Waste, which can be accessed on the Brighton & Hove City Council website (www.brighton-hove.gov.uk).
6. The applicant is advised that advice regarding permeable and porous hardsurfaces can be found in the Department of Communities and Local Government document 'Guidance on the permeable surfacing of front gardens' which can be accessed on the DCLG website (www.communities.gov.uk).
7. The applicant is advised that the driveways and access road should be built in accordance with BS 5837 (2005).
8. The applicant is advised of their obligation to protect bats during construction work, if any bats are found during demolition/conversion, then works should be stopped immediately and advice sought from Natural England.

2 THE SITE

The site is an enclosed plot of land measuring 0.3 ha in total, which is accessed via a narrow driveway between nos. 61 and 61a Overhill Drive to the south of the junction with Overhill Way and Highview Avenue South.

The site currently comprises a main two storey dwelling, ancillary outbuildings and a single storey studio that are sited along the southern site boundary, and a swimming pool located in the north eastern corner of the site. A public footpath runs alongside the driveway to the east of the site and continues along the south of the site giving access through to Grangeways.

The site is bounded by the rear of residential properties in Overhill Drive to the east, woodland and the rear of Audrey Close properties to the west, 61a Overhill Drive to the north, and the residential development of Grange Walk, Grangeways to the south.

The site has a number of trees which are protected by a number of Tree Preservation Orders covering the site.

3 RELEVANT HISTORY

BH2008/02490: Erection of 3 detached two-storey dwellings and a single detached bungalow – Appealed for non-determination with a committee recommendation for refusal - Dismissed at Appeal. The committee resolved that it would have been minded to refuse planning permission had an appeal against non-determination not been lodged on the following grounds:

1. The proposed development would result in overlooking of 17 Audrey Close and 61A Overhill Drive to the detriment of the amenity of the occupiers of those properties contrary to Policy QD27 of the Brighton & Hove Local Plan.
2. The proposed development, by virtue of the width of the access and it being a shared pedestrian and vehicular access, together with the arrangement of the junction of the access with Overhill Drive and the proximity to a school, would be detrimental to highway safety, contrary to Policy TR7 of the Brighton & Hove Local Plan.
3. The proposed development would result in the loss of green space and existing trees on the site covered by Tree Preservation Order (No2) 2004, contrary to Policies QD2 and QD 16 of the Brighton & Hove Local Plan.
4. The applicant has failed to demonstrate that the proposed development would not increase the risk of flooding, contrary to Policy SU4 of the Brighton & Hove Local Plan.

The Inspector dismissed the appeal for the sole reason of detrimental impact to the amenities of adjoining occupiers.

BH2005/05112: Outline application for 4 detached dwellings. Means of access to be determined for the development site. (Revised description). Refused 28/11/2006

BH2004/00366/OA: Outline application for six detached dwellings. Withdrawn.

BH2004/02778/OA: Outline application for the erection of 4 detached houses. Refused 04/02/2004.

4 THE APPLICATION

Planning permission is sought for the erection of three detached 2 storey houses and a single bungalow. The existing Mill House dwelling is to be retained. As originally submitted, the application sought permission for 4 no. 2 storey detached dwellings, however this was revised to the current proposal after concerns were raised by Council Officers.

The proposed layout splits the north half of the site into two to provide two plots and the southern half of the site into three plots, one for the existing Mill House and two additional housing plots. The proposed access road would run between the existing two halves of the site.

5 CONSULTATIONS

External:

Neighbours: From the original consultation a total of 12 letters of objection have been received from **2 (x2), 3 Grange Walk, 20 Old London Road, 15,**

17 (x2), Audrey Close, 55, 59, 61, 61A (x2) Overhill Drive

A planning statement has been submitted on behalf of the occupiers of **55, 61a Overhill Drive** and **17 Audrey Close** in support of their objections.

The objections relate to the following aspects of the scheme:

- The issues raised by the planning inspector have not been sufficiently addressed.
- Loss of the dedicated existing public right of way, which is used by local people and particularly school children, and concern that the proposed shared surface (site access and public right of way) would be unsafe for pedestrians.
- Overbearing impact and overlooking of neighbouring properties, particularly those in Audrey Close, which are set lower than the application site level.
- Overdevelopment of the site with a poor layout.
- Noise and disturbance during construction work.
- Increased pressure on services such as drainage and sewer.

An additional seven letters of objection have resulted from the re-consultation from the occupants of **55, 59, 61, 61a Overhill Drive 15, 17 Audrey Close, 3 Grange Walk** objecting on the following grounds:

- The original objections still stand
- Overshadowing and overlooking of the property
- Significant loss of privacy resulting from units 2 & 3, the existing relationship with Mill House differs as it is set down with no windows on the rear elevation
- An oppressive 3.5m high boundary will impact upon our amenity, softer boundary treatment would be more appropriate

A joint letter from the occupiers of **55, 61a Overhill Drive and 17 Audrey Close** has been received detailing the following:

Unit 1

We would ask that two conditions are applied in order to protect the amenities of 61A Overhill Drive.

Firstly, that the first floor window in rear elevation of unit one (that is closest to the boundary with number 61A) is an obscure glazed non opening unit with trickle vent ventilation.

Secondly we would ask that all permitted development rights are removed so that no new openings or extensions can be carried out without an express grant of planning permission by the local planning authority.

Unit 2

We would ask that the two rooflights in the east elevation are bottom hung so that downwards views out of the rooflights are not possible. As with unit 1, all

permitted development rights should be removed.

Unit 4

We would ask that the Council seeks a softer form of boundary treatment between the two sites.

A letter of objection has been received from **Cllrs Geoffrey Theobald & Brian Pidgeon** who Object to the proposals (copy of letter attached).

Internal:

Arboricultural Team: Comments received on previous application BH2008/02490.

The Arboricultural Section have visited this site on several occasions, and having reviewed the current application, would like to make the following comments.

Canopy's Arboricultural, Landscape and Ecology Report of June 2008 is comprehensive and the Arboricultural Section are mostly in agreement with it.

17 trees on this site are currently covered by Tree Preservation Order (No. 7) 2008. Canopy objected to the placement of most trees on the Preservation Order for various reasons, all of which the Arboricultural Section disagreed with, and therefore the current TPO stands.

Canopy's Arb report states that 6 trees covered by the TPO will be lost. As most of the trees on the site covered by the TPO are to be retained, the Arboricultural Section will not object to the loss of these trees and are pleased to note that 23 replacement trees are mentioned on the landscaping plan attached. This should be made a condition of any planning consent granted.

The trees to be retained on site should be protected to BS 5837 (2005) as per the Arb report submitted. This too should be made a condition of any planning consent granted.

Finally, as also submitted in the Arb report, it should be made a condition of any planning consent granted that the driveways and access road are built in accordance with BS 5837 (2005), ie, no mechanical digging, porous top surface etc.

As requested in previous correspondence regarding applications on this site, the arboricultural section would like assurances that soil levels around the trees within the Root Protection Areas are not altered in any way, and also we need to see service runs to ensure that, if they are in the vicinity of any trees' roots, they are built in accordance with the current guidelines to ensure the trees are retained post-development. An Arboricultural Method Statement would need to be provided regarding service runs as recommended in Brighton & Hove's Supplementary Planning Document (Appendix 4) and BS

5837 (2005).

Sustainable Transport:

No objections on Traffic Grounds subject to the following conditions:

- Prior to the commencement of development on site, detailed drawings, including levels, sections and constructional details of the proposed road, surface water drainage, outfall disposal and street lighting to be provided, shall be submitted to the Planning Authority and be subject to its approval, in consultation with this Authority
- The development shall not be occupied until cycle parking areas have been provided in accordance with the approved plans or details which have been submitted to and approved in writing by the Planning Authority and the areas shall thereafter be retained for that use and shall not be used other than for the parking of cycles
- The development shall not be occupied until parking areas have been provided in accordance with the approved plans or details which have been submitted to and approved in writing by the Planning Authority and the areas shall thereafter be retained for that use and shall not be used other than for the parking of motor vehicles
- The Applicant enters into a legal agreement with the Council to contribute towards improving accessibility to bus stops, pedestrian facilities, and cycling infrastructure in the area of the site

The proposed access road seeks to offer a shared space between pedestrians and vehicles with the proposed design considered to be an improvement over the existing facility. The design accords with relevant design standards and as such the above recommended condition no 1 is required to ensure that the interests of the Highway Authority and public safety are maintained, given the affects to a public right of way. It is considered that the proposed access will not increase hazards to highway users and is therefore in accordance with Policy TR7.

The Planning Inspectors response to the previous application BH2008/02490 appeal decision APP/Q1445/A/09/2102015 concluded that the proposal which is comparable to the current proposal “would not harm highway safety or conflict” with Local Plan Policy TR7 which seeks to ensure that development does not increase highway danger.

Ecologist: Comments received on previous application BH2008/02490. Having reviewed the evidence and from my own knowledge of the site I agree with the conclusions of the ecological reports submitted in support of the application, which found no evidence of protected species resident on site. However in order to ensure conformity with PPS 9 paragraph 14 and Local Plan Policy QD 17, the landscape mitigation and enhancement measures detailed on the Soft Landscaping Drawing CMHOD.1007.LP01 and the bat protection measures detailed in Section 6 of Appendix 11 to the ecology report should be secured via suitably worded conditions.

6 PLANNING POLICIES

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR7	Safe development
TR14	Cycle parking
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU4	Surface water run-off and flood risk
SU9	Pollution and nuisance control
SU10	Noise pollution
SU13	Minimisation and re-use of construction industry waste
SU15	Infrastructure
QD1	Design – Quality of development and design statements
QD2	Design – Key principles for neighbourhoods
QD3	Design – Efficient and effective use of sites
QD4	Design – Strategic impact
QD15	Landscape design
QD16	Trees and hedgerows
QD17	Protection and integration of nature conservation features
QD18	Species protection
QD27	Protection of amenity
QD28	Planning obligations
HO3	Dwelling type and size
HO4	Dwelling Densities
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

Supplementary Planning Guidance Documents: (SPG's)

SPGBH 4	Parking Standards
SPGBH 9	A Guide for Residential Developers on the Provision of Outdoor Recreation Space (Draft)

Supplementary Planning Document

SPD03	Construction & Demolition Waste
SPD06	Trees and Development Sites
SPD08	Sustainable Building Design

7 CONSIDERATIONS

The main issues for consideration are the principle of the proposed intensification of residential use on the site, the impact of the development on the living amenities of neighbouring properties, the impact on the existing TPO protected trees on the site, the adequacy of the access into the site and sustainability matters. These need assessed against the appeal decision for the previously undetermined application reference BH2008/02490.

Principle of Use

PPS3 on Housing states that urban land can often be significantly underused and advocates the better use of previously-developed land for housing. PPS3 identifies residential gardens as previously developed land, however a recent letter from the Chief Planning Officer at the DCLG, states that PPS3 should now include the following caveat *“there is no presumption that previously developed land is necessarily suitable for housing, nor that all of the curtilage should be developed”*.

In this instance, given the size and location of the application site and the prevailing suburban character of the surrounding area it is considered that the proposed development, would make good use of an existing brownfield site and is considered to be an acceptable form of development, in accordance with both national planning guidance and local plan policies.

Design and Character

The design principle of the development has not change significantly in comparison to the previous application reference BH2008/02940. This section of Overhill Drive contains a variety of dwelling type/design and the proposed dwellings will be barely visible within the existing street scene. The proposed dwellings are to be brick built and tile hung at first floor level similar to the appearance of properties which are located on Old London Road, Audrey Close and Patcham Grange.

It is therefore considered that the design of the proposed properties reflects the design of properties within this immediate area of Patcham and would not appear as an incongruous addition to this part of Overhill Drive, in accordance with Policies QD1, QD2, QD3 and QD5.

Reason for refusal 3 of the previous application related to the loss of green space. In relation to this the Inspector noted that there would be the loss of some green space however this was not accessible to the public and neither is it prominent in public views. The part of the site which would be occupied by Plots 1 and 4 is part of a used garden, and is not of high scenic value. It is therefore considered that refusal on these grounds could not be sustained.

Amenity for residential occupiers

The proposed internal layout of the new dwellings would be acceptable. Given the internal layout and window arrangement there would be no harm to future occupiers by way of overshadowing, loss of light or overlooking.

Policy HO13 requires all new dwellings to fully meet lifetime home standards. From the plans submitted it would appear that the proposed dwellings would be capable of complying with lifetime home standards.

Policy HO5 requires all new residential units to have private usable amenity space appropriate to the scale and character of the development. Whilst it is recognised that the garden would be smaller than those serving the dwellings

in Overhill Drive they would be of sufficient size to serve the future occupiers. It is therefore considered that the development adheres to policy HO5.

Policy TR14 requires all new residential developments to have secure, covered cycle storage. Insufficient information has been provided regarding the full details of cycling provision, however it is considered that the properties are capable of providing a suitable level of provision and as such a condition is recommended for additional details.

Policy SU2 requires all new residential development to provide refuse and recycling storage facilities. Insufficient information has been provided regarding the full details of the provision of refuse and recycling facilities, however it is considered that the properties are capable of providing a suitable level of provision and as such a condition is recommended for additional details.

Neighbouring amenity

Reason for refusal 1 of the previous application related to the impact of the development upon the amenity of adjoining neighbours. Within the appeal decision the Inspector raised concern over the potential impact of unit 1 upon the existing residential amenity of the occupiers of 61a Overhill Drive to the north of the site, and also the impact of plots 2 and 3 upon the privacy of the occupiers of 2 and 3 Grange Walk to the south of the site.

As originally submitted, the proposed Unit 1, a two storey 5 bedroom dwelling with a hipped roof which followed the existing main rear building line of No.61a Overhill Drive was revised further to discussions. The revised drawing has been submitted resulting in a 4 bedroom 2 storey property with a catslide roof along the northern elevation of the property, a reduction in the overall roof height by 1 metre, the re positioning of the proposed garden room towards the southern end of the property, and the slight reorientation of the property to reduce the possibility of overlooking into 61a Overhill Drive.

At its closest point the property would measure a minimum of 4 metres from the existing flank elevation of No.61a and a maximum of 6 metres from the existing flank elevation of the conservatory. The reorientation of the property results in the slight possibility of some oblique overlooking into the conservatory at 61a Overhill Drive. However two windows are proposed at first floor level. The one which is located closest to the boundary with 61a Overhill Drive serves a bathroom window and it is considered acceptable with a condition that this is obscurely glazed. It is therefore considered that in relation to 61a Overhill Drive the scheme overcomes the Inspector's concerns and that any potential impact would now not be significant and sufficient to recommend refusal.

In relation to the Inspector's comments regarding the relationship of the previously proposed units 2 and 3 and no 2 and 3 Grange Walk, the applicant has repositioned the two units and submitted a plan providing a minimum

distance between the facing rear windows of 21.7 metres for no. 2 Grange Walk and 21 metres for no. 3 Grange Walk. There are a number of mature trees along the southern boundary of the site and Grange Walk. Given the increased distance of 21 metres from 18 metres between facing windows and the existing screening between the properties, it is considered that the scheme overcomes the Inspector's concerns and that any potential impact would now not be significant and sufficient to recommend refusal.

The Inspector considered the impact of the development upon no 17 Audrey Close. The Inspector concluded that plot 4 of the proposed development would not result in the outlook from no 17 Audrey Close or its garden being materially harmed because there is a difference in ground level between the two sites of approximately 2 metres. The applicants have submitted the exact same layout for unit 4 as was submitted as part of the appealed application. It is considered that a suitable boundary treatment along the western boundary of the site would not result in the demonstrable harm of the amenity of the occupiers of No.17 Audrey Close.

Traffic Matters

Reason for refusal 3 of the previous application related to the access road and the subsequent impact on highways safety within the local area. The existing access into the site serves the Mill House dwelling and attached studio on the site. An adopted walkway currently extends alongside the site access down the eastern boundary of the site.

The proposal would provide a shared access with the public footpath, demarcated by metal studs. The Inspector recognised there is some element of risk in cars and vulnerable pedestrians using the same space, but he considered that the length of the shared surface would be relatively short and that there would be sufficient room for cars and pedestrians to pass.

The Councils Sustainable Transport Officers had no concern over the previously submitted application and the Inspector has agreed with this view. The Manual for Street indicates that shared surfaces work well where they are in short lengths, where motor traffic is below 100 vehicles per hour, where parking is controlled and subject to making adequate provision for people with disabilities. The Inspector felt that these criteria were met with the added benefits of providing a lit, well surface and defined footpath through the site outweighed any residual concerns over pedestrian safety.

The Inspector concluded that "whilst I attach a high priority to highways safety, especially where vulnerable school children are likely to be present, I see no reason to disagree with the views of the highways authority as to the acceptability of the proposal on highways safety grounds, and conclude that the proposal would not harm highways safety or conflict with Local Plan policy TR7". It is therefore considered that refusal of the scheme on highways safety grounds could not be sustained.

Trees on Site

Reason for refusal 2 of the previous application related to the impact of the proposed development on the existing trees at the site. A total of 17 trees on the site are covered by a Tree Protection Order (TPO). Given the extent of existing tree cover of the site, it is almost inevitable that intensification of development to provide an additional four properties on the site would result in detriment to some of the trees on the site. Given the submitted arboricultural report the Council could accept the loss of some of the trees on the site on the basis that they are either poor specimens or in declining health.

The Inspector agreed with this approach stating “*that the scope for additional planting would adequately mitigate the losses. I therefore find that the proposal would not harm the character and appearance of the surrounding area or conflict with Local Plan Policies QD2 or QD12*” It is therefore considered that a reason for refusal which relates to the current scheme given its similarities with the previous scheme could not be supported at appeal.

Drainage

Reason for refusal 4 of the previous application related to the potential for increased flooding. The scheme proposes to deal with surface water drainage by way of soakaways and underground storage tanks, the access roads and driveways are to be of porous construction. There is in addition, no evidence to suggest that these measures would not provide an adequate means of dealing with drainage.

The Inspector also considered the previous appeal decisions on the site whereby flooding and drainage was not of issue and he considered that there had been no material change in circumstance since these decisions. It is therefore considered that the application adheres with policy SU4 of the Local Plan and refusal on these grounds could not be sustained.

Sustainability

Policy SU2 requires new development to be efficient in the use of energy, water and materials. All new dwellings should meet an EcoHome/Code for Sustainable Homes rating of minimum ‘very good’. The requirement for a completed Brighton & Hove Sustainability Checklist was introduced after this application was validated. However the applicant has submitted a completed pre-assessment estimator which suggests that the development would achieve a Code for Sustainable Homes rating of Code Level 3. A condition is attached to ensure that the estimated level is met.

8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

The proposal is an effective and efficient re- use of residential land which will result in an additional 4 family dwellings, whilst maintaining the character and appearance of the area. Furthermore the development would not adversely affect the amenities of neighbouring properties, or the surrounding highways network. The loss of protected trees on the site would be mitigated by

additional planting.

9 EQUALITIES IMPLICATIONS

The proposed dwellings would need to comply with Lifetime Home Standards and Part M of the Building Regulations.

BH2008/02490 Mill House, Overhill Drive



Date: 05/05/2009 03:13:49

Scale 1:1250



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Brighton & Hove City Council

PLANS LIST – 19 MAY 2010

COUNCILLOR REPRESENTATION

Mrs Jeanette Walsh
Head of Development Control
City Planning
Environment Directorate
Room 302
Hove Town Hall

Date: 20 April 2010

Our Ref: GT/AN



Dear Mrs Walsh

Application No: BH2010/00097

Property: Mill House, Overhill Drive, Patcham, Brighton, BN1 8WG

Application: Erection of three detached two-storey dwellings and a single detached bungalow

We have again been contacted by local residents who are very concerned about the latest of a number of planning applications, all previously refused, in the garden of the above.

As the deadline for comment was extended from the 15th April to 22nd April, they do not understand how this application appears on this agenda with a recommendation of 'Minded to Grant' before the 22nd April and thus before some residents and indeed we, as the elected Councillors for Patcham Ward, have had a chance to comment. The residents who live at 61a Overhill Drive, had arranged to meet with their solicitor on the 21st April so that their letter could reach the council on the 22nd April. Officers have therefore not waited to consider all the letters of objection before making their recommendation.

An appeal was made to the Secretary of State for Communities & Local Government on the 8th February 2010 and the Inspector appointed, dismissed the appeal and refused planning permission for the erection of four dwellings and garages. In our opinion this latest of many planning applications does not overcome the Inspector's reasons for dismissing the appeal or overcome the objections raised by the council for refusing previously submitted applications for planning permission.



Brighton & Hove City Council

PLANS LIST – 19 MAY 2010

COUNCILLOR REPRESENTATION

Whilst we accept the fact that the garden to this property is large we are still of the view that there will be overlooking of neighbouring properties, particularly 61a Overhill Drive and 17 Audrey Close, the latter is set much lower than the application site level. This proposed development will also have an effect on other properties and on views from a distance as the site is high. There will also be a loss of trees and difficulty with the vehicular access to this garden from Overhill Drive.

We consider that for the applicants to merge a narrow access way with a public right of way could lead to conflict between pedestrians, including children going to and from school, and vehicles serving the five properties. The visibility of this access at its junction with Overhill Drive, which is itself narrow and bends, is unacceptable. The junction is particularly difficult because it is near the point where Overhill Drive meets with Overhill Way and Highview Avenue South and there is considerable traffic congestion around this roundabout at peak times as it is near the entrance to Patcham Infant School.

The Headteacher wrote to you with regard to a previous application in September 2008 to express her concern about safety and extra traffic and the plan to replace the fence with metal studs at ground level to delineate the footpath. She states: "Some of our families regularly use this footpath on their journey to and from school. It will create a serious risk to the children's safety with cars driving in the same space. For the safety of our children I would suggest that this is not a suitable planning application."

In addition to concerns about overlooking and the loss of privacy and the merging of a public footpath into a vehicular access is the question of drainage. The main sewer, to which presumably the proposed additional properties would connect, runs along Old London Road and after prolonged and heavy rain groundwater can rise above the sewers and they will become surcharged and will cause sewage to flow along Old London Road on the pavement and into gardens of properties that front that road. Obviously any additional properties built on a site such as this will add to this appalling problem.

We trust, therefore, that the Planning Committee will take into account the potential overlooking, the loss of trees subject to Tree Preservation Orders, the narrow highway access and the potential health hazard to residents and adhere to their previous decisions and therefore refuse this planning application.



**Brighton & Hove
City Council**

PLANS LIST – 19 MAY 2010

COUNCILLOR REPRESENTATION

We also confirm that one of us would wish to speak against the application when it is considered by the Planning Committee. It is too late to ask for this letter to be printed on the agenda because, very surprisingly, this application is already on the agenda for the Planning Committee before the deadline for comment but please could this letter be sent to all Members before the date of the Planning Committee and would you also please acknowledge safe receipt.

Yours sincerely

Councillor Brian Pidgeon

Councillor Geoffrey Theobald, OBE

cc: Councillor Brian Pidgeon
Jane Clarke, Senior Democratic Services Officer, King's House.

<u>No:</u>	BH2010/00602	<u>Ward:</u>	HOVE PARK
<u>App Type</u>	Full Planning		
<u>Address:</u>	Land rear of 25 Dyke Road Avenue Hove		
<u>Proposal:</u>	Erection of one and two storey residential dwelling with associated new access.		
<u>Officer:</u>	Christopher Wright, tel: 292097	<u>Valid Date:</u>	19/03/2010
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	14 May 2010
<u>Agent:</u>	CJ Planning Ltd, 80 Rugby Road, Brighton		
<u>Applicant:</u>	Mr & Mrs S Hardman, C/O CJ Planning Ltd		

1 RECOMMENDATION

That the Planning Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves to **REFUSE** planning permission for the following reasons:

Reasons:

1. The scale of development is excessive and constitutes over development of the site. By reason of the footprint, height, bulk, limited space around the building and the close proximity of the building to the boundaries of the plot, the development would have a cramped appearance and would be intrusive, overly assertive and unduly dominant in this backland location. As such the development is not appropriate in its context and would be harmful to the character and appearance of the area. The development would not be well integrated with neighbouring buildings and would not enhance the positive characteristics of the locality. The development thereby conflicts with policies QD1, QD2 and QD3 of the Brighton & Hove Local Plan.
2. Policy QD27 of the Brighton & Hove Local Plan seek to protect and safeguard the amenity of both existing neighbouring residents and future occupiers of the development. By reason of the height and close proximity of the building to the plot boundaries, and the position of window openings and Juliet balconies, the development would be overbearing and would give rise to overlooking, resulting in loss of privacy and a marked and unacceptable reduction in the capacity of adjoining occupiers to the reasonable enjoyment of the gardens and houses, to the detriment of amenity. As such the proposal conflicts with policy QD27 of the Brighton & Hove Local Plan.

Informative:

1. This decision is based on the email from the Council Arboriculturalist submitted on 3 March 2010; drawing nos. HH01, HH02, HH03, HH04, HH05, HH06, HH07, HH10, HH11, HH12, HH13, HH15, HH16 submitted on 18 March 2010; the design and access statement, Appendix 1 – email

from Principal Transport Planner, Appendix 2 – sustainability checklist, Appendix 4 – waste minimisation statement, Appendix 5 – lifetime homes checklist, Appendix 6 - biodiversity checklist and Appendix 7 – tree survey, submitted on 19 March 2010; drawing nos. HH08 Revision A, HH09 Revision A and HH14 Revision A submitted on 14 April 2010; the Code for Sustainable Homes Pre-Assessment Indicator submitted on 22 April 2010; and the documents submitted on 30 April 2010.

2 THE SITE

The application relates to a plot of land to the rear of 25 Dyke Road Avenue, which is adjacent to the junction with Chalfont Drive and backs onto Woodlands off Barrowfield Drive.

Access to the plot would be via a strip of land along the north side of 25 Dyke Road Avenue, measuring between 4m and 12m in width alongside the flank wall of the existing house and at the opening of the site onto the public footway respectively. The plot itself is somewhat triangular in shape, having a maximum width of 32m and a depth of between 12m and 35m.

Excluding the strip of land to be used for access to the site, the plot of land measures some 770 square metres in area.

Trees on the site are protected by Tree Preservation Order.

3 RELEVANT HISTORY

On 13 March 2007 and 8 November 2006, permission was granted for the lopping of protected trees (**refs. BH2007/00730 and BH2006/03598** respectively).

Approval was granted for a replacement front boundary wall on 3 February 2004 (**ref. BH2004/00050/FP**) following the refusal of a previous application for a replacement front boundary wall on 21 October 2003 (**ref. BH2003/02821/FP**).

Permission was granted on 31 January 1996 for the erection of a swimming pool enclosure over an existing open air pool in the rear garden (**ref. 3/95/0638(F)**).

3/81/0234: Erection of a swimming pool enclosure over an existing open air pool in the rear garden – approved 12 June 1981.

3/74/0164: Alterations to existing house to form two self-contained flats – allowed to lapse.

M/16501/72: Alterations – not proceeded with.

M/4378/56: Erection of a small temporary garage – not proceeded with.

4 THE APPLICATION

The application seeks permission for the construction of a one and two storey detached house within the plot. The development would provide one off-street car parking space and four cycle parking spaces.

The proposed 4-bedroom dwelling would be configured as follows:-

Ground floor

- Garage and cycle store.
- Boiler room.
- Utility room.
- Games room.
- W.C x 2.
- Sitting room.
- Dining and kitchen area.
- Family room.
- Home office x 2.
- Rear garden.
- Decking.
- Plunge pool.
- Water feature.
- Water butt.

First floor

- Master bedroom with 2 x ensuite bathrooms and walk-in wardrobe.
- Bedroom 2 (double) with ensuite.
- Central atrium void to ground floor.
- Bedroom 3 (single) with ensuite.
- Bedroom 4 (double).

Roof

- Sedum roof over single storey games room.
- Sedum roof over two storey elements, including bedroom two and home office areas.

The main bulk of the building would be rectangular in configuration, with three “fingers” projecting outwards and based on a circular or semi-circular design. These include the home office with master ensuite over; the second bedroom (the second bedroom would overhang the plunge pool and part of the decking); and the games room/boiler room, which would comprise the only single storey component of the development.

The proposed development would utilise a limited palette of materials and finishes, comprising white painted render walls and stainless steel and timber windows and doors.

The front elevation behind 25 Dyke Road Avenue would feature a large number of windows, including some very narrow, slit-like openings. This elevation would include two Juliet balconies over the garage and off bedroom 3. The flank elevations would feature large amounts of glazing, including full height windows (north elevation) and first floor Juliet balconies (south elevation). The circular “pod” emanating from the south flank would also be

predominantly glazed, with small areas of white painted render wall.

The rear elevation would again mostly be glazed, with areas of painted render wall defining the circular and curved form of the development. The rear wall to the bedroom proposed over the garage would be vertical and blank.

5 CONSULTATIONS

External:

Neighbours: Representations have been received from **18 Adur Avenue; 63 Archery Walk (Hailsham); 23 Brangwyn Avenue; 19 Church Close; 12 The Close; 23, 25 Dyke Road Avenue; 7 Elsted Crescent; 41 Greenfield Crescent; 11 Henchley Dene; 6 Hill Drive; Flat 4, 26 Holland Road; 15 Ilex Green, Harmers Hay (Hailsham); 39 Lorna Road; 54 Osborne Road; 156 Royal George Road (Burgess Hill); 11 Sandringham Close; 98 Southbourne Overcliff Drive (Bournemouth); 16 Suffolk Street; 2 Summit Way (London); 340 Upper Shoreham Road (x 3 (applicant)); 165 Westbourne Street; 2 Woodlands, Barrowfield Drive; and 70 Woodland Avenue in support** of the application, for the reasons summarised below:-

- Site owner's garden is too big to maintain.
- Ensures privacy and outlook maintained.
- Contemporary home.
- Could be built higher.
- Not flats.
- Attractive.
- Exciting.
- Enhances surrounding area.
- Sustainable features.
- Good use of plot.
- Maintains tradition of developing large gardens.
- Little impact.
- Discreet.

Representations have been received from and on behalf of **1 Ash Close; 4 (x2) and 14 Chalfont Drive; 21 Dyke Road Avenue; 9 The Green (x2); 3, 6, 15 (x2) and 17 Woodlands, Barrowfield Drive objecting** to the application for the reasons summarised below:-

- Inappropriate scale.
- Large and close to main house.
- Too large for plot size.
- Intrusive.
- Dominating.
- Overbearing.
- Harmful to outlook.
- Out of keeping with style of existing houses.
- Unsympathetic size, scale, location and design.
- Ultra modern.
- Character of the neighbourhood.

- Breaks Chalfont Drive building line.
- Loss of trees and woodland cover (no mitigation offered).
- Landscape impact.
- Loss of privacy.
- Overlooking.
- Light pollution at night.
- Home office covered in windows.
- Local wildlife habitat.
- Increased traffic.
- No other back garden development.
- Historical felling of tree led to Tree Protection Order.
- Unsubstantiated claims in submission.
- Property will not have a large garden.
- Contrary to Local Plan.

The **Barrowfield Residents' Association** raises an objection to the application for the reasons listed below:-

- Removal of mature trees.
- Excessive size of the development.
- Proximity to the boundaries of Barrowfield residents.
- In fill development.

Councillors Jayne Bennett and Vanessa Brown raise objections to the proposal. Letters attached.

Internal:

Sustainable Transport: No objection.

Council Arboriculturalist: No objection.

Subject to conditions including tree protection and a landscaping scheme incorporating replanting of trees. The Arboriculturalist has had sight of the reports commissioned by occupants of 17 Woodlands. The trees with group A1 of the Tree Preservation Order No. 15 of 2008 were not protected because of their screening effect, but as an emergency and temporary measure to allow the Council to assess the site and identify trees of individual merit. Subsequently it was found there is very little within the group which is worthy of retention.

6 **PLANNING POLICIES**

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR2	Public transport accessibility and parking
TR14	Cycle access and parking
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU4	Surface water run-off and flood risk

SU10	Noise nuisance
SU13	Minimisation and re-use of construction industry waste
SU15	Infrastructure
QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods
QD3	Design – efficient and effective use of sites
QD15	Landscape design
QD16	Trees and hedgerows
QD27	Protection of amenity
QD28	Planning obligations
HO3	Dwelling type and size
HO4	Dwelling densities
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes

Supplementary Planning Documents:

SPD03:	Construction and demolition waste
SPD08:	Sustainable Building Design

Supplementary Planning Guidance:

SPGBH4:	Parking Standards
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Planning Advice Notes:

PAN03:	Accessible Housing and Lifetime Homes
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7 **CONSIDERATIONS**

The principal considerations in the determination of the application include whether residential development is acceptable in principle; the design and relationship of the development with the site and its wider context; impact on neighbour amenity; transport; and sustainability.

Principle

In principle residential redevelopment of the site is acceptable. At present the land may be termed ‘previously developed’. This enables more efficient use of the land and reduces the pressure for house building on Greenfield sites. However, the net gain of one dwelling represents the minimum net contribution to the city’s housing stock.

However, in accordance with paragraph 16 of PPS3: “Housing”, new housing should be well designed and should be well integrated with and complement the neighbouring buildings and the local area

Design

On the subject of previously developed land, Annex B to PPS3: “Housing” states, *“There is no presumption that land that is previously-developed is necessarily suitable for housing development nor that the whole of the curtilage should be developed.”* When considering the amount of development a backland plot can accommodate, due regard should be given

to policies QD2 and QD3 of the Local Plan.

The scale of development, its proximity to plot boundaries and the space around the building are taken into consideration. In particular policy QD2 of the Local Plan requires proposals to take into account local characteristics with the aim of the development to emphasise and enhance the positive qualities of the neighbourhood. The appearance of proposed development and its relationship to its surroundings are matters that relate to the design of buildings and to urban design. Policy QD3 of the Local Plan concerns the efficient and effective use of sites, but makes clear that in order to avoid town cramming, proposals for “backland” development will be rigorously examined in respect of features including the design and quality of spaces between buildings, grassed areas and trees.

The layout of existing houses around the application site is such that only the flank elevations of these houses come to within a few metres of the respective plot boundaries. The properties have long gardens to the front and rear. The application proposal contrasts with this traditional layout because the building would be situated close to the plot boundary on all four sides.

The front elevation of the proposed dwelling, measuring 6.1m in height, would be 3m back from the boundary of the plot with the remaining rear garden of 25 Dyke Road Avenue. The two storey projections, each 5.4m in height, would come to within 1.4m and 1.0m of the plot boundary with the gardens of 17 Woodlands and 23 Dyke Road Avenue respectively, while the flank wall of the garage and games room would come to within 1.6m of the plot boundary with 2 Chalfont Drive.

The result would be a predominantly two storey development with a large footprint in relation to the plot size, which would appear tightly fitted into the plot and cramped in appearance. The rear garden areas are well established and planted and presently feature only single storey structures such as timber sheds. The proposed development, by virtue of its height and close proximity to the plot boundaries, would appear to tower over the gardens to adjoining properties and is considered to have an intrusive and unduly dominant impact, an impact unmitigated by the circular and pod-like nature of the built forms. A building of the scale proposed is not appropriate on a backland site which is surrounded by adjoining properties’ gardens and would be intrusive in this setting. There is insufficient space around the building, which should benefit from a setting commensurate with its scale. The relatively narrow spaces around the building would not allow for proper views of the building’s elevations. Furthermore, and partly owing to the building footprint and lack of verticality, the development would appear overly horizontal. This aspect of the scheme is at odds with the traditional form of surrounding houses by reason of its excessive bulk and footprint and is therefore contrary to policies QD2 and QD3 of the Brighton & Hove Local Plan.

This is the type of “town cramming” which policy QD3 aims to resist and

would not represent the quality of design or emphasis and enhancement of local character that is desired by policies QD1 and QD2 of the Local Plan.

The applicant has submitted some examples of recent backland approvals in the city to support the application. One such example, refers to a development at 46 Dyke Road Avenue, however this scheme was refused as the size of the dwelling was considered to dominate the plot. This scheme was subsequently dismissed at appeal. The Inspector considered that the contemporary design of the appeal dwelling would have been particularly noticeable within the rear garden environment, where together with the cramped nature of the overall development, the Inspector decided it would form a discordant feature between the spaciouly sited, traditionally designed dwellings around the site.

The applicant has submitted a tree survey carried out by an independent and professional Arboriculturalist. The survey identifies 38 trees which were inspected. None of the trees were found to be Category A standard, that is to say desirable of retention and with a predicted lifespan of 40 years or more. Five of the trees were found to be Category B, whilst 24 and 9 trees were found to be Categories C and R respectively. Category C represents low quality and value and of poor form. The condition is adequate to remain for ten years until new planting could be established. Category R stands for removal. These are dead, dying or dangerous and likely to be lost within 10 years.

The tree survey highlights individual trees T1 and T2, which are protected under TPO No. 15 of 2008, as being of Category C. The tree survey also states that many trees encompassed within the A1 classification of the Tree Preservation Order, do not merit retention, because the area classification should be seen as a short term measure where trees are in imminent danger of removal and which subsequently should be classified to individuals and groups.

The trees to be removed as part of the development, most particularly in the A1 area classification of the TPO, are of category C or R. Only one tree to be removed near the bottom of the plot is Category B (T16, sycamore).

The applicant has submitted some preliminary correspondence from the Council's Arboriculturalist. The correspondence states there are six trees of some height within group A1 of the TPO, although these are poor specimens. This analysis corroborates the tree survey. Should these trees be removed, twelve replacement trees should be provided ideally. In effect, for every tree removed to make way for the development, two trees could be planted.

Group A1 of the TPO is referred to in objection letters received from neighbours, who would not support the removal of these trees, and is also covered in the two professional reports commissioned by occupants of 17 Woodlands.

The Council Arboriculturalist is satisfied with the tree survey submitted and suggests conditions could be imposed to ensure tree protection and a landscaping scheme, which should include replacement tree planting in the event planning permission was granted.

The applicant has neither submitted a landscaping plan for the development nor any plan indicating the potential location of replacement trees. The application therefore fails to meet the requirements of Local Plan policy QD15 to show that adequate consideration has been given to landscape design in the development or the requirement of policy QD16 which states wherever feasible new tree and hedge planting should be included in development proposals.

Notwithstanding the absence of an objection from the Council Arboriculturalist, a landscaping scheme to be agreed by condition may not adequately maintain the sylvan character of the locality and due to the closeness of the proposed building to the plot boundaries, there may not be sufficient room for planting to either soften the appearance of the development or enhance the setting of the building. Any tall planting, for example replacement trees, would have an impact on the amount of rear garden space to the development and, if in close proximity to the building, could block out light to the windows of the proposed dwelling. However, as the Council Arboriculturalist is confident a planning condition could achieve a satisfactory landscaping scheme, it is not recommended that the application is refused on this basis.

Amenity

Policy QD27 of the Local Plan seeks to protect the amenity of both existing residents and also those of future residents of the proposed development.

The proposed access to the development would pass alongside the flank wall of the existing house, 25 Dyke Road Avenue. In this wall are two windows – a secondary living room window and a “high level” study window. A landscaped buffer zone of 3m width would remain between the windows and the proposed driveway, which would also be delineated by a fence. It is not considered that the passing of vehicles along this access would have an unacceptable impact on the residents’ living conditions by reason of the mitigating circumstances described.

Generally the proposal has been designed to minimise direct overlooking through consideration of the position of window openings, and the wall-to-wall distance of the building with adjoining houses exceeds the standard separation of 21m, although the circular pods and the flank elevation next to the flank wall of 2 Chalfont Drive come to within 2m of the plot boundary.

However, the front elevation of the house features bedrooms windows, both of a standard size and of a bespoke contemporary narrow aperture. One of the bedrooms features a Juliet balcony. This is an issue because the front

elevation would be 3m from the boundary of the rear garden to 25 Dyke Road Avenue. Occupiers of this property would be overlooked, or at the very least would experience a perception of being overlooked which could preclude the residents' enjoyment of their back garden and in turn adversely affect their living conditions. The master bedroom would have a sliding Juliet balcony pointing south. This would be situated some 7.7m from the plot boundary and would enable overlooking of the neighbouring property, 23 Dyke Road Avenue. The window would overlook the bottom of the rear garden, but also allow a view back towards the house and the immediate garden area to the rear elevation. As such an adverse impact on neighbour amenity would result. Gardens around the application site are presently private and the development would introduce a new and unacceptable level of overlooking.

Residents of Woodlands are concerned that the removal of trees at the bottom of the plot would remove valuable screening and detract from the formerly sylvan character of the gardens. Whilst there would be no first floor windows close to the plot boundaries and facing these neighbouring properties, the two circular pods, notably the two storey overhanging the proposed plunge pool at the southern western corner of the site, occupiers of Woodlands would experience these two storey built forms towering over and above the garden fences, which would give the impression of being overbearing. Such an intrusive and overbearing impact, predominantly due to the height and proximity of these outriggers, would have a harmful effect on residential amenity.

With the exception of the small area enclosed by the building at the rear, the outlook from within the proposed dwelling would invariably comprise adjoining occupiers' properties and gardens. This would not only be harmful to residential amenity, but is also indicative of the over development of the site.

For the reasons given above, the development would be contrary to the aims of policy QD27 of the Local Plan.

Transport

The application proposes to provide one off-street car parking space and four secure cycle parking spaces. The cycle parking space would be situated inside the proposed garage. In reality a car could also be parked in front of the garage as well. This level of provision accords with the SPGBH4: Parking standards, and policies TR14 and TR19 of the Local Plan.

Sustainable Transport does not raise an objection to the creation of a new vehicular access and crossover onto the main Dyke Road Avenue on highway safety grounds.

Sustainability

Policy SU2 of the Local Plan requires development to be efficient in the use of energy, materials and water. Supplementary Planning Document SPD08: "Sustainable building design", would require a development of this scale to

aspire to achieving Level 3 of the Code for Sustainable Homes. The applicant has confirmed that sedum would be used on the flat roof. In terms of biodiversity, a sedum roof would not be appropriate. However, in the event planning permission was granted, a suitably worded condition could be imposed to ensure the installation of a suitable biodiverse roof.

The application is accompanied by a sustainability checklist scoring 65% (Good) and a Pre-Assessment Indicator document showing the development would achieve Level 3 of the Code for Sustainable Homes. The Sustainability team is satisfied Level 3 can be achieved. A condition could be imposed to ensure the development as built and occupied achieves a minimum of Level 3 of the Code for Sustainable Homes.

The application is also accompanied by a Waste Minimisation Statement, which, in accordance with policy SU13 of the Local Plan, seeks to demonstrate the re-use and recycling of construction and demolition waste. The statement explains how materials would be ordered at the right time and in the right quantity; rubble will be re-used on site; materials will be separated for recycling (timber, plastics, light active (e.g. plaster), spoil and rubble); and that removal to landfill will be a last resort.

In view of the above the application accords with the requirements of policies SU2 and SU13 of the Local Plan.

In order for the development to be genuinely sustainable and take into consideration the changing circumstances of future occupiers, the dwelling proposed should be accessible and meet lifetime homes standards. This is necessary to meet the requirements of policy HO13 of the Local Plan.

It is evident from the plans submitted that the development would meet accessible housing standards, and helpfully the applicant has submitted a Lifetime Homes' checklist. The development would also include a suitable area for installation of a platform lift, should such an installation be required by future occupiers. In the event permission is granted, a condition could be imposed to ensure the development is implemented in accordance with accessible housing and lifetime homes standards.

Conclusion

Whilst redevelopment of the site with a residential unit is acceptable in principle, in this instance the scale of development, particularly the height, footprint and close proximity of the building to the boundaries of the plot, is considered excessive and the resulting development would have a cramped appearance and would be overly assertive in this location and detrimental to the character of its setting. The development would involve the removal of protected trees, and although their removal subject to replacement tree planting, is acceptable in principle, the application provides no indication of the location of replacement tree planting or indeed a landscaping scheme for the development. As such, and in view of the development requiring the

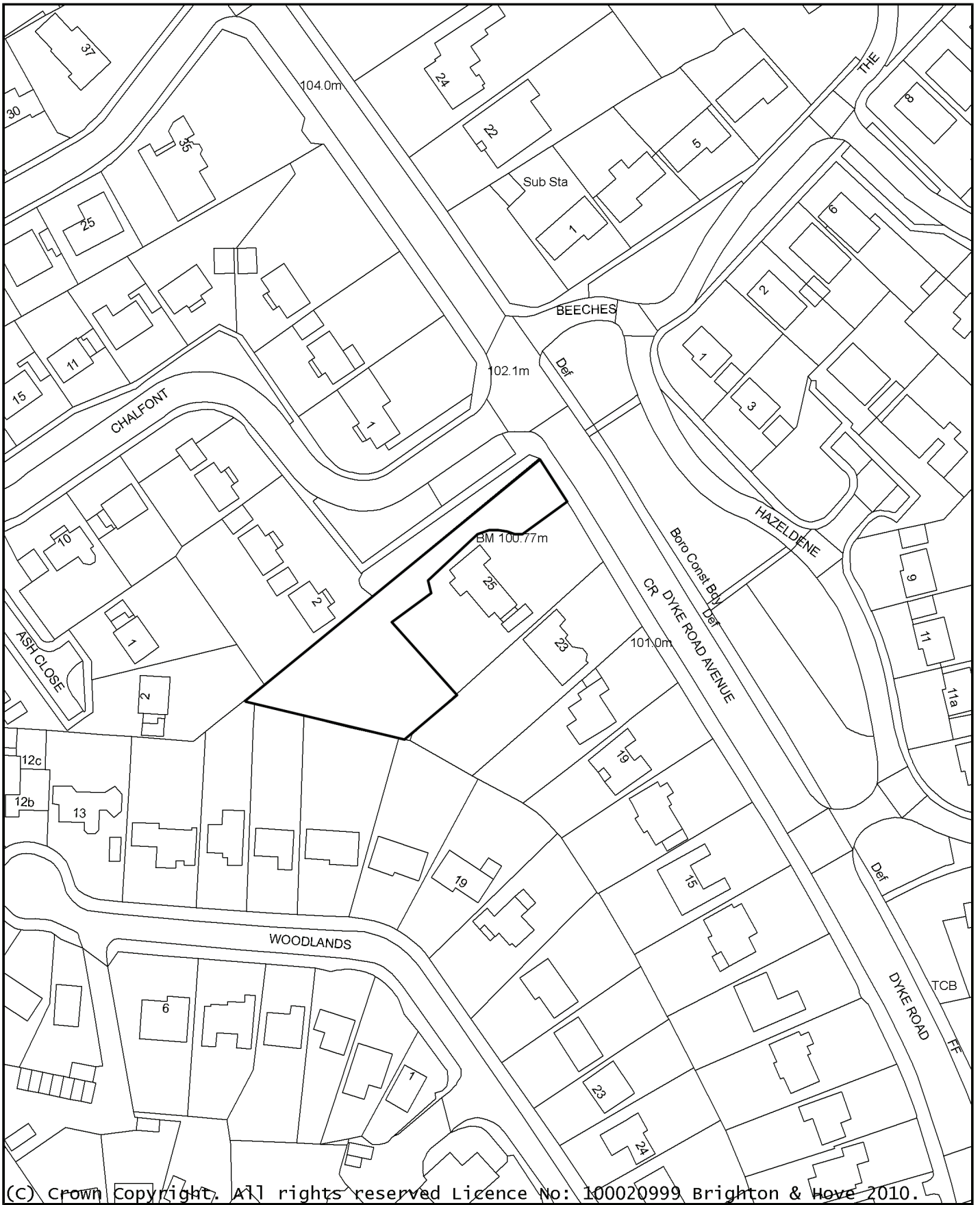
removal of several trees, the development would erode and detract from the sylvan character of the locality and the applicant has not demonstrated that replacement planting would have the same amenity value as the existing trees, which would be displaced by the built development. In any event, additional tree planting within the site would not be sufficient to mitigate the harmful effects of the development upon the character and appearance of the area as detailed above.

The development would also have a harmful impact on the residential amenity and living conditions of adjoining occupiers by reason of overlooking and an overbearing, unduly dominant presence. In view of these concerns refusal of permission is recommended.

9 EQUALITIES IMPLICATIONS

The development should meet accessible housing and lifetime homes standards.

BH2010/00602 Land rear of 25 Dyke Road Avenue



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**Brighton & Hove
City Council**

PLANS LIST – 19 MAY 2010

COUNCILLOR REPRESENTATION

From: Jayne Bennett [mailto:Jayne.Bennett@brighton-hove.gov.uk]
Sent: 16 April 2010 12:21
To: 'christopher.wright@brighton-hove.gov.uk'
Subject: Bh2010/00602

Chris. Having heard concerns from residents about this application that range from over development of the site to overlooking issues and concerns re trees etc would you please arrange for this to go to committee if its not refused. Kind regards. Jayne.
Just to clarify I object to the proposal.

Jayne



Brighton & Hove City Council

PLANS LIST – 19 MAY 2010

COUNCILLOR REPRESENTATION

From: Vanessa Brown [mailto:Vanessa.Brown@brighton-hove.gov.uk]
Sent: 20 April 2010 10:59
To: Chris Wright
Subject:

Dear Mr Wright

Ref: BH/2010 /00602

As a Councillor for Hove Park Ward I am writing to strongly object to the above application for a house to be built in the grounds of 25 Dyke Road Avenue.

This is a totally inappropriate example of in-filling. Number 25 Dyke Road Avenue is in a row of large detached houses with correspondingly large gardens. This proposed extremely large house in the garden means that both houses will have relatively small gardens unlike the neighbouring

houses.

The size of the proposed house on the triangular piece of land at the end of the garden of No. 25 is an overdevelopment of the site. The pointed shape of the land means that the house will be close to the boundaries of No. 17 Woodlands and the houses in Ash Close. The first floor decking will create overlooking to the houses in Woodlands particularly again to No. 17 as it will directly overlook their garden and the back of their house.

The very modern design of the house featuring glass, stainless steel and wood is completely out of character with the surrounding area.

I am also concerned about the loss of trees and the loss of what is at the present time a wildlife habitat. Some mature trees have already been cleared and I believe another ten trees and some small groups of trees would also have to be removed for this house to be constructed.

I would request that this application goes before the Planning Committee if the recommendation is to approve. If this should happen I would like to speak at the meeting.

Yours sincerely

Vanessa Brown

Cllr Vanessa Brown
Cabinet Member for Children and Young People
Member for Stanford Ward

<u>No:</u>	BH2010/00669	<u>Ward:</u>	NORTH PORTSLADE
<u>App Type:</u>	Full Planning		
<u>Address:</u>	75 Crest Way, Portslade		
<u>Proposal:</u>	Conversion of single dwelling into 2no 2 bedroom flats (Part retrospective).		
<u>Officer:</u>	Clare Simpson, tel: 292454	<u>Valid Date:</u>	17/03/2010
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	12 May 2010
<u>Agent:</u>	BJW Architectural, 15 West Street, Shoreham By Sea		
<u>Applicant:</u>	Mr Ita Udoiam, 75 Crest Way, Portslade		

Councillor Trevor Alford has requested that this application is determined by the Planning Committee

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 8 of this report and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

1. Unless otherwise agreed in writing, within three months of date of this permission, a scheme for the storage of refuse and recycling shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in full as approved within 6 months of the date of permission, unless otherwise agreed in writing, 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.
2. Unless otherwise agreed in writing, within three months of date of this permission, details of secure cycle parking facilities for the occupants of, and visitors to, the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use within 6 months of the date of this permission unless otherwise agreed in writing, 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 policy TR14 of the Brighton & Hove Local Plan.

Informatives:

1. This decision is based on drawing nos. 01 and 04 and supporting statements received on the 9th March 2010 sustainability statement

received on the 17th March 2010 and drawing no. 02 received on the 27th April 2010, and drawing number 02 received on the 27th April 2010.

2. The applicant is advised that Building Regulations are required for this development and that this should be regularised as a matter of urgency. This decision to grant planning permission does not prejudice the outcome a future application for Building Regulations.

3. This decision to grant Planning Permission has been taken:

(i) having regard to the policies and proposals in the Brighton & Hove Local Plan set out below:

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR7	Safe Development
TR14	Cycle access and parking
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU10	Noise nuisance
HO3	Dwelling type and size
HO4	Dwelling densities
HO5	Provision of private amenity space in residential development
HO7	Car free housing
HO9	Residential conversions and the retention of smaller dwellings
QD27	Protection of Amenity

Supplementary Planning Document

SPD08 Sustainable Building Design

Supplementary Planning Guidance

SPGBH 4: Parking Standards; and

(ii) for the following reasons:-

The conversion of the upper floor of the property is considered to provide an acceptable standard of accommodation and the ground floor layout would be adequate. Whilst the development would be likely to result in some additional activity associated with the property, it is not considered this would impact significantly on neighbouring occupiers by way of noise and disturbance or loss of privacy.

2 THE SITE

The application relates to a semi-detached property on the south side of a cul-de-sac in Crest Way Portslade. At the site visit it was established that the first floor flat has been self-contained but works to the ground floor have not been completed.

3 RELEVANT HISTORY

None.

4 THE APPLICATION

Planning permission is sought for the conversion of single dwelling into 2no 2 bedroom flats, the application is part retrospective.

5 CONSULTATIONS

Neighbours: 73 and 81 Crest Way object to the application for the following reasons:

- to convert to flats is not in keeping with the rest of the road,
- it would result in more cars parking, obstructions and noise and disturbance,
- loss of privacy from first floor flat
- increased noise from kitchens adjoining bedroom,

Internal

Councillor Trevor Alford objects to the proposal (copy of email attached).

Sustainable Transport Team

No objection

For the applicant to conform to cycle parking guidance the facilities on site must be 'Sheffield' type stands, covered and secure, preferably near to the main entrance and within the red line boundary.

Based on census data the average house owns 1.5 vehicles and the average flat owns 0.75 vehicles. Therefore when comparing this proposal with existing parking demand the Highway Authority would not anticipate an uplift or material change at the development.

Conditions suggested for cycle storage.

6 PLANNING POLICIES

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR7	Safe Development
TR14	Cycle access and parking
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU10	Noise nuisance
HO3	Dwelling type and size
HO4	Dwelling densities
HO5	Provision of private amenity space in residential development
HO7	Car free housing
HO9	Residential conversions and the retention of smaller dwellings
QD27	Protection of Amenity

Supplementary Planning Document

SPD08	Sustainable Building Design
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Supplementary Planning Guidance
SPGBH 4: Parking Standards

7 CONSIDERATIONS

The determining issues relate to the principle of the conversion to flats, impact on the amenity of neighbouring occupiers and issues relating to traffic and transport and the standard of accommodation proposed.

Principle of the development

The principle of the conversion to form two residential units must be assessed under policy HO9 of the Brighton & Hove Local Plan.

Planning policy HO9 states that planning permission will be granted for the conversion of dwellings into smaller units of self-contained accommodation when:

- a. the original floor area is greater than 115 sq m or the dwelling has more than 3 bedrooms as originally built;
- b. at least one unit of accommodation is provided which is suitable for family occupation and has a minimum of two bedrooms;
- c. the proposal is not detrimental to adjoining properties, including those within the same building, in terms of noise and nuisance and there is adequate provision for the storage of refuse;
- d. secure, covered cycle parking is provided (if off-street cycle parking is not available and provision cannot be made on-street, then a contribution may be sought towards cycle parking nearby);
- e. the proposal will not result in an unacceptable level of on-street car parking;

The original floor area for the property would fall under the area requirement of 115m² with an original floor area of approximately 100m². The 'existing' layout showed the first floor accommodation with 4 bedrooms. It is not possible to be certain that the property was originally constructed with 4 bedrooms because the conversion works to the first floor have already been completed. However a similar layout appears evident at 57 Crest Way, which was the subject of a recent Building Regulations application. The layout of 57 Crest Way had a 4 bedroom layout to the top floor which matched the pre-existing layout for 75 Crest Way. Based on this assumption, it is considered likely that the property had 4 bedrooms as originally constructed. Therefore the conversion would meet criteria 'a' of policy HO9 of the Brighton & Hove Local Plan. The fifth bedroom shown on the ground floor of the existing plan would have been a garage, and therefore it is not appropriate to include this space when calculating the original floor area of the house.

The Crest Way development provides a good standard of family accommodation which meets an identified need for the city. There are purpose built flats located on the Crest Way estate, but it would appear that this application is the first proposal to convert one of the original houses to flats. In regard to setting a precedent, if this application is granted it would

appear to be the first of its type in Crest Way, nevertheless every application must be assessed on its own merits. Given that this property would appear to be an example of one of the largest type of house in the Crest Way development, it is likely that most of houses in Crest Way would not comply with the size criteria for a conversion to flats.

Furthermore with 2 x 2 bedroom flats proposed, it is considered that the proposed scheme does provide family accommodation. The first floor flat appears to be occupied by a small family. Both flats would have access the garden although this would not be used by the top floor flat unless access is gained around the side of the property. Nevertheless with the arrangement as proposed, the flats could provide accommodation for two small dwellings thereby meeting the second criteria of policy HO9 of the Local Plan.

For the reasons above the proposed development is considered to meet with criteria 'a' and 'b' of Policy HO9. The remaining criteria will be considered in the following sections of the report.

Impact on amenity

In regard to the impact on neighbouring residents and criteria c of policy HO9, there has been an objection from the adjoining resident on the grounds of noise and disturbance. Since the top flat has been converted, neighbouring bedrooms in 73 Crest Way now adjoin the kitchen and living room of the first floor flat. It is understood that the applicant has not applied for Building Regulations and that upgrading of the walls for fire and sound insulation purposes would be required. The Council's Building Control Team has been advised about the current situation and are writing separately to applicant on this matter.

Furthermore objections have been received regarding the principle of the development and noise and disturbance through car movements. In regard to the general activity of the site, it is acknowledged that the property is located within a cul-de-sac and much of the surrounding area is arranged as single family dwelling houses. It follows that some additional movements may be associated with the formation of a separate flat at this address. Nevertheless additional movements are not anticipated as being significantly greater than activity associated with a large family occupying the site.

In regard to privacy, it is not considered that this scheme presents any additional impact. The revised layout of the top floor of the property places a kitchen to the rear at first floor level. As a kitchen this room may be used more frequently during the day than a bedroom which would have been present in the original layout. However such changes are considered relatively minor and it is not considered that significant additional overlooking would result.

In terms of the standard of accommodation provided, natural light and ventilation is provided to all rooms. Policy HO13 requires that lifetime homes standards should be met where practical in conversions to flats.

Improvements could be made to the bathroom area in the ground floor flat. This area is particularly cramped, but could only be improved with more significant building works. It is noted that the applicant is attempting the conversion works with minimal intervention to the existing ground floor layout. Whilst lifetime homes standards would not be met by this development, the general size and layout of the flats are considered adequate. It is not considered that a refusal on the grounds of HO13 is justifiable for the proposed conversion.

There is ample space for refuse and recycling facilities on site although the applicant should provide some specific facilities for this in compliance with criteria 'c' of policy HO9 and policy SU2 of the Brighton & Hove Local Plan.

Transport and parking

The Sustainable Transport Team has not objected to the proposal and has stated that any additional car movements would not have a material impact on highway network. Neighbouring residents are concerned about additional transport movements. There is space for a car to be parked on the hardstanding in front of the property. Before the conversion of the garage to living accommodation, a further off-street car parking space could have been provided. The additional car parking demand would, it is considered, be adequately accommodated on the surrounding highway which is not controlled at present. There are kerb-side parking spaces available in front of the property.

Cycle parking is shown on the submitted drawings but it is not clear what form this facility would take. Currently there appears to be no identified facilities for this on site. Furthermore details would be required by condition.

Impact on the character of the area

In regard to the design and appearance and impact on the street scene, there would be no external alterations as part of this scheme. The conversion from the garage to living accommodation would have been considered as permitted development. Although houses converted into flats are not common in this area of Portslade, it is difficult to argue that this conversion, which would still provide small units suitable for family occupation, would harm the character of the area. There are some purpose built flats in the cul-de-sac to the south of this site. As discussed above, it is likely that many of the existing houses in the Crest Way development would be of insufficient size to convert into flats. It is not felt that this development would harm the established character of the area.

Conclusion

In conclusion the conversion of the upper floor of the property is considered to provide an acceptable standard of accommodation and whilst not ideal, there is no objection to the layout of the ground floor. Whilst the development is likely to result in some additional activity from the property, it is not considered this would impact significantly on neighbouring occupiers.

8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

The conversion of the upper floor of the property is considered to provide an acceptable standard of accommodation and the ground floor layout would be adequate. Whilst the development would be likely to result in some additional activity associated with the property, it is not considered this would impact significantly on neighbouring occupiers by way of noise and disturbance or loss of privacy.

9 EQUALITIES IMPLICATIONS

Lifetime Homes standards would not be met by this conversion as this would require significant building works.

BH2010/00669 75 Crest Way



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Brighton & Hove City Council

PLANS LIST – 19 MAY 2010

COUNCILLOR REPRESENTATION

Dear Clare,

I have spoken to Mrs Markanday this morning. The issues are of loss of privacy and over densification with regard to the top flat. Additionally, the owner is also seeking to adapt the bottom flat to increase the number of bedrooms. There again an over densification issue.

With regard to the design and dimensions of the road and houses, this creates a worrying precedent which could result in doubling the number of families living in the road, plus doubling the number of cars in the very limited space.

Mrs Markanday would like the matter determined by committee.

I would like to formally object to the application for the above listed reasons.

Trevor Alford
Conservative councillor for North Portslade
Brighton and Hove city council
Tel: (01273) 296432
Blackberry: 07825 387384
trevor.alford@brighton-hove.gov.uk

<u>No:</u>	BH2010/00236	<u>Ward:</u>	WITHDEAN
<u>App Type:</u>	Householder Planning Consent		
<u>Address:</u>	18 Fairlie Gardens		
<u>Proposal:</u>	Demolition of existing conservatory and erection of single storey infill extension to rear. Loft conversion with recessed terrace to rear.		
<u>Officer:</u>	Guy Everest, tel: 293334	<u>Valid Date:</u>	01/02/2010
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	29 March 2010
<u>Agent:</u>	BPM, 31a Warmdene Road, Brighton		
<u>Applicant:</u>	Mr & Mrs Claxton, 18 Fairlie Gardens, Brighton		

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves that it is **MINDED TO GRANT** planning permission subject to the following Conditions and Informatives and receipt of additional representations following the expiry of reconsultation of the application on 18 May 2010.

Conditions:

1. BH01.01 Full Planning.
2. BH03.03 Materials to match Non-Cons Area.

Informatives:

- 1) This decision is based on a site location plan & block plan and Waste Minimisation Statement submitted 1st February 2010; and amended drawing no. 624 01C submitted 27th April 2010.
- 2) This decision to grant planning permission has been taken:-
 - i) having regard to the policies and proposals in the Brighton & Hove Local Plan set out below:
 - QD1 Design - quality of development and design statements
 - QD2 Design - key principles for neighbourhoods
 - QD14 Extensions and alterations
 - QD27 Protection of amenitySupplementary Planning Guidance
 SPGBH1 Roof alterations and extensions
Supplementary Planning Document
 SPD03 Construction and demolition waste; and
 - ii) for the following reasons:-
 The development is well designed, sited and detailed in relation to the existing building and surrounding area, and will not result in harm to neighbouring amenity through loss of light or outlook, or increased noise

or disturbance.

2 THE SITE

The application site relates to a linked bungalow at the eastern end of Fairlie Gardens, a residential cul-de-sac of 16 bungalows built in the 1970's on the former site of Fairlie Place. The area is partly characterised by buildings of a consistent style and use of materials.

3 RELEVANT HISTORY

None relevant to this application.

4 THE APPLICATION

The application seeks consent for a single-storey rear extension and an inset balcony to the rear roofslope.

Following amendments, the conversion of the existing garage to a habitable room; rendering of the building; new window openings to the (southern) side elevation; and enlargement of an existing window opening to the (eastern) front elevation have been omitted from the proposed plans, and the rear extension has been reduced in depth.

5 CONSULTATIONS

External:

Neighbours: 19 letters have been received from **Austin Rees** (as managing agents of Varndean Park Estate); **1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16 & 17 Fairlie Gardens;** and **16 & 17 Highdown Court** and **1 & 10 Monterey Court, Varndean Drive** objecting to the proposal for the following reasons:-

- the development is at odds with the purity of the architectural style of the surrounding dwellings;
- loss of the integral garage would unbalance the property;
- the rear extension would break a 45 degree line and create severe overshadowing, loss of light and privacy;
- the creation of a larger house is likely to impact on the population of the close with a resulting increase in traffic movements, access issues, parking and noise;
- loss of privacy.

Cllr Drake objects - letter attached.

Following the receipt of amended plans interested parties have been re-consulted. Any additional representations that are received will be reported on the Additional Representations List.

6 PLANNING POLICIES

Brighton & Hove Local Plan:

- QD1 Design - quality of development and design statements
- QD2 Design - key principles for neighbourhoods
- QD14 Extensions and alterations

QD27 Protection of amenity

Supplementary Planning Guidance

SPGBH1 Roof alterations and extensions

Supplementary Planning Document

SPD03 Construction and demolition waste

7 CONSIDERATIONS

The key issues of consideration in the determination of this application relate to the impact of the proposed alterations on the appearance of the building and wider area, and their impact on neighbouring amenity.

Rear extension

Design

The proposed ground floor extension is sited between the rear section of the application site and the shared side boundary with 16 Fairlie Gardens. The extension would appear subservient to the main building, in relation to which it is well designed and sited. The external materials would match the existing and this is required by condition (no. 2). The extension would not be visible from public highways or open space and the prevailing character and appearance of the area would therefore be maintained.

Impact on amenity

The extension would project approximately 5.8 metres from the existing rear wall of the property, to a height of approximately 2.8 metres, above patio level. In some locations an extension of this depth would be resisted. However, in this instance the immediately adjoining windows relate to a garage / utility room and an obscurely glazed door to a lounge where loss of light and outlook would not cause significant harm to amenity.

Of greater concern is a bedroom window to no. 16 which fronts the extension across a distance of approximately 3.5 metres. Whilst the proposal would result in some loss of light and outlook to this room having regard to the existing boundary treatment and scale of the main building it is considered the additional harm from the extension would not be significant. It is also noted that the extension would not subtend a 25 degree line from the centre point of the affected bedroom window and based on BRE guidance the development would be unlikely to have a substantial effect on daylighting.

Roof alterations

Design

The proposed inset balcony represents a relatively modest insertion into a large roof form which would leave much of the original roof intact. The balcony is sited on the least prominent elevation of the building, being most visible from properties adjoining the site to the rear on Varndean Road. Overall it is considered that the balcony would not detract from the existing character and appearance of the existing property and wider area.

Impact on amenity

The balcony, and associated balustrading, is set within the profile of the existing roof slope and this restricts the potential for downward overlooking of adjoining garden areas. This is further restricted, in the case of 16 Fairlie Gardens, by the limited depth of rear garden and extensive boundary screening between the properties. The distance between the proposed terrace and Highdown & Monterey Courts to the rear is approximately 28 metres, and this is considered sufficient to ensure no harmful overlooking will result for occupiers of these properties.

The balcony is not of sufficient size for extensive use, such as outdoor seating / dining, and its use would therefore be unlikely to result in undue noise or disturbance for occupiers of adjoining properties.

Sustainability

Policy SU13 and Supplementary Planning Document 03 on Construction and Demolition Waste seek to reduce construction waste and require, as best practice, a Waste Minimisation Statement demonstrating how elements of sustainable waste management have been incorporated into the scheme. A statement has been submitted as part of the application which satisfactorily demonstrates there are no reasons why waste will not be minimised in an effective manner and it is not considered necessary to require further details by condition.

8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

The development is well designed, sited and detailed in relation to the existing building and surrounding area, and will not result in harm to neighbouring amenity through loss of light or outlook, or increased noise or disturbance.

9 EQUALITIES IMPLICATIONS

None identified.

BH2010/00236 18 Fairlie Gardens



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**Brighton & Hove
City Council**

PLANS LIST – 19 MAY 2010

COUNCILLOR REPRESENTATION

From: Pat Drake [mailto:Pat.Drake@brighton-hove.gov.uk]
Sent: Fri 05/03/2010 18:56
To: Guy Everest
Subject: Planning application BH2010/00236 18 Fairlie Gardens

Dear Guy

I object to this application for the following reasons.
It represents an overdevelopment which will destroy the unity of the dwellings in this close.
The loss of a garage in this situation which is a parking nightmare already will be critical. The small turning area at the end of the close beside this property is rarely usable for collection and emergency vehicles.
There would be a loss of privacy for number 15 which would be overlooked by the side elevation windows.
The proposed rendered exterior will be at odds with the existing bungalows in the close.
Kind regards Pat

Pat Drake
Councillor Withdean ward

<u>No:</u>	BH2009/00782	<u>Ward:</u>	WITHDEAN
<u>App Type:</u>	Removal or Variation of Condition		
<u>Address:</u>	14 Matlock Road		
<u>Proposal:</u>	Application for variation of condition 1 of application BH2008/00559 to read 'The ground floor premises shall not be open or be in use except between the hours of 08:00 and 22:00'.		
<u>Officer:</u>	Guy Everest, tel: 293334	<u>Received Date:</u>	02 April 2009
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	28 May 2009
<u>Agent:</u>	CJ Planning Ltd, 80 Rugby Road, Brighton		
<u>Applicant:</u>	Mr Jim Hopkins, c/o C.J Planning Ltd		

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

1. The ground floor premises shall not be open or in use except between the hours of 08:00 and 22:00.
Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
2. The area of outside seating, as indicated on drawing no. 14/08 03 A, shall not be used except between the hours of 08.00 and 19.00.
Reason: To safeguard the amenity of adjacent residents and occupants, especially with regard to noise, and to comply with policies SU9, SU10 and QD27 of the Brighton & Hove Local Plan.

Informatives:

- 1) This decision is based on drawing nos. 14/08 1 A, 14/08 2 A & 14/08 03 A submitted 2nd April 2009.
- 2) This decision to grant planning permission has been taken:-
 - i) having regard to the policies and proposals in the Brighton & Hove Local Plan set out below;
 - QD27 Protection of amenity
 - SU9 Pollution and nuisance control
 - SU10 Noise nuisance; and
 - ii) for the following reasons:-
The development, subject to compliance with the above conditions, will not result in harmful noise or disturbance for occupiers of adjoining properties.

- 3) The applicant is advised that this planning permission does not override the need to obtain a licence under the Licensing Act 2003. Please contact the Council's Licensing team for further information. Their address is Environmental Health & Licensing, Bartholomew House, Bartholomew Square, Brighton BN1 1JP (telephone: 01273 294429, email: ehl.safety@brighton-hove.gov.uk, website: www.brighton-hove.gov.uk/licensing).

2 THE SITE

The application site relates to a ground floor commercial property within a parade on the eastern side of Matlock Road. The ground floor is in use as a café with self-contained residential accommodation above: similarly adjoining properties are commercial at ground floor with residential above. The surrounding area is primarily residential.

3 RELEVANT HISTORY

Retrospective planning permission was granted by Planning Committee in June 2008 for a change of use from retail (Class A1) to cafe (A3), an extract duct to the side elevation was also approved (ref: BH2008/00559). The permission was subject to the following conditions:-

1. *The premises shall not be open or in use except between the hours of 08:00 and 18:00 on Mondays to Saturdays; and between the hours of 09:00 and 16:00 on Sundays and including Bank Holidays.*
Reason: *To safeguard the amenities of the occupiers of adjoining properties and to comply with policies SU9, SU10 and QD27 of the Brighton & Hove Local Plan.*
2. *Prior to its installation a scheme for the fitting of odour control equipment to the building shall be submitted to and approved in writing by the Local Planning Authority. The agreed odour control equipment works shall be carried out in accordance with the agreed details and shall be maintained as such thereafter.*
Reason: *To safeguard the amenities of the occupiers of adjoining properties and to comply with policies SU9 and QD27 of the Brighton & Hove Local Plan.*
3. *Prior to its installation a scheme for the sound insulation of odour control equipment, as required by condition 2, shall be submitted to and approved in writing by the Local Planning Authority. The agreed sound insulation works shall be carried out in accordance with the agreed details and shall be maintained as such thereafter.*
Reason: *To safeguard the amenities of the occupiers of adjoining properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.*
4. *Prior to its installation a scheme for painting the external ducting a matt colour shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in accordance with the approved details and shall thereafter be retained as such.*

Reason: To safeguard the appearance of the building and the visual amenities of the locality and to comply with policies QD1 and QD27 of the Brighton & Hove Local Plan.

4 THE APPLICATION

The application seeks consent to vary condition 1 of planning permission ref: BH2008/00559 to extend opening hours of the ground floor café until 22.00.

5 CONSULTATIONS

External:

Neighbours: 10 letters have been received from **12A, 13, 14a, 16, 17, 21, 24 & 40 Matlock Road** and **23 & 25 Tivoli Crescent** objecting to the proposal for the following reasons:-

- the application will change the character of a quiet residential area;
- the extended opening hours are not in the best interests of the local community;
- the premises are frequently in use after 18:00 hours and it is not uncommon to hear noise beyond 22:00. As a result considerable noise has been cause both from within the café and also when people leave;
- concerned that if the extended opening hours are permitted they will be making noise till the early hours of the morning;
- smoking laws will inevitable result in diners / drinkers being outside on the pavement chatting until 23:00 hours plus;
- concerns regarding the 'bring your own' facility which will lead to drink related disturbances to local residents;
- the extractor fan on the side of the property causes noise disturbance and the smell of cooking is appreciable in adjoining houses and gardens;
- concern that the rear yard could become an eating area;
- the outdoor front area is used for seating and is only a few feet from front rooms of adjoining houses which causes noise and privacy problems;
- a brightly lit frontage is not appropriate in a residential area late at night;
- street parking is being taken up by patrons of the café and the additional opening hours could result in more traffic noises.

17 letters have been received from **28 Cissbury Road; 8 Stamford Lodge, Cumberland Road; 314 Dyke Road; 18 Hove Park Road; 31D & 115 Maldon Road; 10 Park View Road; 67 Rotherfield Crescent; 27 & 49 Tivoli Crescent; 164 Tivoli Crescent North; 2, 5 & 13 Tivoli Road; 31A Wilbury Crescent; 89 Woodland Drive** and **1** letter of no address supporting the proposal for the following reasons:-

- the establishment has enhanced the community and social aspects of the area and has become a focal point / meeting place for people that was previously lacking;
- the café is well suited to the area and attracts customers from adjoining areas.

A **petition of 91 signatures** has been received supporting the proposed extended opening hours.

Sussex Police: (*original comments*) Recommend that any consent is for a temporary period of 12 months to enable interested parties to monitor the impact. Following a reduction in the proposed opening hours (from 23:00 to 22:00 hours) Sussex Police verbally confirmed no objections to the proposal.

Internal:

Environmental Health: Owing to the residential character of the location a limit of 10pm (all week) and 7pm for the tables outside would allow the business the necessary headroom. The opportunity exists for the owner to demonstrate that the location is suitable for extended opening of the front area particularly with regard to noise intrusion and make an application for amending the hours at a later date.

Sustainable Transport: No objections.

6 PLANNING POLICIES

Brighton & Hove Local Plan:

QD27 Protection of amenity

SU9 Pollution and nuisance control

SU10 Noise nuisance

7 CONSIDERATIONS

The key issue of consideration in the determination of this application is whether the proposed variation of condition 1 of approval BH2008/00559 to extend opening hours of the café would result in undue harm to neighbouring amenity.

Extended opening hours

The application site is part of a small local parade within a predominantly residential area. PPG24 on 'planning and noise' identifies residential dwellings as noise sensitive development and indicates, at paragraph 12, that such development should not normally be permitted where high levels of noise will continue throughout the night, especially during the hours of 23.00 to 07.00 when people are normally sleeping.

The extended opening hours sought as part of this application would not intrude into what are considered to be normal sleeping hours and the Environmental Health Team and Sussex Police have not objected to the application. In this respect it is therefore considered that no significant additional noise or disturbance would result for occupiers of adjoining properties. It is also noted that any future complaints could be investigated under the provisions of the Environmental Protection Act 1990.

As part of the original planning permission use of the front forecourt area for outdoor seating would have been restricted to the opening hours of the café (i.e. 18.00 hours). This application would allow later opening and due to residential properties, and associated window openings, immediately to the north, it would not be appropriate or desirable to allow outdoor seating

through to 22.00 hours. A condition is therefore recommended preventing the use of the forecourt area for outdoor seating after 19.00 hours Monday to Sunday; this is considered sufficient to minimise the potential for outdoor noise disturbance.

Ducting

The original planning permission for the café use included conditions requiring details of odour control and soundproofing measures prior to the installation of new ducting to the premises. These conditions were not complied with and once installed the ducting resulted in odour and noise nuisance for adjoining residents. In consultation with Environmental Health the applicant has now installed a carbon filter and silencer to the ducting. Following these works there have been no further complaints from neighbouring residents.

On this basis there are no reasons to believe that continued use of the ducting during the proposed opening hours would lead to harmful odour or noise nuisance for occupiers of adjoining properties. Furthermore, and for the same reasons, it is not considered necessary to consider enforcement action in relation to non-compliance with conditions 2 and 3 of planning permission BH2008/00559.

Condition 4 of planning permission BH2008/00559 requires a scheme for the painting of the ductwork. Although this condition was not discharged prior to the ducting being installed there are no reasons why a suitable scheme could not be agreed and carried out: discussions with the applicant are currently taking place regarding this condition.

8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

The development, subject to compliance with the above conditions, will not result in harmful noise or disturbance for occupiers of adjoining properties.

9 EQUALITIES IMPLICATIONS

The application does not propose any changes to the existing entrance arrangements which appear to provide adequate access.

BH2009/00782 14 Matlock Road



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<u>No:</u>	BH2009/02410	<u>Ward:</u>	EAST BRIGHTON
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Ground Floor Flat, 2 Bristol Street, Brighton		
<u>Proposal:</u>	Conversion of garage and adjoining rooms into self contained bedsit, the replacement of the rear extension, the replacement of the garage door with fully glazed doors and associated slim-line window and the creation of a front boundary wall (Part Retrospective).		
<u>Officer:</u>	Liz Arnold, tel: 291709	<u>Received Date:</u>	06 October 2009
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	28 December 2009
<u>Agent:</u>	LF Architecture Ltd, Southbank, New Hall Lane, Small Dole		
<u>Applicant:</u>	Mr D Golding, Meadows, 18 Roedean Way, Brighton		

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

1. Unless otherwise agreed in writing by the Local Planning Authority, within 3 months of the date of this permission the existing unauthorised garage style door shall be removed and all the works to the front elevation and boundary, as shown on the drawing no. 07, submitted on the 2nd February 2010, completed.
Reason: To regularise the existing unauthorised development, in the interests of the visual amenities of the property, the Bristol Street street scene and the wider area and in accordance with policies QD1, QD2 and QD14 of the Brighton & Hove Local Plan.
2. Unless otherwise agreed in writing by the Local Planning Authority, the new dwelling hereby permitted shall be constructed to Lifetime Homes standards as far as reasonably practicable, within 3 months of the date of this permission and shall be retained as such thereafter.
Reason: To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.
3. 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.
4. Unless otherwise agreed in writing by the Local Planning Authority, within 3 months of the date of this permission, the existing cross-over shall be removed and the footpath and kerb reinstated.
Reason: In the interests of public highway user safety and to accord with policy TR7 of the Brighton & Hove Local Plan.
 5. Unless otherwise agreed in writing, within 3 months of the date of this permission, a scheme for landscaping, which shall include details of the hard surfacing and the planted border shall be submitted to and approved in writing by the Local Planning Authority.
Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD1 and QD15 of the Brighton & Hove Local Plan.
 6. All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD1 and QD15 of the Brighton & Hove Local Plan.

Informatives:

1. This decision is based on a design and Access Statement, a Letter from Mr Noakes, a Lease from 1987 a waste Minimisation Statement, a Sustainability Checklist and a Biodiversity Checklist submitted on the 6th October 2009, drawing no. 07 submitted on the 2nd February 2010 and a Unilateral Undertaking dated the 20th April 2010.
2. This decision to grant Planning Permission has been taken:
 - (i) having regard to the policies and proposals in the Brighton & Hove Local Plan set out below:

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR7	Safe development
TR14	Cycle access and parking
TR18	Parking for people with a mobility related disability
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU9	Pollution and noise control
SU10	Noise nuisance
SU13	Minimisation and re-use of construction industry waste
QD1	Design – quality of development and design statements

QD2	Design – key principles for neighbourhoods
QD3	Design – efficient and effective use of sites
QD7	Crime prevention through environmental design
QD14	Extensions and alterations
QD27	Protection of amenity
QD28	Planning obligations
HO3	Dwelling type and size
HO4	Dwelling densities
HO5	Provision of private amenity space in residential development
HO9	Residential conversions and the retention of smaller dwellings
HO13	Accessible housing and lifetime homes
EM3	Retaining the best sites for industry
EM6	Small industrial, business units and warehouse unit
<u>Supplementary Planning Guidance (SPG's)</u>	
SPGBH4: Parking Standards	
<u>Supplementary Planning Documents (SPD's)</u>	
SPD08:	Sustainable Building Design
SPD03:	Construction and Demolition; and

(ii) for the following reasons:-

On balance, subject to the compliance with the attached conditions, it is considered that the conversion of the garage into a bedsit and the associated works is acceptable given that the proposal will enhance the Bristol Street street scene and will provide a residential unit with adequate living standards. The proposal is not considered to have a significant adverse impact upon the amenities of the neighbouring properties.

3. The applicant is advised that details of Lifetime Homes standards can be found in Planning Advice Note PAN 03 Accessible Housing & Lifetime Homes, which can be accessed on the Brighton & Hove City Council website (www.brightonhove.gov.uk).
4. The applicant should contact the Highways Maintenance Department for a Highway Licence regarding the removal of the existing crossover. Please seek advice from the Streetworks Team on 01273 292462.

2 THE SITE

The site is located on the southern side of Bristol Street and comprises a two-storey end of terrace property with a flat on the first floor and a garage and associated rooms at ground floor level. The front of the site is hard paved and benefits from a cross-over.

The site adjoins a short terrace of four dwellings to the west and the rear gardens of nos. 57 to 67 Bennett Road to the east. Bristol Street forms the northern most part of a u-shaped roadway with Princes Terrace and Bennett Gardens.

The site is situated within a predominantly residential area. However, it is noted that the building at the north east corner of Bristol Street and Bennett Road and a number of properties along Bristol Gardens are in commercial or industrial use.

3 RELEVANT HISTORY

BH2008/03951: Part retrospective application for conversion of residential garage & rooms into bedsit. Refused 10/03/2009.

BH2007/04073: Conversion of garage and adjoining rooms into one 2 bedroom flat. Refused 06/02/2008.

BH2007/01677: Conversion of garage and adjoining rooms into two bedroom ground floor flats. Refused 01/08/2007.

4 THE APPLICATION

Planning permission is sought for the conversion of a garage and adjoining rooms into a self-contained bedsit, a rear single storey extension, the replacement of the existing garage style door within the front elevation with the installation of outward opening fully glazed doors and a related slim-line window and the recreation of a front boundary wall.

The rear extension and the conversion have already been carried out. Therefore the application is part-retrospective.

5 CONSULTATIONS

External:

Neighbours:

7 letters of objection from the occupiers of, **4 Bristol Street, 6 Bristol Street, 15 Bristol Street, 19 Bristol Street, 57 Bennett Road, 12 Princes Terrace and 17 Princes Terrace** on the following grounds;

- the application has been rejected on three previous occasions and no changes have been made to overcome any of the reasons for refusal given previously,
- the legality of the conversion from one house to two flats is still unclear,
- the front of the property with a large white door is not in keeping with or sympathetic to the street scene and grades it. The frontage of the property consists of a concrete ramp up to the door. This looks poor in context of the frontage of the neighbouring houses,
- still believe that the front of the property is unsympathetic to the uniform character and appearance of the adjoining terrace and is detrimental to the local street scene,
- the proposal is detrimental to the stock of local housing as it results in the loss of a small family house,
- do not think the change of use to a bedsit is appropriate.
- the façade should have been restored to its original state with single shared entry through the existing door,
- the unit is too small with insufficient light, ventilation and outlook,
- it results in the loss of a small commercial unit,
- the proposed ground floor bedsit would receive poor levels of light,

ventilation and outlook due to the single aspect nature of the unit as a result of the creation of a lobby between the bedsit and the front elevation of the property. As such the proposal represents an energy inefficient form of development in addition to a substandard level of accommodation which would be detrimental to the residential amenity of future occupiers,

- small houses if the size in Bristol Street are too small to be sub-divided, refer to policy HO9.

FFF, 2 Bristol Street: Comments that they support the downstairs being developed into a separate flat however have concerns about the finer structural details.

Letters received following amendments

6 Bristol Street: The latest proposal is more in keeping with the remainder of the terrace despite it using French windows but given the access issues this is probably the best option available, other than negotiating for access with the owner of the upstairs property for access via her front door. By reinstating the front wall and planting a garden it will hide to some extent the French windows and therefore from the road will look similar to the rest of the terrace. Objects that the small windows above the French doors are not in keeping as these should be the same size as the two adjoining properties not only for aesthetic reasons but also to ensure they can be reached easily for opening from the inside.

17 Princes Terrace: Comments that ideally houses of this size would not be sub-divided but I recognise the conversion was made more than 20 years ago when standards were different and has lawful use. The revised proposal is an improvement on the original, in particular the reinstatement of the front garden. The new design is more in keeping with the domestic scale of the rest of the terrace and the removal of an unwelcome feature, the garage door, is to the good. I therefore withdraw my earlier objection to the proposal.

Internal:

Sustainable Transport:

(original comments 23/11/2009) would not wish to restrict grant of consent of the application subject to the inclusion of conditions relating to a financial contribution towards sustainable transport infrastructure, the provision of cycle parking and the removal of the cross-over.

6 PLANNING POLICIES

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR7	Safe development
TR14	Cycle access and parking
TR18	Parking for people with a mobility related disability
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and

	materials
SU9	Pollution and noise control
SU10	Noise nuisance
SU13	Minimisation and re-use of construction industry waste
QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods
QD3	Design – efficient and effective use of sites
QD7	Crime prevention through environmental design
QD14	Extensions and alterations
QD27	Protection of amenity
QD28	Planning obligations
HO3	Dwelling type and size
HO4	Dwelling densities
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes

Supplementary Planning Guidance (SPG's)

SPGBH4: Parking Standards

Supplementary Planning Documents (SPD's)

SPD08: Sustainable Building Design

SPD03: Construction and Demolition

7 CONSIDERATIONS

Background

There have been three previous applications submitted in relation to the conversion of garage into a residential unit. These applications have been refused on grounds including unacceptable alterations to the front elevation of the property, the failure to demonstrate that the division of the original house into two self contained units is lawful and thus the unacceptable loss of a small family house and the failure to demonstrate that the garage use is redundant and therefore the loss of the small commercial garage.

Since the last refusal officers have been involved with discussion with regard to the most appropriate way to alter the front elevation of the property.

Current Application

The application is part-retrospective as the rear extension has already been constructed and the ground floor level provides residential accommodation.

As with the previous applications, in the determination of the application consideration must be given to the principle of the conversion of the property, the living conditions of future occupiers the impact upon the amenities of the neighbouring properties, the impact upon the character and appearance of the host property and the Bristol Street street scene, transport and sustainability issues.

Principle of Conversion

The ground floor level of the property already forms a bedsit with separate kitchen and bathroom facilities. Within the previous applications the lawfulness of the subdivision of the property into 2 separate units was questioned as there is no planning history relating to the property prior to the first application in 2007.

The applicant has submitted a copy of the lease, which is dated 1987, relating to the selling of first floor flat within the property. The lease document has been submitted in order to demonstrate that the conversion of the former two storey single dwelling was carried out more than 4 years ago and is therefore considered lawful by the applicant. The lease submitted in relation to the conversion of the property into 2 units has not been considered substantive enough to demonstrate the lawfulness of the subdivision previously. However the Council's Domestic Tax department has confirmed that council tax has been paid for the first floor flat since the 4th September 2002.

Notwithstanding the question regarding the lawfulness of the sub-division of the original house, the sub-division resulted in the provision of a garage at ground floor level. The Local Planning Authority has previously questioned whether the garage was used for domestic purposes as stated by the applicant, especially as a kitchen area and toilet was provided in relation to the garage.

A letter from Mr Noakes has been submitted stating that the former ground floor garage was only ever used for the storage of domestic vehicles and not for commercial purpose despite providing a kitchen area and toilet area. The Council's Business Tax department has confirmed that there are no records relating to business rates being paid for the property.

As the former garage was used for domestic purposes officers do not raise any objection to its loss. The former use of the garage and the lawfulness of the conversion have not been conclusively proved but evidence suggests that the current use is lawful and officers consider that it would be difficult to sustain refusal solely on these grounds at appeal.

Visual Amenities

As stated above the creation of a larger rear extension and the conversion of the ground floor level of the property into a bedsit have already occurred.

The former ground floor mono-pitched roof rear section of the property measured approximately 1m in depth, approximately 2.8m in length and had a maximum height above ground level of approximately 2.7m. The replacement extension measures approximately 1.2m in depth, 2.65m in length and has a maximum height of approximately 3.3m above ground level. The positioning of the access door to the rear garden area remains the same although the style and design of the door, and the related windows, are different. Overall it is considered that the enlarged rear extension is not of detriment to the

character of appearance of the property or the wider area.

When the ground floor was converted to a garage, the former ground floor front window opening was enlarged in order to accommodate a garage door. This original garage door has since been replaced by a garage door with two outward opening sections and windows within the upper part. This replacement garage door was refused planning permission within application BH2008/03951 due to its adverse impact upon the visual amenities of the property and the street scene.

When originally submitted the current application included the retention of the garage door which was refused permission under application BH2008/03951. However, since submission of the application the development has been amended to include the replacement of the existing garage style door with two outward opening fully glazed uPVC doors, with a slim-line side window and related fanlight windows above and the removal of the existing internal partition which currently creates a lobby between the garage style door and the bedsit. These changes have been negotiated by officers to address concerns raised by the Local Planning Authority. The changes that officers have sought are:

- the reinstatement of the lower part of the walls to the front bay,
- the reintroduction of sympathetically designed and proportioned ground floor windows and doors,
- the reintroduction of the brick course over the former window opening, and
- the construction of a boundary wall with brick piers and coping stones.

Due to the need to provide an entrance to the ground floor unit, separate to that which provides access to the first floor flat it is difficult to reinstate a bay identical to those seen at ground floor levels of neighbouring properties. For example, the upper window sections within the proposed ground floor bay does not reflect the size and proportions of those in neighbouring properties as this would result in the windows rising above the general top window line evident within the related terrace. It is considered that the proposed front ground floor bay has been designed as sympathetically to the Bristol Street street scene as possible.

As a result of the proposed insertion of the glazed door and full height windows the proposed insertion of windows within the eastern facing elevation of the property has been omitted from the proposal.

At present the front of the property comprises a hard-standing area and related cross-over. In relation to the proposed removal of the garage door the applicant intends to break up the existing hard-standing area and to provide a new hard surface to provide a level path to the proposed entrance doors and a new boundary wall.

A brick pier and coping stone already exists on the eastern side of the proposed boundary wall. The applicant intends to construct a pier with

associated coping brick on the western side of the boundary and the construction of a brick wall between these piers, with coping stones on top. The height of the proposed brick pier will match that of the existing pier, approximately 1.15m whilst the brick wall will have a height of approximately 0.8m.

The height of the front boundary wall will be slightly higher than that on neighbouring properties located to the west. However it is considered that this is acceptable in order to screen the lower parts of the proposed glazed doors and full height windows when viewed from within Bristol Street. The proposed front boundary wall and piers are considered to be in keeping with the other front boundary treatment within Bristol Street.

Residential Amenity of Future Occupiers

The removal of the existing garage door, its replacement with the proposed glazed doors and full height windows and the removal of the internal partition will result in more natural light and ventilation being available to the ground floor residential unit. It is considered that this element of the development will enhance the amenities of the occupiers of the dwelling.

Under policy HO5 new residential properties are required to provide adequate private useable outdoor amenity space appropriate to the scale and character of the development. The garden area located to the rear of the property is presently only accessible through the ground floor level of the property and will remain so as part of the current proposal. This existing garden area is considered to provide adequate private outdoor amenity space for the proposed bedsit.

Policy HO13 requires residential units to be lifetime home compliant. When dealing with conversions of existing properties it is recognised that the existing built form of the property may restrict full compliance with the policy but compliance should be sought wherever possible. This enables units to be adapted at a later date to meet the changing needs of occupants, without the need for major structural alterations. No details have been submitted in relation to this issue however it can be controlled via a condition attached to the application if approved.

Transport Issues

Policy TR1 of the Brighton & Hove Local Plan requires new development to address the demand for travel and to promote the use of sustainable modes of transport on and off site, so that public transport, walking and cycling are as attractive as use of a private car.

The site is located outside of the City's controlled parking zones. The conversion of the garage to the bedsit has resulted in the loss of an off street parking space. The existing hardstanding is not large enough to accommodate the parking of a vehicle. No objections to the loss of the off street parking space are raised by the Local Planning Authority as an on

street parking space will be provided as a result of the removal of the garage and the associated cross-over.

It is recommended that a condition is attached to the approval to ensure that the existing cross-over is removed and a full kerb installed in order to ensure the safety of other highway users, particularly pedestrians.

As a result of the proposed alterations to the front elevation of the property the existing lobby area will be lost. This area currently provides an area for the secure storage of cycle. The applicant now intends to insert a heavy duty floor stand within the new front garden area of the property for the secure storage of one cycle.

Sustainability

Policy SU2 of the Brighton & Hove Local Plan requires developments to demonstrate a high standard of efficiency in the use of energy, water and materials.

The proposal will result in the ground floor unit achieving higher levels of natural light and ventilation as a result of the replacement of the existing, partially solid, garage door with fully glazed doors and associated full length windows.

Taking account of the fact that the proposed conversion has taken place within the constraints of the existing building and occupies only part of the building it is not considered appropriate to require further sustainability measures.

Impact Upon Amenities of Neighbouring Properties

Despite the new rear ground floor extension of the property being larger than the previous extension it is considered that the new extension does not have a significant adverse impact upon the amenities of the neighbouring properties.

The insertion of the proposed glazed doors, the associated full height window and the new front boundary treatment will not have a significant adverse impact upon the amenities of the neighbouring properties.

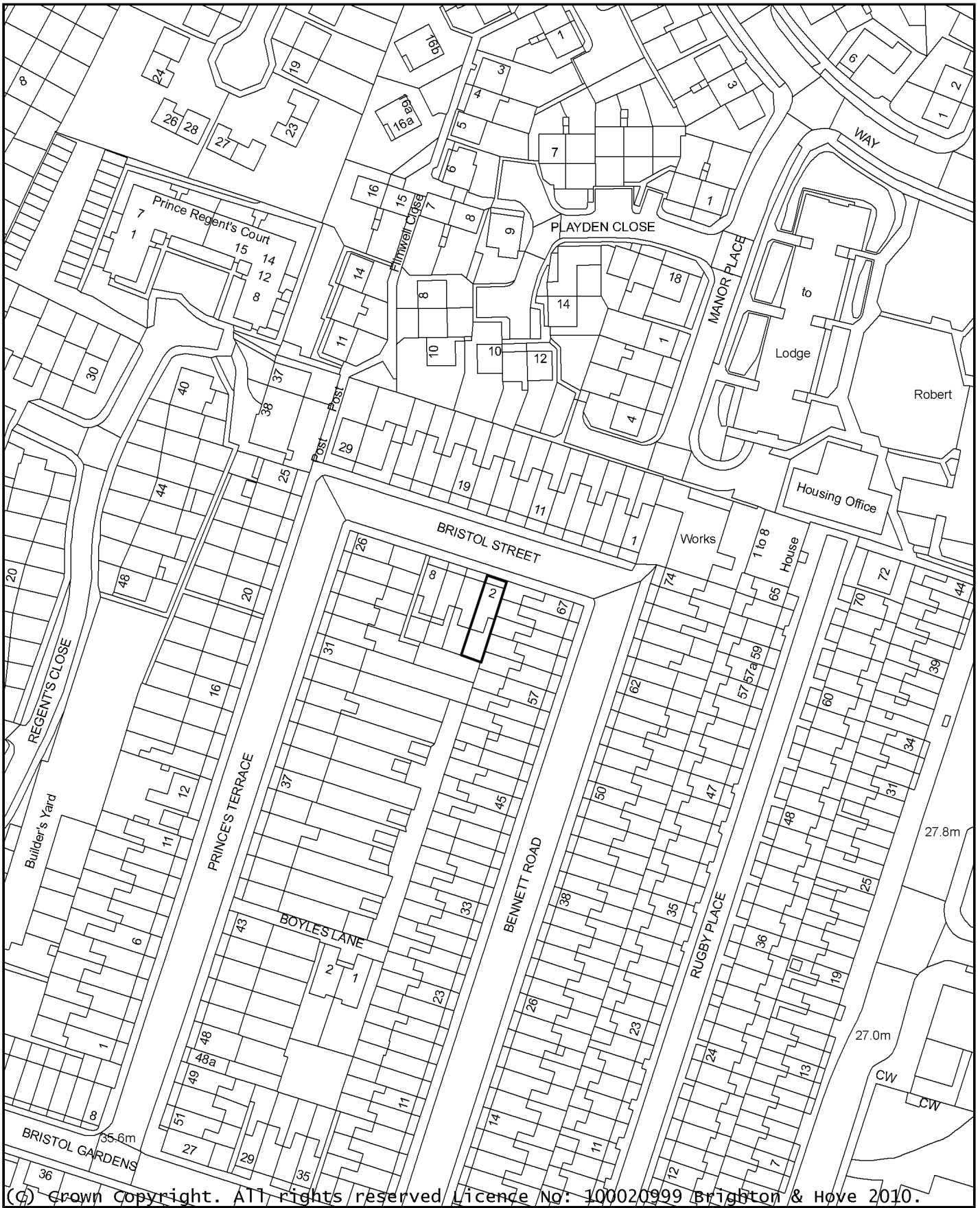
8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

On balance, subject to the compliance with the attached conditions, it is considered that the conversion of the garage into a bedsit and the associated works is acceptable given that the proposal will enhance the Bristol Street street scene and will provide a residential unit with adequate living standards. The proposal is not considered to have a significant adverse impact upon the amenities of the neighbouring properties.

9 EQUALITIES IMPLICATIONS

This development is required to comply with all reasonable Lifetime Homes Standards criteria and to meet Part M of the Building Regulations.

BH2009/02410 Ground Floor Flat, 2 Bristol Street



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<u>No:</u>	BH2010/00431	<u>Ward:</u>	PATCHAM
<u>App Type:</u>	Full Planning		
<u>Address:</u>	9 Ridgeside Avenue, Brighton		
<u>Proposal:</u>	Erection of detached 2 storey, 2 bedroom house replacing existing garage		
<u>Officer:</u>	Kate Brocklebank, tel: 292175	<u>Valid Date:</u>	09/03/2010
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	04 May 2010
<u>Agent:</u>	Lewis & Co Planning , Paxton Business Centre, Portland Road, Hove		
<u>Applicant:</u>	Mr & Mrs R Counsell, C/O Lewis & Co Planning		

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation and resolves to **REFUSE** planning permission for the following reasons:

Reasons:

1. The dwelling by virtue of its height, bulk and design would harm the setting of the immediate surroundings and would appear overly dominant in the street scene and fails to enhance the positive qualities of the neighbourhood. The small plot is an awkward shape and is out of character with the surrounding area. The application is therefore contrary to policies QD1 and QD2 of the Brighton & Hove Local Plan.
2. The proposal does not make adequate provision for private usable amenity space in this suburban locality, where predominantly neighbouring properties benefit from generous rear gardens, contrary to policy HO5 of the Brighton & Hove Local Plan.

Informatives:

1. This decision is based on drawing nos. 0045.PL.01, 0045.PL.02, 0045.PL.03 and 0045.PL.04 submitted on 17th February 2010.
2. The applicant's attention is drawn to the statutory protection afforded by the Protection of Badgers Act 1992 and the Wildlife and Countryside Act 1981 (amended 1991) in relation to the potential for protected species using the site.

2 THE SITE

The site is located at the end of a small cul de sac extension of Ridgeside Avenue, Patcham, and is part of a 984sqm wider parent property, no. 9 Ridgeside Avenue. The subject part of the wider site is currently in use as a car garage and front and side garden area for the house on the parent property.

Although located in close proximity to the A23 arterial road, the site and

surrounding area are residential in character. The ground level slopes up to the east from Ridgeside Avenue, and the houses on this side of the road are elevated significantly above the road level. This includes the existing two storey detached house on the wider site.

The application site adjoins the rear gardens of properties fronting onto Grangeways, and the single storey garage of the adjoining property, No. 7 Ridgeside Avenue.

The Ridgeside street scene is characterised by large detached houses set within substantial pots of land, with a large setback from the road.

3 RELEVANT HISTORY

BH2008/01339: Erection of single detached house. Appealed for non-determination. Appeal dismissed on 27th February 2009.

BH2007/02841: Erection of detached house. Refused 02/11/2007.

BH2006/02394: Outline application for the erection of a detached dwelling. Siting to be determined for the proposed development. Refused 02/10/2006.

4 THE APPLICATION

The application seeks planning permission for the subdivision of the existing garden plot at number 9 Ridgeside Avenue and the erection of a modern flat sedum roofed two storey two bedroom dwelling and garage.

The application also involves the loss of the existing side conservatory to number 9 to provide private garden area for the proposed dwelling to the side of the existing property. An additional parking space is proposed to the front of number 9 which will involve some excavation of part of the front garden and the erection of a retaining wall.

5 CONSULTATIONS

External:

Neighbours: 30 letters of objection have been received from the occupants of **3, 5, 7, 11, 13, 15, 17, 19, 20, 22, 26, 27, 29 and 38 Ridgeside Avenue, 36 The Martlet, 4 Grangeways, 7 Winfield Avenue (2xletters), 34 Queen Alexandra Avenue, Sunny Hill Ladies Mile Road, 98 Old London Road, 1 Steyning Avenue, 1 Stoneleigh Avenue, 65 Vere Road, 33 Orchard Gardens, 31 Elsted Crescent, 7 Highfield Crescent, 147 Lewes Road (2xletters), 43 Old Mill Close and a petition with 98 signatures.** Their comments are summarised as follows:

- The proposed dwelling is out of character with the surrounding area and is overly prominent.
- The building would negatively impact on the street scene.
- It will exacerbate the existing parking problems in the area.
- Overdevelopment.
- There is an established badger sett which will be affected.
- Disturbance will be caused by construction.
- Poor design.

- Cramped form of development.
- Lack of amenity space.
- Excessive plot coverage.
- New dwelling would be overlooked and overshadowed by the existing dwelling.
- The front boundary is drawn incorrectly.
- Strain will be placed on the surrounding infrastructure.
- Insufficient parking proposed.
- The building is too high and out of character.
- The building is industrial in character.

A joint letter of objection has also been received from **Cllr Brian Pidgeon** and **Cllr Geoffrey Theobald**, a copy of which is attached to the agenda.

13 letters of support have been received from the occupants of **42 Overhill Gardens, 18 Brangwyn Way, 1 The Woodlands** (2xletters), **24 Ridgeside Avenue** (2xletters), **11 Whittinghame Gardens, 55 and 47 Old Mill Close** (2xletters), **4 Old London Road, 16 Southwoodlands, 25 Bourne Court**.

Their comments are summarised as follows:

- The building is well designed to a high standard and will blend into the landscape.
- The proposed dwelling is more suited to elderly people and will meet the applicant's needs where the existing house does not.
- The existing garden is unmanageable and steeply sloping.
- The cul-de-sac has always appeared incomplete, the proposed development will remedy this and improve its appearance.

Internal:

Conservation and Design: The site's location is at the end of a cul de sac, and on a west facing hillside clearly visible from Brangwyn Way. The existing dwellings are typical mid to late 20th C detached dwellings of varying size and style, but predominantly with pitched roofs most often hipped. Tree and garden planting provide a green landscape. It is considered that the development will not impact on the wider landscape. The development will however change the character of the street.

The street frontages are mixed. To the east is a row of detached dwellings in an elevated position set well back from the street. To the west the dwellings are set below street level and close to the street edge with the pitched roofs the prominent feature. In views along the street the landscaped gardens provide the setting. In my opinion the sense is not of a gap site or 'unfinished' development, but of generous gardens. The architect's proposition that the development will 'repair or complete the street scene' or 'fill a void where a building may be expected' is not concurred with. It seems that the tight plot shape suggests that any development on this plot should be 'low key'. The proposed dwelling is of architectural quality but is of a height that will appear at odds with its surroundings. Caution is expressed regarding reliance on an

existing tree screen, and would recommend a development that is predominantly single storey, if necessary with a larger foot print, and which creates opportunities for more appropriate garden tree planting.

Sustainable Transport: No objection – with the imposition of conditions to secure provision of cycle and car parking. An informative to advise the applicant of the requirement to apply for a licence to construct the crossover and that it should be constructed in accordance with Manual for Estate Roads is also recommended.

Environmental Health: No objection.

6 PLANNING POLICIES

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR7	Safe development
TR14	Cycle access and parking
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU13	Minimisation and re-use of construction industry waste
QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods
QD3	Design – efficient and effective use of sites
QD5	Design – street frontage
QD17	Protection and integration of nature conservation features
QD18	Species protection
QD27	Protection of amenity
HO3	Dwelling type and size
HO4	Dwelling densities
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes

Supplementary Planning Guidance Documents: (SPD's/SPG's)

SPGBH4: Parking Standards

SPD08: Sustainable Building Design

Planning Advice Notes (PAN)

PAN03: Lifetime Homes

7 CONSIDERATIONS

The main considerations in the determination of this application relate to the principle of the proposal development, the suitability of the site to accommodate an additional dwelling having regard to the affect upon the character of the area and neighbouring and future residential amenity. An assessment will also be made of the issues relating to transport and sustainability.

Principle of development

The proposal site is situated within the built up area boundary as defined on the Local Plan proposals map and as such development is acceptable in principle although must adequately accord to relevant development plan policies. PPS3 on Housing states that urban land can often be significantly underused and advocates the better use of previously-developed land for housing. PPS3 identifies residential gardens as previously developed land. Whilst not all residential gardens will be suitable for infill development local planning authorities are advised to take account of the positive contribution that intensification can make, for example, in terms of minimising the pressure on greenfield sites. With this in mind it is considered that the application site where the new dwelling is proposed constitutes previously-developed land and in principle the construction of an additional dwelling could make a more efficient use of this site in accordance with PPS3.

PPS3 and policies QD3 and HO4 seek to maximise the supply of housing within the built up area and to secure the efficient and effective use of a site, whilst ensuring developments incorporate good quality architectural design, an intensity of development appropriate to the locality and/or the prevailing townscape, the needs of the community, the nature of development and proposed uses. The principle of development on this site is considered acceptable, however the siting is quite prominent, situated at the end of the cul-de-sac in views along the length of the stretch of Ridgeside Avenue from the south with two storey dwellings to the east and a mixture of bungalows and chalets to the west. The proposed scheme should complement the existing development along Ridgeside Avenue in design terms and accord with other relevant Development Plan policies in order to be acceptable.

Character

Brighton & Hove Local Plan policies QD1, QD2 and QD3 require a high standard of design for new development to provide a positive contribution to the visual quality of the area. Policies QD3 and HO4 both seek to prevent the overdevelopment of sites that would result in 'town cramming'.

Planning application BH2007/02841 submitted on this site proposed a modest sized two storey house, with the second floor set within the roofspace. The end gables were asymmetrical in shape, with the roof ridge set off-centre and a significantly greater front roof slope than rear roof slope. Two dormer windows were proposed to the front roof slope, and one small dormer to the rear. The property was sited as proposed under the current application occupying a similar site area. The site was slightly larger and included a corner of land in the north west of the site to the rear of the garage, which no longer forms part of the current application site. The application was refused primarily on design grounds and effect on the character of the street scene and as a result of overlooking from the parent property.

A subsequent application BH2008/01339 was submitted which proposed a two storey dwelling with rooms in the roof, the proposed siting was adjacent to

the north side of the existing dwelling at 9 Ridgeside Avenue. The application site included an area of neighbouring garden land to the north where the property was proposed to be sited. This application was appealed for non-determination and dismissed on design grounds in relation to the design of the dwelling, its siting and would harm the character and appearance of the area and lack of private amenity space.

The current application has sought to site the dwelling in a similar location to that of BH2007/02841 however rather than a more traditional design, the applicant proposes a two storey modern flat sedum covered roof dwelling.

The current proposed plot is of an awkward shape which tapers to the rear of the site and slopes up steeply to the east. The resultant plot shape is out of character with neighbouring plots in its shape and size. According to the Design and Access Statement it would measure 371sqm which would make it the smallest plot in the area. The neighbouring plot at number 7 Ridgeside Avenue measures approximately 434sqm and forms one of the smallest plots in this location.

The properties which surround the site are a mix of bungalows and two storey dwellings, those which are sited on the eastern side are two storey and predominantly have a hipped roof design and are brick built with areas of tile hanging or painted as in the case of numbers 17 and 19. On the west side of this section of Ridgeside Avenue the properties are predominantly bungalows, the majority of the properties also have hipped roofs with exceptions such as number 7 opposite. There are examples of roof dormers in the location however the majority are located on the rear roofslopes.

The proposed dwelling would sit at the transitional point within the cul-de-sac with the low pitched single storey property at number 7 to the west and the two storey property at number 9 to the east. In addition to the built from stepping down to the west the topography of the area follows the same contours.

In contrast to the existing surrounding development the proposed dwelling will have a flat roofed design. The Inspector noted in his decision on BH2008/01339 that the surrounding development share design features including the use of hipped roofs and in some cases lower eaves. As stated above the plot size for the appeal scheme was larger than the plot currently proposed and previously included a portion of the rear garden area of the neighbouring property to the north of the site. The maximum width totalled approximately 11m in width at the widest point where the proposed dwelling was to be sited to the north of number 9. The Inspector considered that with the shape, topography and size of the site, even with the additional land, the design of the dwelling was unacceptable and not well sited.

The current scheme has sought to address these issues by siting the dwelling on the lower part of the site at the end of the cul-de-sac. The plot has been

reduced in size and no longer includes any of the neighbouring garden area. The amended siting results in the provision of private garden area in a narrow strip to the north of number 9 which is proposed to be terraced. This area has reduced in width from approximately 11m under the appeal scheme to the currently proposed plot which is approximately 6.5m in width which then narrows to approximately 4.7m in width in the rear garden area. Although it is noted that the area will be terraced to improve its usability, the plot is still very different in character to those in the area which are generally regular in shape and have the benefit of generous rear garden areas. The resultant plot shape and size is awkward and out of character with the surrounding area.

Conservation and Design have been consulted and consider that the development will not impact on the wider landscape. However it will change the character of the street. It is acknowledged that the street frontage in this location is mixed, with the development to the east in an elevated position set well back from the street and to the west the dwellings are set below street level and close to the street edge with the pitched roofs the prominent feature. The area benefits from mature vegetation to the frontages giving the area a soft and open appearance providing the setting to the surrounding development. Conservation and Design do not concur with the statement in the Design and Access statement that the building is positioned to 'repair' or complete the street scene and filling the void where a building may be expected to be located, it is instead considered to form generous gardens, creating a sense of space.

The view held by Conservation and Design in relation to the tight plot shape suggests that any development on this plot should be 'low key'. In addition the proposed dwelling is of a height that will appear in conflict with its surroundings and caution is expressed regarding reliance on the existing tree screen which could be removed at any time as it is not considered worthy of a Tree Preservation Order (TPO). It is recommended that the development should be predominantly single storey, as proposed the dwelling by virtue of its height and bulk would harm the setting of the immediate surroundings and would not contribute positively to the street scene.

The flat roofed design of the proposed two storey property serves to exaggerate the additional bulk and scale at the upper level making the development appear overly dominant in the street scene. The design fails to emphasise and enhance the positive qualities of the local neighbourhood by taking into account the height, bulk and design of existing buildings.

A 1.8m high boundary fence is proposed to divide the plot. However, a fence at this height, forward of number 9 is likely to appear intrusive and incongruous in this location. The surrounding properties generally have low hard boundary treatment with soft vegetation above thus maintaining a soft and open appearance to the street scene. If the application were considered acceptable a condition to control the boundary treatment would be recommended.

Residential amenity proposed and neighbouring dwellings

Policy HO13 requires residential units to be lifetime homes compliant, new residential dwellings should comply with the standards. The applicant has submitted adequate details to demonstrate that the dwelling will adequately accord to Lifetime Home Standards. However some concern is raised regarding the access to the rear garden area which is via a number of steps, beyond the steps it is not clear how accessible the remainder of the garden area would be. There is however a reasonable provision in the semi private front garden area should the occupants become unable to access the rear garden area in the future, it is therefore considered unreasonable to insist that the whole of the rear garden area is excavated to provide access.

Policy HO5 requires all new residential units to have private useable amenity space appropriate to the scale and character of the development. The proposed dwelling would have two bedrooms and as such is capable of being occupied by a family. The site is situated in a suburban area where properties generally benefit from generous private amenity provision.

The existing dwelling at number 9 occupies a particularly large plot owing to its corner plot location, in this respect the resultant plot size and private rear amenity space for the existing dwelling is representative of the similar scale neighbour properties and is therefore considered acceptable.

The proposed plot will be an awkward shape which tapers off and rises steeply to the rear and will be the smallest in this area. The property will have the benefit of semi private front garden and private rear garden area, it is also proposed (as stated at paragraph 6.20) to terrace the rear garden area to improve its usability. The application does not include a clear levels survey of the rear garden area to compare existing, to the proposed terraced area and the sections do not clearly demonstrate what is proposed. The plans appear to show the area as being sloping with an area of decking in the central area. The resultant private garden area although some 24.5m in length is predominantly narrow (a minimum of 4.7m in width) and sloping with only a small levelled area in the centre of the plot. The provision is smaller than is characteristic for this location which is suburban and generally benefits from reasonably sized private rear amenity space and the use is compromised by the awkward shape and contours. The application is therefore contrary to policy HO5.

Policies TR14 and SU2 require all new residential developments to have secure, covered cycle storage and refuse and recycling storage. The scheme makes provision for the refuse storage within the integral garage and there is also adequate space to provide cycle parking.

Policy QD27 requires the protection of amenity for proposed, existing and/or adjacent residents. The proposed dwellings are considered to provide an adequate standard of living accommodation which is suitably laid out internally and provides adequate levels of outlook, privacy, natural light and

private amenity space. Adequate distances are considered to be maintained to preclude any adverse overshadowing or overbearing affect to any neighbouring dwellings. The proposed glazing to the rear and east side of the proposed dwelling is high level and will therefore not give rise to adverse overlooking to any neighbouring dwelling.

The proposed dwelling will also maintain suitable levels of privacy, the closest neighbouring window services the staircase to number 9 and will not therefore give rise to adverse overlooking; any overlooking will be acceptable and mainly over the front garden area. If the application were considered acceptable a condition would be recommended to control the boundary treatment between the two dwellings and obscure glaze the side windows at first floor within number 9 to ensure the proposed rear garden area is not adversely overlooked.

Transport issues

The site is not situated within a controlled parking zone (CPZ), the proposal makes provision for off street parking for both dwellings on the driveway and in an integral garage. The proposed parking space to the front of number 9 proposes some excavation work and the erection of a retaining wall, as such if the application were acceptable it would be recommended that a condition be imposed to secure full details.

Sustainable Transport have been consulted and have raised no objection to the scheme with the imposition of condition relating to the provision of cycle and vehicle parking, a ratio of one per dwelling is in line with the Council's adopted standards contained with SPGBH note 4 and financial contribution towards improving sustainable infrastructure in the area. Overall the proposal is considered to be in accordance with policies TR1, TR7 and TR19.

Sustainability

Policy SU2 which seeks to ensure that development proposals are efficient in the use of energy, water and materials. Proposals are required to demonstrate that issues such as the use of materials and methods to minimise overall energy use have been incorporated into siting, layout and design.

The proposal is for new build development and as such it is required to meet a minimum of a Sustainability Checklist and pre-assessment to demonstrate that Level 3 of the Code for Sustainable Homes will be achieved. A condition requiring the development to achieve such a level would be recommended if the application were to be approved to ensure the development would meet the overall aims and objectives of policy SU2 and SPD08.

Biodiversity

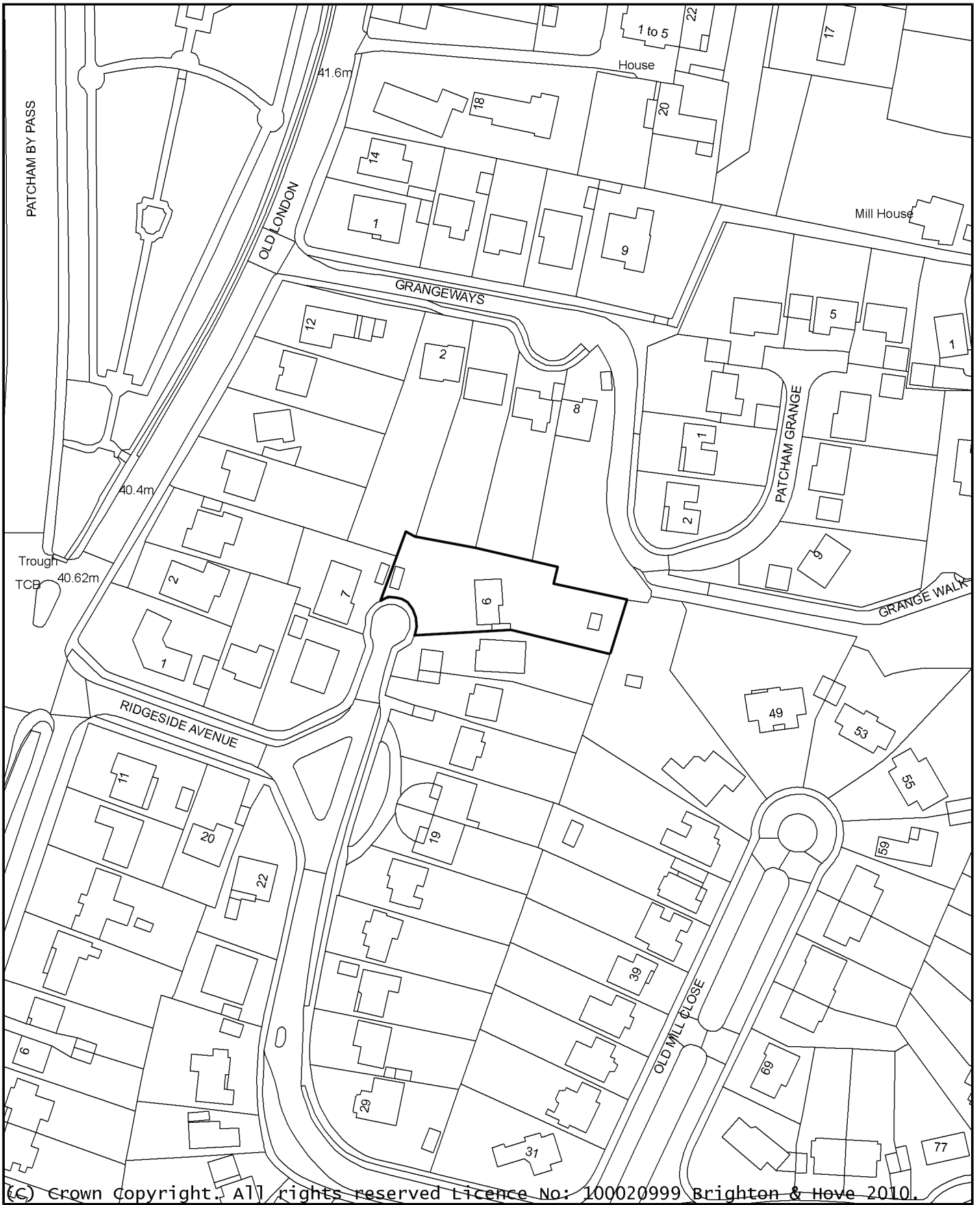
The existence of a badger sett has been alleged by neighbouring occupiers however no detail has been submitted with the application. The issue was also considered by the Inspector on the previous appeal who noted that they

have statutory protection. The applicant's attention is therefore drawn to the Protection of Badgers Act 1992 and the Wildlife and Countryside Act 1981 (amended 1991).

8 EQUALITIES IMPLICATIONS

If approved, the proposal would be required to meet Lifetime Homes standards.

BH2010/00431 9 Ridgeside Avenue



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**Brighton & Hove
City Council**

PLANS LIST – 19 MAY 2010

COUNCILLOR REPRESENTATION

Mrs Jeanette Walsh
Head of Development Control
City Planning
Environment Directorate
Room 302
Hove Town Hall

Date: 9 April 2010

Our Ref: GT/AN

Dear Mrs Walsh

Application No: BH2010/00431

Applicants: Mr & Mrs R Counsell

Property: 9 Ridgeside Avenue, Patcham, Brighton, BN1 8WD

Application: Erection of detached two storey, two-bedroom house replacing existing garage

We have again been contacted by a number of very worried residents about yet another planning application to build a house in the front garden of the above. We have also been sent copies of letters and of a petition signed by 96 people that has been sent to you to object to this latest planning application.

You will be aware that the applicants have submitted a number of applications for planning permission in the last few years to erect a house in their front garden, all of which were refused. The applicants have appealed against the council's refusal of planning permission and were unsuccessful when the Inspector appointed by the Secretary of State rejected the appeal.

We are, therefore, again supporting our electors who have objected to this application because we believe that there is insufficient space on the site of 9 Ridgeside Avenue to construct an additional detached property. We believe that this would be an over-development in this small close and the proposed building would alter the appearance and balance of the houses in this area.

Although we believe that there is a place for modern architecture, in our opinion this is the wrong location for such "brutal architecture". In our view the design does not respect the existing dwellings in the area and would be completely out of place and yet, unfortunately, extremely conspicuous, being in a prominent position.



Brighton & Hove City Council

PLANS LIST – 19 MAY 2010

COUNCILLOR REPRESENTATION

As you will note from the letters and photographs from residents there are already problems with car parking in this small cul-de-sac and if this application is approved it would be exacerbated. The cul-de-sac was designed to enable vehicles to turn but is usually used for the parking of vehicles. This application appears to include the demolition of the existing garage of the parent property and its replacement with an inadequate parking space in the garden of the parent house. Adjacent properties have a garage for one or two cars and a driveway and yet this appears still to be insufficient, hence the number of cars parked in the cul-de-sac.

Service and emergency vehicles have a problem accessing the close because of its small size, the narrowness of the road and the number of cars parked. Outside the garden of No 9 there is a fire hydrant that adds to the difficulties for ambulances, waste removal and recycling vehicles servicing residents.

For over twenty years there has been an active badger sett adjoining the rear of No 9. Very often badgers can be seen feeding in the front gardens of Nos 9, 11 and 13. We would ask the Committee to consider the loss of wildlife with the disruption caused by building work.

We request that this application is considered by the Planning Committee when we trust that as with the previous applications it will be refused.

We would also confirm that one of us would wish to speak against the application should it be considered by the Committee.

We should be grateful if you would acknowledge safe receipt of this letter and confirm that it will be printed in full on the agenda at the appropriate meeting of the Planning Committee.

Yours sincerely

Councillor Brian Pidgeon

Councillor Geoffrey Theobald, OBE

<u>No:</u>	BH2010/00487	<u>Ward:</u>	ST. PETER'S & NORTH LAINE
<u>App Type:</u>	Full Planning		
<u>Address:</u>	39 Queens Road		
<u>Proposal:</u>	Erection of residential extension to third floor level incorporating insertion of rooflights and windows at rear elevation and erection of commercial extension at ground floor incorporating new windows at rear elevation, insertion of ventilation grills at front elevation.		
<u>Officer:</u>	Jonathan Puplett, tel: 292525	<u>Valid Date:</u>	03/03/2010
<u>Con Area:</u>	West Hill	<u>Expiry Date:</u>	28 April 2010
<u>Agent:</u>	Leo Horsfield Surveying, 9 Clifton Hill, Brighton		
<u>Applicant:</u>	Mr Bolton, 29 Bentham Road, Brighton		

Councillor Pete West has requested that this application is determined by the Planning Committee.

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves it is **MINDED TO GRANT** planning permission subject to the expiry of the publicity period on 10 May 2010 and the receipt of no further representations which raise new material planning considerations, which have not already been considered within this report and subject to the following Conditions and Informatives:

Conditions:

1. BH01.01 Full Planning Permission.
2. BH12.02 Materials to match – Cons Area
3. All new windows shall be of painted timber frames and shall be retained as such thereafter.

Reason: To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan.

4. The new ground, second, and third floor windows to the rear elevation of the building and the third floor south facing window hereby approved shall be obscure glazed and fixed shut, and shall retained as such thereafter.

Reason: To safeguard the amenities of neighbouring occupiers and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

Informatives:

- 1) This decision is based on drawing nos. LH09-273-100A, 101G, 102G, 103D, 104B, 400G, 401F, 404J, 405D, 406A, and 407C submitted on the 27th of April 2010.
- 2) This decision to grant planning permission has been taken:-

- (i) having regard to the policies and proposals in the Brighton & Hove Local Plan set out below,

Brighton & Hove Local Plan:

SU9	Pollution and nuisance control
SU10	Noise nuisance
QD1	Design – quality of development and design statements
QD2	Design – key neighbourhood principles
QD5	Design – street frontages
QD10	Shopfronts
HE6	Development within or affecting the setting of conservation areas

Supplementary planning documents

SPD02 Shop front design and;

- (ii) for the following reasons:-

The proposed extensions and alterations would not harm the character and appearance of the building and the character of the West Hill Conservation Area would be preserved. Furthermore, no significant harm to neighbouring amenity would result.

2 THE SITE

The application relates to a mid-terrace four storey building with basement level, located on the western side of Queens Road. The property lies within the West Hill Conservation Area. The property is currently vacant, being most recently occupied as a hot food takeaway at ground floor level with residential accommodation above.

3 RELEVANT HISTORY

The most recent consent granted in relation to the property was for a change of use from retail to restaurant with take-away at ground floor level, and the conversion of upper floor offices and a flat to a self-contained maisonette and flat on first, second and third floors. This permission was granted in March 1992 under application ref. 92/0113/FP.

4 THE APPLICATION

The current application seeks consent for extensions and alterations to the rear of the building, and minor alterations to the front of the property at ground floor level.

The scheme as originally submitted consisted of the following:

- A basement and ground floor rear extension (including a rooflight) to replace existing structures.
- A third floor rear extension.
- Additional windows to the rear of the building.
- The re-positioning of existing extract ducting to the rear of the building.
- The insertion of two small ventilation grilles to the shopfront.

Following discussions with the applicant the drawings originally submitted

have been superseded by a revised set of plans. The revisions are as follows:

- The existing extract ducting is to be retained in its current position.
- The proposed rear window designs have been revised to be of sash window proportions and timber frames rather than UPVC. All new rear window openings and the south facing third floor window proposed are to be obscure glazed and fixed shut.
- The proposed rooflight to the rear ground floor extension is to be fixed shut.

5 CONSULTATIONS

Comments on the application as originally submitted

Neighbours: Neighbours: Letters were received from the residents of nos. **42, 43, 44, 45, 47 and 48 North Gardens**, objecting to the scheme (as originally submitted) on the following grounds:

- The residents of no. 38 Queens Gardens (it is stated that the applicant owns and rents out this neighbouring property) cause noise disturbance, and residents of no. 39 may cause similar problems, worsening the existing situation.
- The extended ground floor / basement restaurant use, including any ventilation and air conditioning plant to be installed, would cause noise disturbance.
- The proposed building works would cause noise disturbance.
- The proposed development would cause increased overlooking of properties in North Gardens to the rear of the application site, resulting in a loss of privacy.
- The proposed extensions would have an overbearing / overshadowing impact.
- The proposed extension to provide an additional bedroom seems unnecessary and represents overdevelopment. Increased occupation of the property will worsen noise disturbance.
- The submitted plans show no provision for fire escape or cycle storage. The only escape route therefore appears to be a narrow staircase which may be blocked by bicycles.
- The proposed UPVC framed windows would not be in keeping with surrounding buildings.

Councillor Pete West has written objecting to the proposal requesting that the application be determined by the Planning Committee (see attached letter).

Comments on the revised plans submitted

Neighbours: No further comments have been received.

6 PLANNING POLICIES

Brighton & Hove Local Plan:

SU9 Pollution and nuisance control

SU10	Noise nuisance
QD1	Design – quality of development and design statements
QD2	Design – key neighbourhood principles
QD5	Design – street frontages
QD10	Shopfronts
HE6	Development within or affecting the setting of conservation areas

Supplementary planning documents

SPD02 Shop front design

7 CONSIDERATIONS

The proposed development does not involve a change of use. The ground floor and basement would be retained as a restaurant / takeaway, with proposed extensions providing a small increase in floorspace. The upper floors of the building would be laid out as a flat and maisonette, in accordance with the most recent planning permission relating to the property (ref. 92/0113/FP). The proposed third floor extension would provide an additional bedroom to the second/third floor maisonette.

The main issues of consideration in this case are therefore the impact of the proposed alterations on the character and appearance of the property and the street scene, and any harm to neighbouring residential amenity which would result.

Visual Impact

To the front of the property two small ventilation grilles are proposed; these additions would not have a significant impact on the appearance of the building and are considered acceptable.

To the rear of the building and a basement/ground floor extension is proposed in place of the existing structures and small yard area. A third floor extension is proposed to the existing rear projection of the building. New windows are proposed to the rear of the building and to the northern and southern sides of the rear projection. These windows are to be timber framed units with sash window proportions. It is considered that these extensions and alterations are in keeping with the character of the building, and are acceptable in regard to their visual impact. The character of the surrounding conservation area would be preserved.

Neighbouring amenity

The proposed extensions and alterations would have greatest impact upon the occupiers of residential properties to the rear (west) of the site in North Gardens, and those of properties immediately to the south in Queens Road.

The bulk of the proposed ground/basement floor extension would not have a significant impact upon neighbouring amenity as this structure would be set away from residential properties located in North Gardens to the rear, and is set alongside existing structures to either side. Furthermore, this extension

would replace existing structures.

The proposed third floor rear extension would have some impact upon neighbouring amenity. The existing close relationship between properties in North Gardens and properties in Queens Road means that the outlook from the rear windows of North Gardens properties is restricted/enclosed. The proposed third floor extension would be clearly visible from these neighbouring properties and would worsen this relationship to some extent. It is not however considered that this change would result in a significantly increased overbearing impact, and the outlook from rear windows of North Gardens properties would not be significantly worsened. Significantly increased overshadowing would not result.

The extension would be located alongside second and third floor windows of no. 38 to the south of the application site. This addition will enclose outlook from these windows to some extent, however no significant overshadowing would result; overall it is considered again that significant harm would not result.

In regard to privacy, the new window openings proposed to the rear (west) and southern elevation are to be obscure glazed and fixed shut. These windows will therefore not cause any increased overlooking of neighbouring residents. One third floor window is proposed to the northern side of the rear elevation; this window faces onto a blank wall and is to be clear glazed and opening.

In regard to noise disturbance, all of the new windows proposed to the rear and southern elevations of the building and a rooflight (to serve the ground floor restaurant / takeaway use) are to be fixed shut. The existing ventilation ducting is to be retained in its current position. It is acknowledged that the increase in ground floor and basement floorspace, and the third floor extension to provide an additional bedroom is likely to increase levels of occupancy and activity within the building to some extent. It is however considered that this would not cause significantly increased levels of noise and disturbance for neighbouring residents. As detailed above, the majority of the new windows proposed are to be fixed shut, and the proposed basement/ground floor extension would enclose an existing outdoor space.

Other matters

Neighbouring residents have raised objections regarding the potential impact of the proposed development; many of these matters have been addressed above.

In addition to those impacts on amenity addressed above, neighbouring have raised the following concerns:

- Disturbance which may be caused during building works were the development to be carried out

- The lack of cycle storage within the building and concerns regarding fire escape routes

Noise disturbance caused by building works and fire escape routes are not material planning considerations in this case and would be addressed by other relevant legislation. As no change of use is proposed, it would not be reasonable to require the provision of cycle storage facilities in association with the existing restaurant/takeaway and residential use.

Conclusion

As detailed above, consent is only required for the proposed extensions and external alterations. These alterations and additions are considered appropriate in regard to their visual impact, and no significant harm to neighbouring amenity would result. Approval is therefore recommended.

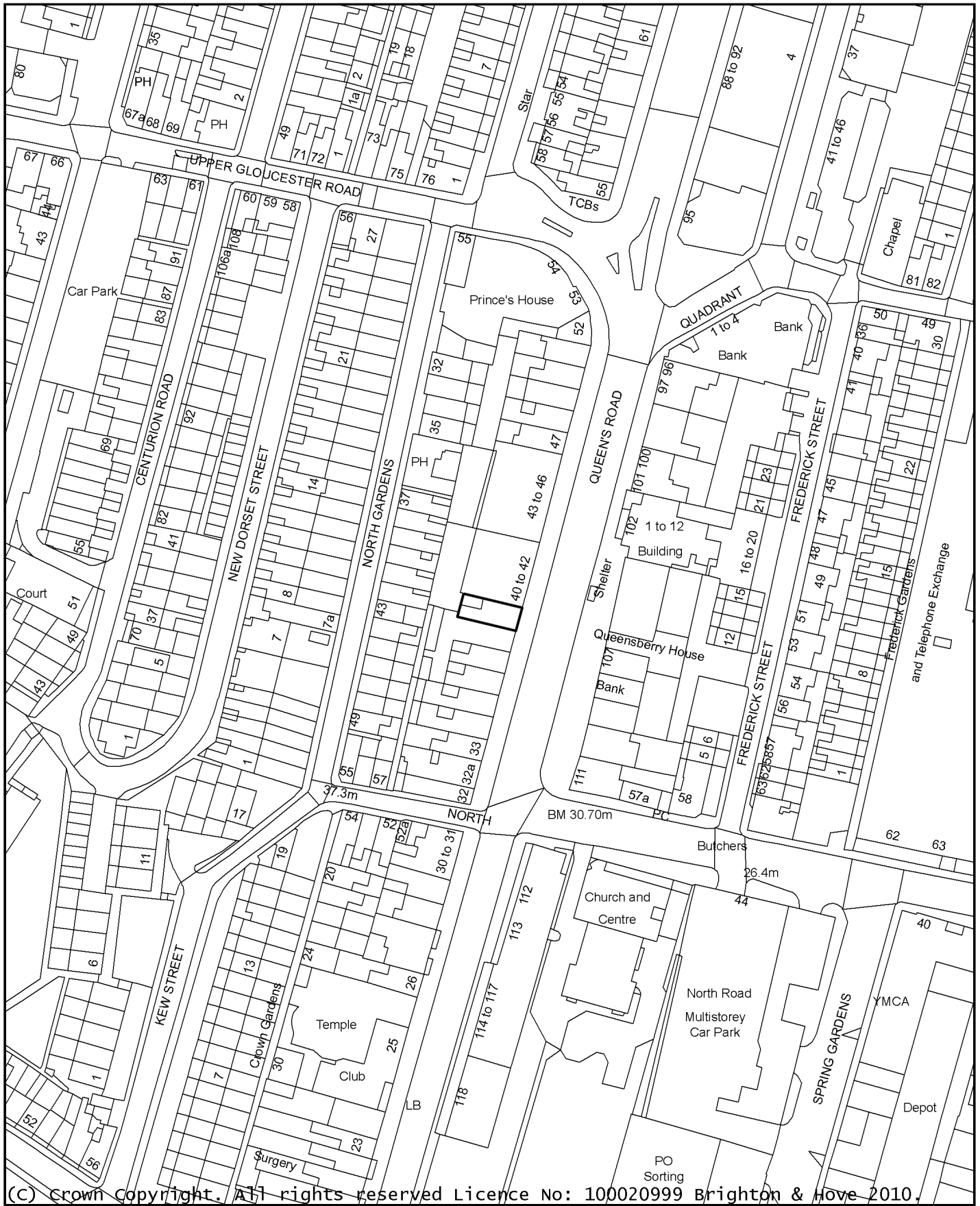
8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

The proposed extensions and alterations would not harm the character and appearance of the building and the character of the West Hill Conservation Area would be preserved. Furthermore, no significant harm to neighbouring amenity would result.

9 EQUALITIES IMPLICATIONS

None identified.

BH2010/000487 39 Queens Road



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**Brighton & Hove
City Council**

PLANS LIST – 19 MAY 2010

COUNCILLOR REPRESENTATION

Mr Jonathan Puplett
Planning Officer
Development Control
First Floor
Hove Town Hall

Date: 30 March 2010

Our Ref: PW/AN

Your Ref:

31 MAR 2010

Dear Mr Puplett

Re: Planning Application BH2010/487, 39 Queens Road

I have been contacted by a number of residents living in properties in North Gardens objecting to the proposed 3rd floor rear extension to 39 Queen's Road. I wish to register my view that the proposed development will adversely impact on these residents and should therefore be refused.

My objection is that the proposed extension will be overbearing and result in a loss of light, and a loss of privacy from overlooking from the additional bedroom windows.

If you are minded to approve the application I would request as a Ward Councillor that the application is taken before committee for decision. And, notwithstanding the concerns about loss of light, that if approved the issue of loss of privacy be addressed by conditioning the windows to be obscure glazed and not fully opening.

Many thanks.

Yours sincerely

Councillor Pete West

