

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

<b><u>No:</u></b>	<b>BH2010/00235</b>	<b><u>Ward:</u></b>	<b>HOLLINGDEAN &amp; STANMER</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Varley Halls of Residence, Coldean Lane, Coldean</b>		
<b><u>Proposal:</u></b>	<b>Demolition of existing student halls of residence to provide replacement facilities between 3 and 5 storeys including 564 bed spaces, seminar rooms, a café/bar, laundry facilities, car parking, cycle parking and associated landscaping.</b>		
<b><u>Officer:</u></b>	<b>Kate Brocklebank, tel: 292175</b>	<b><u>Valid Date:</u></b>	<b>10/02/2010</b>
<b><u>Con Area:</u></b>	<b>N/A</b>	<b><u>Expiry Date:</u></b>	<b>12 May 2010</b>
<b><u>Agent:</u></b>	<b>BDP, 16 Brewhouse Yard, Clerkenwell, London, EC1V 4LJ</b>		
<b><u>Applicant:</u></b>	<b>University of Brighton, Mr Neil Humphreys, Exion 27, Estate and Facilities, Crowhurst Road, Hollingbury, Brighton, BN1 8AF</b>		

**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 that it is **MINDED TO GRANT** planning permission subject to the completion of a Section 106 agreement and to the following Conditions and Informatives:

**s106:**

- Prior to development commencing details of a Construction Environmental Management Plan (CEMP) shall be submitted and agreed in writing.
- Prior to occupation a Community Access Agreement shall be submitted and agreed in writing.
- Sustainable Transport – a sum of £64,369 shall be paid towards improvements to sustainable transport in the location – to be phased, 50% to be paid prior to the commencement of Phase 1 and the remaining 50% prior to Phase 2.
- Prior to first occupation of Phase 1, a Travel Plan annual monitoring and updating shall be submitted and agreed in writing.
- Prior to commencement a contribution of £19,682.96 shall be paid towards improvements to adult/youth sporting facilities in the location.
- Inclusion of an element(s) of public art to the value of £36,000 shall be integrated into the development as architectural landscape features across the site.

**Conditions:**

**WHOLE SITE DEVELOPMENT**

1. BH01.01 Full Planning Permission
2. The windows servicing bathrooms in each block in all three Phases of

development hereby approved, as well as the first floor windows in the north east elevation of the 'Hub Building' 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 policy and QD27 of the Brighton & Hove Local Plan.

3. Unless otherwise agreed in writing by the Local Planning Authority, all three Phases of the development hereby approved shall be carried out in accordance with the 'Planning Report – Lighting revision A dated 27.01.10' received 28<sup>th</sup> January 2010.

**Reason:** In the interests of residential amenity and the visual amenity of the Sussex Downs Area of Outstanding Natural Beauty and South Downs National Park and in accordance with policies SU9, QD18, QD26, QD27, NC7 and NC8 of the Brighton & Hove Local Plan.

4. Unless otherwise agreed in writing by the Local Planning Authority, no cables, wires, aerials, pipework (except rainwater downpipes as shown on the approved plans), meter boxes or flues shall be fixed to any elevation facing a highway in all three Phases of development hereby approved.

**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

5. No development shall commence on Phase 1 of the development hereby approved as shown on drawing number (SK)LP011 revision A received 22<sup>nd</sup> July 2010, until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work for all three Phases of development hereby approved in accordance with a written scheme of investigation, including a timetable for the investigation, which has been submitted by the applicant and approved in writing by the Local Planning Authority and the works shall be undertaken in accordance with the approved details.

**Reason:** To enable the recording of any items of historical or archaeological interest, as the development is likely to disturb remains of archaeological interest, in accordance with requirements within PPS 5 'Planning for the Historic Environment' and Policy HE12 of the Brighton & Hove Local Plan.

6. Prior to first occupation of Phase 1 of the development, a Drainage Infrastructure Maintenance Plan (DIMP) shall be submitted to and agreed in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the local planning authority.

**Reason:** In the interests of the protection of controlled waters and to ensure compliance with policies SU3 and SU5 of the Brighton & Hove Local Plan.

7. Throughout all three Phases of development, no vehicles, plant or materials shall be driven or placed within the adjacent pLNR at any time.

**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.

8. Unless otherwise agreed in writing by the Local Planning Authority, no development shall commence on Phase 1 of the development hereby approved as shown on drawing number (SK)LP011 revision A received 22<sup>nd</sup> July 2010, until fences for the protection of trees to be retained have been erected in accordance with the recommendations set out in the arboricultural statement from 'Arbtech Environmental Services' received 16<sup>th</sup> June 2010 and supporting Tree Protection Plan drawing number TPP – 01 revision B. 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. All trees to be retained shall be protected to BS 5837 (2005) and NJUG10 (Guidelines in the planning, installation and maintenance of utility services in the proximity to trees).

**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.

9. The terraced area on the north east side of the Hub Building shall be used for access only and shall not be used as a terrace.

**Reason:** To safeguard the privacy of the occupiers of the adjoining property and to comply with policy and QD27 of the Brighton & Hove Local Plan.

#### **PHASE 1 DEVELOPMENT**

10. Prior to the completion of the ground floor slabs of the Phase 1 buildings as shown on drawing number (SK)LP011 revision A received 22<sup>nd</sup> July 2010, drawings illustrating the constructional details of both the key building elements, including brick and tile junctions and edge detail of external cladding, balustrading, canopies; and the landscape features, including fencing, the steps, walls and seating areas, in Phase 1 at a scale of 1:20 or greater, have been submitted to and approved in writing by the Local Planning Authority. Phase 1 shall be carried out in accordance with the approved details.

**Reason:** To ensure a satisfactory appearance to the development and to comply with policies QD1 and QD15 of the Brighton & Hove Local Plan.

11. Phase 1 of the development hereby approved as shown on drawing number (SK)LP011 revision A received 22<sup>nd</sup> July 2010, shall not be occupied until the refuse and recycling storage 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.

12. Prior to the completion of the ground floor slabs of the Phase 1 buildings as shown on drawing number (SK)LP011 revision A received 22<sup>nd</sup> July 2010, samples of the materials (including colour of render, paintwork and colourwash) to be used in the construction of the external surfaces of Phase 1 of the development hereby permitted shall be submitted to and

approved in writing by the Local Planning Authority. Phase 1 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.

13. Prior to the completion of the ground floor slabs of the Phase 1 buildings as shown on drawing number (SK)LP011 revision A received 22<sup>nd</sup> July 2010, details of any flues to be installed on the Energy Centre shall be submitted to and approved in writing by the Local Planning Authority. Phase 1 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.

14. Unless otherwise agreed in writing by the Local Planning Authority, the development shall be carried out in strict accordance with the 'Kitchen Ventilation and Extract Details: Hub Building REP (00) M001 Rev – February 2010' received on 26<sup>th</sup> February 2010.

**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.

15. Prior to first occupation of Phase 1 of development as shown on drawing number (SK)LP011 revision A received 22<sup>nd</sup> July 2010, details of the contents and method of distribution of the casual/informal recreation information pack shall be submitted to and agreed in writing by the Local Planning Authority; the information packs shall then be made available and distributed in accordance with the approved details.

**Reason:** To ensure appropriate information on local casual/informal recreational facilities is adequately distributed and to accord with policy HO6 of the Brighton & Hove Local Plan and SPG9 'A guide for residential developers on the provision of recreational space'.

16. Prior to first occupation of Phase 1 of development as shown on drawing number (SK)LP011 revision A received 22<sup>nd</sup> July 2010, details of the types, management and maintenance of the sporting equipment provision shall be submitted to and agreed in writing by the Local Planning Authority; the equipment shall then be made available for use in accordance with the approved details.

**Reason:** To ensure appropriate provision of casual/informal recreational facilities and to accord with policy HO6 of the Brighton & Hove Local Plan and SPG9 'A guide for residential developers on the provision of recreational space'.

17. Unless otherwise agreed in writing by the Local Planning Authority, no development shall commence on Phase 1 as shown on drawing number (SK)LP011 revision A received 22<sup>nd</sup> July 2010, until ecological mitigation and enhancement measures set out from paragraphs 4.2 – 4.4.5 in the 'Final Ecological Mitigation and Enhancement Strategy' dated May 2010 and associated 'Indicative Phase 1 Enabling Works Programme including Ecological Works' received on 23<sup>rd</sup> July 2010 have been carried out in full.

**Reason:** To safeguard these protected species from the impact of the development and ensure appropriate integration of new nature

conservation and enhancement features in accordance with policy QD17 and QD18 of the Brighton & Hove Local Plan.

18. Prior to the completion of the ground floor slabs of the Phase 1 buildings as shown on drawing number (SK)LP011 revision A received 22<sup>nd</sup> July 2010, details of a scheme for the provision of a detailed ecological enhancement strategy for the site, including details of the type and location of the 5 proposed bat boxes/roosting sites, together with maintenance plan and timetable for implementation shall be submitted to and approved by the Local Planning Authority. Phase 1 shall then be implemented in accordance with the approved details.  
**Reason:** To safeguard these protected species from the impact of the development and ensure appropriate integration of new nature conservation and enhancement features in accordance with policy QD17 and QD18 of the Brighton & Hove Local Plan.
19. No construction shall commence on Phase 1 as shown on drawing number (SK)LP011 revision A received 22<sup>nd</sup> July 2010, until a scheme for the sewerage system has been submitted to and approved in writing by the Local Planning Authority. The sewerage system shall then be implemented in full and in strict accordance with the approved details prior to first occupation of Phase 1 and retained as such thereafter.  
**Reason:** In the interests of the protection of controlled waters and to ensure compliance with policies SU3 and SU5 of the Brighton & Hove Local Plan.
20. No construction shall commence on Phase 1 as shown on drawing number (SK)LP011 revision A received 22<sup>nd</sup> July 2010, 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 the increased risk of flooding and to prevent pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal and to comply with policies SU3 and SU5 of the Brighton & Hove Local Plan.
21. Prior to the completion of the ground floor slabs of the Phase 1 buildings as shown on drawing number (SK)LP011 revision A received 22<sup>nd</sup> July 2010, details of the real-time bus information boards to be provided on site shall be submitted to and approved in writing by the Local Planning Authority. The real-time bus information boards shall then be installed prior to occupation of Phase 1.  
**Reason:** In order to encourage the use of sustainable modes of transport and to comply with policies TR1 and TR2 of the Brighton & Hove Local Plan.
22. Prior to the occupation of Phase 1 as shown on drawing number (SK)LP011 revision A received 22<sup>nd</sup> July 2010, details of the car parking management plan shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall then be implemented in accordance with the approved details.  
**Reason:** In order to discourage the use of private motor vehicle In order to discourage the use of private motor vehicle and to comply with policies



TR1 and TR2 of the Brighton & Hove Local Plan.

23. Unless otherwise agreed in writing by the Local Planning Authority, within 6 months of the date of this permission, the applicant shall submit:
- a) evidence that the development is registered with the Building Research Establishment (BRE) under BREEAM (either a 'BREEAM Buildings' scheme or a 'bespoke BREEAM') and a Design Stage Assessment Report showing that the development will achieve a Multi Residential BREEAM rating of 52.17% in energy and 87.5% in water sections of relevant BREEAM assessment within overall 'Excellent' for the development within Phase 1 as shown on drawing number (SK)LP011 revision A received 22<sup>nd</sup> July 2010 have been submitted to the Local Planning Authority; and
  - b) a BRE issued Design Stage Certificate demonstrating that the development has achieved a Multi Residential BREEAM rating of 52.17% in energy and 87.5% in water sections of relevant BREEAM assessment within overall 'Excellent' for the development within Phase 1 as shown on drawing number (SK)LP011 revision A received 22<sup>nd</sup> July 2010 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.

24. Unless otherwise agreed in writing by the Local Planning Authority, within 5 months of the first occupation of Phase 1 of the development as shown on drawing number (SK)LP011 revision A received 22<sup>nd</sup> July 2010, a Multi Residential BREEAM Design Stage Certificate and a Building Research Establishment issued Post Construction Review Certificate confirming that the development built has achieved a Multi Residential BREEAM rating of 52.17% in energy and 87.5% in water sections of relevant Multi Residential BREEAM assessment within overall 'Excellent' 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.

25. Prior to the completion of the ground floor slabs of the Phase 1 buildings as shown on drawing number (SK)LP011 revision A received 22<sup>nd</sup> July 2010, elevational details of secure, covered cycle parking facilities shown on the approved plans, for the occupants of, and visitors to, the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the occupation of Phase 1 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.

26. All planting, seeding or turfing comprised in Phase 1 as shown on drawing number drawing number (SK)LP011 revision A received on 22<sup>nd</sup> July 2010 and the approved corresponding soft landscape Planting Plan(s) ((94)LP 101, 201, 103 revision D and 104 revision A received on 16<sup>th</sup> June 2010), 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.

#### **PHASE 2 DEVELOPMENT**

27. No development shall commence on Phase 2 as shown on drawing number (SK)LP012 revision A received on 22<sup>nd</sup> July 2010, until drawings illustrating the constructional details of both the key building elements, including brick and tile junctions and edge detail of external cladding, balustrading, canopies; and the landscape features, including fencing, the steps, walls and seating areas, in Phase 1 at a scale of 1:20 or greater, have been submitted to and approved in writing by the Local Planning Authority. Phase 1 shall be carried out in accordance with the approved details.

**Reason:** To ensure a satisfactory appearance to the development and to comply with policies QD1 and QD15 of the Brighton & Hove Local Plan.

28. Phase 2 of the development hereby approved as shown on drawing number (SK)LP012 revision A received 22<sup>nd</sup> July 2010, shall not be occupied until the refuse and recycling storage 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.

29. No development shall commence on Phase 2 as shown on drawing number (SK)LP012 revision A received 22<sup>nd</sup> July 2010, until samples of the materials (including colour of render, paintwork and colourwash) to be used in the construction of the external surfaces of Phase 2 of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Phase 2 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.

30. No development shall commence on Phase 2 as shown on drawing number (SK)LP012 revision A received on 22<sup>nd</sup> July 2010, until elevational details of secure, covered cycle parking facilities shown on the approved plans for the occupants of, and visitors to, the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the occupation of Phase 2 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.

31. No development shall commence on Phase 2 as shown on drawing number (SK)LP012 revision A received on 22<sup>nd</sup> July 2010, until a scheme for the sewerage system has been submitted to and approved in writing by the Local Planning Authority. The sewerage system shall then be implemented in full and in strict accordance with the approved details prior to first occupation of Phase 2, and thereafter retained as such.

**Reason:** In the interests of the protection of controlled waters and to ensure compliance with policies SU3 and SU5 of the Brighton & Hove Local Plan.

32. No development shall commence on Phase 2 as shown on drawing number (SK)LP012 revision A received on 22<sup>nd</sup> July 2010, 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 the increased risk of flooding and to prevent pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal and to comply with policies SU3 and SU5 of the Brighton & Hove Local Plan.

33. All planting, seeding or turfing comprised in Phase 2 as shown on drawing number drawing number (SK)LP012 revision A received on 22<sup>nd</sup> July 2010 and the approved corresponding Soft Landscape Planting Plan (s) ((94)LP 101, 201, 103 revision D and 104 revision A received on 16<sup>th</sup> June 2010), 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 appropriately maintained thereafter 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.
34. No development shall commence on Phase 2 as shown on drawing number drawing number (SK)LP012 revision A received on 22<sup>nd</sup> July 2010, until details of the construction of the green roofs have been submitted to and approved in writing by the Local Planning Authority. The details shall include a cross section, construction method statement. The scheme shall then be carried out in accordance with the approved details.  
**Reason:** To ensure that the development contributes to ecological enhancement on the site and in accordance with policy QD17 of the Brighton & Hove Local Plan.
35. No development shall commence on Phase 2 as shown on drawing number drawing number (SK)LP012 revision A received on 22<sup>nd</sup> July 2010, until details of a scheme for the provision of a detailed ecological mitigation and enhancement strategy for the site including details of proposed green walling, together with a maintenance plan and timetable for implementation shall be submitted to and approved by the Local Planning Authority. Phase 2 shall then be implemented in accordance with the approved details.  
**Reason:** To safeguard these protected species from the impact of the development and ensure appropriate integration of new nature conservation and enhancement features in accordance with policy QD17 and QD18 of the Brighton & Hove Local Plan.
36. No development shall commence on Phase 2 as shown on drawing number drawing number (SK)LP012 revision A received on 22<sup>nd</sup> July 2010, until details of the kick wall, basket ball hoop and 20 bicycles including a timetable for implementation and maintenance program, have been submitted to and agreed in writing by the Local Planning Authority, the facilities shall then be implemented in accordance with the approved details and retained as such thereafter.  
**Reason:** To ensure appropriate provision of casual/informal recreational facilities and to accord with policy HO6 of the Brighton & Hove Local Plan and SPG9 'A guide for residential developers on the provision of recreational space'.
37. No development shall commence on Phase 2 as shown on drawing number drawing number (SK)LP012 revision A received on 22<sup>nd</sup> July 2010, until details of the 'Trim Trail' including a timetable for implementation and maintenance, have been submitted to and agreed in writing by the Local Planning Authority, the facilities shall then be implemented in accordance with the approved details and retained as such thereafter.  
**Reason:** To ensure appropriate provision of recreational sporting facilities and to accord with policy HO6 of the Brighton & Hove Local Plan and SPG9 'A guide for residential developers on the provision of recreational space'.
38. Unless otherwise agreed in writing by the Local Planning Authority, no development shall commence on Phase 2 as shown on drawing number drawing number (SK)LP012 revision A received on 22<sup>nd</sup> July 2010 until:  
a) evidence that the development is registered with the Building

Research Establishment (BRE) under BREEAM (either a 'BREEAM Buildings' scheme or a 'bespoke BREEAM') and a Design Stage Assessment Report showing that the development will achieve a Multi Residential BREEAM rating of 65.22% in energy and 87.5% in water sections of relevant BREEAM assessment within overall 'Excellent' for the development within Phase 2 have been submitted to the Local Planning Authority; and

- b) a BRE issued Design Stage Certificate demonstrating that the development has achieved a Multi Residential BREEAM rating of 65.22% in energy and 87.5% in water sections of relevant BREEAM assessment within overall 'Excellent' for the development within Phase 2 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.

39. Unless otherwise agreed in writing by the Local Planning Authority, prior to first occupation of Phase 2 of the development as shown on drawing number (SK)LP012 revision A received on 22<sup>nd</sup> July 2010, a Multi Residential BREEAM Design Stage Certificate and a Building Research Establishment issued Post Construction Review Certificate confirming that the development built has achieved a Multi Residential BREEAM rating of 65.22% in energy and 87.5% in water sections of relevant Multi Residential BREEAM assessment within overall 'Excellent' 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.

### PHASE 3 DEVELOPMENT

40. No development shall commence on Phase 3 as shown on drawing number drawing number (SK)LP013 revision A received on 22<sup>nd</sup> July 2010, until drawings illustrating the constructional details of both the key building elements, including brick and tile junctions and edge detail of external cladding, balustrading, canopies; and the landscape features, including fencing, the steps, walls and seating areas, in Phase 1 at a scale of 1:20 or greater, have been submitted to and approved in writing by the Local Planning Authority. Phase 1 shall be carried out in accordance with the approved details.

**Reason:** To ensure a satisfactory appearance to the development and to comply with policies QD1 and QD15 of the Brighton & Hove Local Plan

41. Phase 3 of the development hereby approved as shown on drawing number (SK)LP013 revision A received 22<sup>nd</sup> July 2010, shall not be occupied until the refuse and recycling storage 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.

42. No development shall commence on Phase 3 as shown on drawing number (SK)LP013 revision A received 22<sup>nd</sup> July 2010, until samples of the materials (including colour of render, paintwork and colourwash) to be used in the construction of the external surfaces of Phase 3 of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Phase 3 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.

43. All planting, seeding or turfing comprised in Phase 3 as shown on drawing number (SK)LP013 revision A received on 22<sup>nd</sup> July 2010 and the approved corresponding Soft Landscape Planting Plan (s) ((94)LP 101, 201, 103 revision D and 104 revision A received on 16<sup>th</sup> June 2010), 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 appropriately maintained thereafter 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.

44. No development shall commence on Phase 3 as shown on drawing number (SK)LP013 revision A received on 22<sup>nd</sup> July 2010 and the approved corresponding landscaping scheme, until details of the construction the green roofs have been submitted to and approved in writing by the Local Planning Authority. The details shall include a cross section, construction method statement. The scheme shall then be carried out in accordance with the approved details.

**Reason:** To ensure that the development contributes to ecological enhancement on the site and in accordance with policy QD17 of the Brighton & Hove Local Plan.

45. No development shall commence on Phase 3 as shown on drawing number (SK)LP013 revision A received on 22<sup>nd</sup> July 2010 and the approved corresponding landscaping scheme, until details of a scheme for the provision of a detailed ecological mitigation and enhancement strategy for the site including details of proposed green walling and the types and location of bird boxes, together with maintenance plan shall be submitted to and approved by the Local Planning Authority. Phase 3 shall then be implemented in accordance with the approved details.

**Reason:** To safeguard these protected species from the impact of the

development and ensure appropriate integration of new nature conservation and enhancement features in accordance with policy QD17 and QD18 of the Brighton & Hove Local Plan.

46. No development shall commence on Phase 3 as shown on drawing number (SK)LP013 revision A received on 22<sup>nd</sup> July 2010 and the approved corresponding landscaping scheme, until elevational details of secure covered cycle parking facilities shown on the approved plans for the occupants of, and visitors to, the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the occupation of Phase 3 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.
47. Unless otherwise agreed in writing by the Local Planning Authority, no development shall commence on Phase 3 as shown on drawing number (SK)LP013 revision A received on 22<sup>nd</sup> July 2010 and the approved corresponding landscaping scheme until:
- a) evidence that the development is registered with the Building Research Establishment (BRE) under BREEAM (either a 'BREEAM Buildings' scheme or a 'bespoke BREEAM') and a Design Stage Assessment Report showing that the development will achieve a Multi Residential BREEAM rating of 65.22% in energy and 87.5% in water sections of relevant BREEAM assessment within overall 'Excellent' for the development within Phase 3 have been submitted to the Local Planning Authority; and
  - b) a BRE issued Design Stage Certificate demonstrating that the development has achieved a Multi Residential BREEAM rating of 65.22% in energy and 87.5% in water sections of relevant BREEAM assessment within overall 'Excellent' for the development within Phase 3 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.

48. Unless otherwise agreed in writing by the Local Planning Authority, prior to first occupation of Phase 3 as shown on drawing number (SK)LP013 revision A received on 22<sup>nd</sup> July 2010 a Multi Residential BREEAM Design Stage Certificate and a Building Research Establishment issued Post Construction Review Certificate confirming that the development built has achieved a Multi Residential BREEAM rating of 65.22% in energy and 87.5% in water sections of relevant Multi Residential BREEAM assessment within overall 'Excellent' 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.

49. No development shall commence on Phase 3 drawing number (SK)LP013 revision A received on 22<sup>nd</sup> July 2010, until a scheme for the sewerage system has been submitted to and approved in writing by the Local Planning Authority. The sewerage system shall then be implemented in full and in strict accordance with the approved details prior to first occupation of Phase 3, and thereafter retained as such.

**Reason:** In the interests of the protection of controlled waters and to ensure compliance with policies SU3 and SU5 of the Brighton & Hove Local Plan.

50. No development shall commence on Phase 3 as shown on drawing number (SK)LP013 revision A received on 22<sup>nd</sup> July 2010 and the approved corresponding landscaping scheme, 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 the increased risk of flooding and to prevent pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal and to comply with policies SU3 and SU5 of the Brighton & Hove Local Plan.

51. No development shall commence on Phase 3 as shown on drawing number (SK)LP013 revision A received on 22<sup>nd</sup> July 2010, until details of the vegetable growing area has been submitted to and approved in writing by the Local Planning Authority. Phase 3 shall then be carried out in accordance with the approved details.

**Reason:** To ensure that the development is sustainable and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.

Informatives:

1. This decision is based on drawings and supporting documentation contained in the 'Planning Application Drawing Schedule' appended to this decision notice.
2. This decision to grant Planning Permission following 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
TR4	Travel Plans
TR5	Sustainable transport corridors and bus priority measures
TR7	Safe development
TR8	Pedestrian routes



## PLANS LIST – 01 SEPTEMBER 2010

TR13	Pedestrian network
TR14	Cycle access and parking
TR15	Cycle network
TR18	Parking for people with a mobility related disability
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
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
QD17	Protection and integration of nature conservation features
QD18	Species protection
QD19	Greenways
QD25	External lighting
QD27	Protection of amenity
QD28	Planning obligations
HO5	Provision of private amenity space in residential development
HO6	Provision of outdoor recreation space in housing schemes
NC3	Local Nature Reserves (LNRs)
NC5	Urban Fringe
NC7	Sussex Downs Area of Outstanding Natural Beauty
NC8	Setting of the Downs Area of Outstanding Natural Beauty
HE11	Historic parks and gardens
HE12	Scheduled ancient monuments and other important archaeological sites

### Supplementary Planning Documents (SPD)

SPD03	Construction and Demolition Waste
SPD06	Trees and Development Sites
SPD08	Sustainable Building Design
SPD11	Nature Conservation and Development

Supplementary Planning Guidance Notes

SPGBH4 Parking Standards

SPGBH9 A guide for residential developers on the provision of recreational space. (Draft); and

(ii) for the following reasons:-

The development will provide an increase of 294 (a total of 564) bed spaces and combined purpose built communal facilities in addition to the on site sporting and recreation provision resulting in an acceptable intensification of the use on an existing halls of residence site. With the imposition of conditions to control the development in detail and the agreement of the details set out in the legal agreement the development will have an acceptable impact on the character and appearance of the South Downs National Park, the historic park and garden of Stanmer and archaeology and the surrounding highway network and will maintain neighbouring amenity. The scheme will achieve an overall BREEAM rating of 'Excellent' and will not have an adverse impact on the existing ecology whilst improving biodiversity.

3. In relation to condition 9 the applicant is advised that the DIMP should cover the following key areas:
  - Owner Responsibilities
  - On-site Staff Training
  - Emergency Actions
  - As built drawings of the drainage systems
  - Inspection and Maintenance of Surface Water System
  - Inspection and Maintenance of Foul Water System
  - Maintenance Records
4. The applicant is advised that they should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. Please contact Atkins Ltd, Anglo St James House, 39A Southgate Street, Winchester SO23 9EH (tel 01962 858688), or [www.southernwater.co.uk](http://www.southernwater.co.uk).
5. The applicant is advised that under Part 1 of the Wildlife and Countryside Act 1981 disturbance to nesting birds must not occur and they must accord with the requirements of the Habitat Regulations with regard to Bats, which are protected under both from disturbance, damage or destroying a bat roost.
6. The applicant is advised in relation to condition 16 above that the sporting equipment provision could include items such as basket balls, footballs, rounders equipment and should be made available to the students free of charge.
7. The applicant should be aware that given the complexity of the build and the student union/café areas and the likely sale of alcohol, and regulated

entertainment, they will need to apply for the requisite licences under the Licensing Act 2003. This is a completely separate regime to the planning process and the grant of planning consent does not necessarily confer the grant of licensing approval. Registration of the food premises will also be necessary with the Food Safety Team within Environmental Health. The Food Safety Team may also provide assistance and advice upon request. It is strongly recommended that the Food Safety Team be consulted prior to any final build of kitchen premises.

8. The applicant is advised that a European Protected Species Licence must be obtained from Natural England with respect to the presence of bats on site.
9. The applicant is also advised that an agreement with Southern Water, prior to commencement of the development, the measures to be undertaken to divert/protect the public water supply main.

## **2 THE SITE**

The site is situated on the eastern side of Coldean Lane opposite the Coldean Estate. There are a number of constraints on and adjacent to the site, it borders to the south, the South Downs National Park (SDNP). The site is also bounded by an area of ancient woodland along the south west boundary beyond which are allotments, the area which surrounds the site forms part of the historic park and garden for Stanmer Park. A proposed Local Nature Reserve (pLNR) surrounds the site and a greenway runs through and along the south east and north east boundaries. The site is also within an archaeologically sensitive area. There are also a number of ecologically sensitive constraints on the site including a badgers set within the south east far end which is currently fenced off from the main site.

The application site is approximately 1.9ha of the total site area of approximately 2.94ha and is currently occupied by part of the University of Brighton halls of residents and associated facilities. The application relates to the buildings within the central core of the site known as Ashdown, Balcombe, Chailey and Ditchling with a total of 270 bed spaces. The application excludes the southern and northern ends of the site however the redevelopment proposal has been considered as part of a masterplan to redevelop the whole site in future phases. The site slopes very steeply from the west at the lowest point to the east at the highest.

There are currently a total of 128 car parking spaces on this portion of the site which forms the application site, the site as a whole has a total of 173 spaces.

## **3 RELEVANT HISTORY**

**BH2010/02411:** Prior notification for demolition of Chailey House and the Launderette/gym block. Currently under consideration.

**92/0284/FP:** Erection of one 2-storey and six 3-storey blocks in north field, comprising 20 dwelling units for 116 students and one warden with 59 car

parking spaces and 8 motor cycle parking spaces. Approved 27/8/1992.

**91/0379/FP:** Provision of new residential accommodation (109 bedspaces) in 2, 3 and 4 storey blocks and parking for 55 cars. Approved 21/5/1991.

#### **4 THE APPLICATION**

The application seeks planning permission to demolish the existing buildings within the core site area known as Ashdown, Balcombe, Chailey and Ditchling. The application proposes the erection of ten buildings ranging between 3 and 5 storeys in height to create a total of 564 bed spaces, seminar rooms, a café/bar, laundry facilities, fitness suite, car and cycle parking. It is proposed to bring the development forward in three separate phases.

The proposed buildings can be broken down into four building types:

The 'Hub Building' contains the communal facilities for the halls of residence. The main entrance and reception area is at lower ground floor level, the café/bar (150sqm), seminar rooms (320sqm) and plant room are also contained on this floor. At the upper ground floor level the accommodation proposed includes the launderette (30sqm), fitness suite (50sqm), restaurant (275sqm) and terrace, seminar dining area, kitchen and servery. The three storeys above propose residential accommodation.

The three 'Woodland' buildings are located along the south west boundary of the site and are all four storeys in height.

The three 'Slope Houses' are orientated facing north west and south east across the site, climbing up the slope. Slope house 1 and 2 are three storeys in height and Slope 3 rises up to four storeys.

The three 'Hill Houses' are located along the north east boundary, Hill Houses 1 and 2 are three storeys in height while Hill House three is four storeys in height.

The Woodland, Hill and Slope houses contain residential accommodation and associated kitchen and bathroom facilities.

The development proposes 61 car parking bays including 7 wheelchair accessible bays and 200 cycle parking spaces.

The development will be brought forward in three phases resulting in a net increase of 294 bed spaces, they are broken down as follows:

##### **Phase 1:**

Buildings - Hub Building, Woodland Buildings 1 and 2, the energy centre and substation 1 and 2: – 200 new bed spaces (426 total bed spaces in core site).

Parking – 57 car parking spaces and 42 cycle spaces.

**Phase 2:**

Buildings – Slope houses 2 and 3 and Hill House 3: – 150 new bed spaces (432 total bed spaces in core site).

Parking – 64 car parking spaces and 106 cycle spaces.

**Phase 3:**

Buildings – Hill Houses 1 and 2 and Slope House 1: – 214 new bed spaces (564 total bed spaces in core site).

Parking – 61 and 200 cycle spaces.

**Outside the application site:**

The retained bed spaces outside the application/core site totals 225 with 45 car parking and 14 motorcycle spaces.

**Amendments to the scheme:**

South East Regional Design Panel (SERDP): The application was considered at the pre-application stage by the SERDP which supported a number of concerns already raised regarding the design of the scheme. The overall design was not significantly amended as a result of their response and the application was submitted soon after.

The application has been the subject of a significant amount of pre-application discussion and negotiation as well as continued negotiation since the application was first submitted in January 2010 which has focused primarily on design and understanding the method and extent of the proposed phases. The proposal has been the subject of two rounds of consultation. The main amendments have been to simplify the pallet of materials proposed; a more extensive selection was originally proposed which resulted in an unconvincing mix of traditional and modern materials and highlighted the poor relationship between modern and traditional features throughout the scheme. The overall bulk of the buildings has been broken up by introducing greater articulation to the elevations through choice of materials, window openings, siting and by introducing more variation in the form and heights.

Greater visual permeability and integration with the surrounding wider landscape has been facilitated particularly by altering the layout of the Hill Houses and the introduction of more space between these buildings and by the proposed off site tree planting. These amendments allow greater views through the site to Hollingbury Ridge and will soften the impact of the scheme from the pLNR to the north east of the site whilst allowing greater access from the site to the pLNR. In addition, access across the site and through shared amenity spaces for those who are less able has been improved. The design changes have resulted in a reduction of two bed spaces.

In addition, negotiations have resulted in improved sporting and recreation facilities on site and greater clarification and justification regarding transport impacts.



## 5 CONSULTATIONS

### External:

**Neighbours:** Four letters of objection have been received from the occupants of **13, 52, 60, 63 Coldean Lane**. Their comments are summarised as follows:

- The impact of increasing the bed spaces from 225 – 775 is excessive and will lead to more noise disturbance and litter.
- The bus service will not be able to cater for such an increase.
- The more vulnerable members of the community will be worst affected.
- To approve this application will ignore the concerns of the existing residents of Coldean.
- The neighbourhood already suffers from noise and disturbance from the occupants of the development leaving late at night and returning early in the morning and littering.
- A Section 106 should be secured to require the installation of a safe well lit walkway running from the halls of residence down the east side of the allotments and the north side of Coldean lane down Lewes Road thus keeping students away from the houses and reducing the impact of noise, litter and criminal damage.
- There will be too many students for the area.
- Coldean Lane is a busy and sometimes dangerous road which will be made worse.
- There will be increased noise disturbance from the barbeque areas.
- Overlooking.
- Anti-social incidences occur during term time, this will only get worse.

### **Sussex Police:** *(no additional comment made on re-consultation)*

The Design and Access Statement has failed to detail appropriate crime prevention measures in the design and layout.

The single access point creates good defensible space. It is recommended that the vehicle control point uses a swipe/barrier control system to be in operation 24hrs a day. Traffic calming devices should be considered within the shared vehicle and pedestrian spaces. Boundary treatment should be of the same standard of protection around the parameter. Any gates should be lockable, devoid of any foothold or climbing aids. Doors and windows should be secure to appropriate BS standards, communal entrances should be subject to access control, with audio/visual link to control. Apartment doors should be fitted with chains and viewers. Ground floor windows should have panes below to prevent direct access. Communal areas such as cycle parking areas should be well lit.

### **South Downs Joint Committee:** *(No additional comment made)*

Object to the proposal. Although, there is no objection to the principle of development, the redesign of Hill Houses to provide subtle variety is advised in order to reconsider the proposals. Conditions relating to material/finishes, hard and soft landscaping and lighting are recommended to be attached to

the permission. Key areas of concern include, views of the replacement buildings, for example, from Coldean Land and Arlington Crescent due to their predominately light colour makes them stand out when seen from Ditchling Road. Whilst use of locally distinctive material is welcome, Hill Houses are considered to be rather monolithic, unrelieved large blocks and not of high quality. Although use of muted colours/tones would have less of impact from Ditchling Road (than the light colour of the existing), the size and form negate that benefit.

**English Heritage:** No comment.

**Archaeology:** *(Amended comment)*

Site is in an archaeologically sensitive area. Construction of the current campus recorded the remains of substantial Bronze Age settlement, much of which was destroyed by building work. Agree with the desk top assessment findings submitted that there are small isolated areas of archaeological potential, especially along the southern boundary of the site. A condition is therefore recommended to ensure that this potential to be archaeological evaluated by excavation prior to construction work taking place on site. No objection is raised to the demolition phase taking place prior to this, as long as there is no ground reduction or site formation work. The area affected by the proposals should be the subject of a programme of archaeological works. This will enable any archaeological deposits and features, disturbed during the proposed works, to be adequately recorded.

**Environment Agency:** *(Amended comment)*

Advised that a number of planning conditions be imposed, should planning permission be granted, these covered issues relating to surface water drainage, disposal of foul water, piling and drainage infrastructure maintenance plan. The Environment Agency is satisfied that the submitted Flood Risk Assessment is a reasonable representation of flood risks at this location and no longer requires the imposition of a condition relating to site investigation.

The Agency confirmed that the site also lies within Source Protection Zone 1 (SPZ 1) for Southern Water's Falmer public water supply and the proposed development does pose a risk to controlled waters (groundwater) so is must be ensured that the development and all future activities at the site are carried out with this valuable groundwater resource in mind.

**Southern Water:** *(Amended comment)*

No objection - Condition suggested relating to the details of the proposed means of surface water disposal and measures to protect the public sewers or water mains to be submitted to Local Planning Authority prior to commencement of development. Confirmed can provide foul sewerage disposal to the proposed development, informative recommended to advise formal application to Southern Water required for sewerage infrastructure.

**EDF Energy Networks:** *(No additional comment made)*  
No objections.

**Southern Gas Networks:** *(No additional comment made)*

Note the presence of low/medium/intermediate pressure gas mains within the site. Note no mechanical excavations are to take place above or within 0.5m of the low/medium pressure system and 3 meters from the intermediate. Confirmation of locations of pipes requires hand dug trial holes in accordance with HSE publication HSG47.

**Archaeological Society:** *(No additional comment made)*

Recommend contact County Archaeologist to determine a plan for safeguarding of the remaining archaeological sensitive area. The Society notes the need to contain any works within the existing Varley Hall boundaries.

**Natural England:** *(No additional comment made)*

No comments to make on the planning proposal. However they note that the Local Planning Authority should consider the impacts of the proposal on the AONB, local wildlife sites, protected species and ancient woodland, as well as opportunities for biodiversity enhancements.

**Internal:**

**Design and Conservation:** *(Amended comment)*

The proposed development's increased bulk and height, and the harder edges and simpler built form provided by the perimeter blocks (named 'Woodland' and 'Hill' blocks) will change the character of the site. From Coldean Lane the 'woodland' blocks will have considerable presence, and shield the remainder of the development. The 'hill' blocks' will be prominent from the adjacent upper slope. Whilst greater visual permeability into the site would have been beneficial and enable greater connection with the rural landscape, the impact of this additional bulk in close views is mitigated by replacement off site tree planting, the articulation of the blocks, varied roof silhouette and the choice of traditional materials. From further afield the scale of the development will be less apparent, blend into the landscape, and provide a satisfactory response to the surrounding landscape context.

Any consent should be conditional on the submission of samples and constructional details of key building and landscape elements, including bricks and tiles, junctions and edge detail of external cladding, timber balustrading, canopies and fencing.

**Sustainable Transport:** *(Amended comment)*

Car parking- The applicants propose to reduce the amount of parking in the core site, which is the subject of the current application, from 128 to 61 spaces, including 7 disabled bays which adequately accords with SPG4.

Travel plan measures to prevent displaced parking- The rooms/ parking

spaces ratio would increase substantially as a result of these proposals and on the evidence submitted in the TA it seems likely that this would result in displaced parking in the Coldean area. The applicant's have demonstrated how parking demand will be reduced by introducing new measures of control. In addition, the applicants propose to implement a travel plan and a car park management plan and are willing to make S106 contribution of £64,369 which will be made towards improvements to sustainable transport infrastructure in the location.

The measures should reduce/ prevent displaced parking and contribute substantially to complying with policy TR1. It is relevant that there are no CPZ proposals for the Coldean area.

Cycle parking- It is proposed to provide 200 cycle parking spaces in the core site compared to at least 189 required by SPG4. This is good but the proposal that only half of the spaces should be covered is not. Revised plans which include the provision of at least 189 secure and sheltered spaces should be required by condition.

Conclusion- There is some modest scope for displaced parking as a result of this proposal. However the applicants have agreed to provide an acceptable package of sustainable transport/ travel plan measures which will encourage the use of sustainable modes and measures to strongly discourage the local parking of cars by resident students. The transport aspects of this application are therefore acceptable.

**Planning Policy:** *(Amended comment)*

The principle of the redevelopment, as all the site lies within the built up area boundary, is acceptable. The Policy Section raised concerns regarding the density, height and colour of the proposed units, coupled with the loss of on site trees. In respect to the latter, the low rise brick building is currently surrounded by mature trees, and thus is largely hidden; the loss of trees and proposed development would make the site more visible from the SDNP. Resulting in policy issues regarding the protection of the landscape and views around the city into and out of the Downs and from the SDNP.

The site lies within the built up area boundary and is identified as an Archaeologically Sensitive Area because of archaeological finds in the locality (Policy HE12). It is surrounded by the Historic Park and Garden designation for Stanmer Park (Policy HE11). It is surrounded by a proposed Local Nature Reserve: (Policy NC3). This part of the university, within the built up area, is now excluded from the South Downs National Park AONB (Policy NC7), as is that part of the AONB immediately to the north and west of the site. Policies HE11 and HE12 protect the historic parks/gardens and archaeological sites, the proposal raises issues regarding the protection of the landscape and views around the city into and out of the Downs and from the SDNP (i.e. be visible from the Stanmer Park Historic Park and Garden).

In relation to HO6, in relation to casual/informal, with the provision of:

- Kick wall/basket ball hoop - details to be agreed
- 20 bikes for use
- Box of sporting equipment
- Information packs about trails/footpaths etc in the location - details to be agreed

Plus consideration of the location of the site to the surrounding countryside/parks/pLNR and improvements to the informal provision on site the LPA consider it reasonable to agree that the scheme adequately provides for this element of demand and negates the need to secure a contribution of - £32,095.98.

In relation to adult/youth sporting, with the provision of:

- A 'Trim Trail'

A trim trail is to be provided on site by the applicant at a cost of £17,902, the cost of the trail has therefore been deduced from this element of the contribution and is has been recalculated to a total of £19,682.96.

**Sustainability:** *(No additional comment made)*

In respect to sustainability policy issues relevant to this application, SU2 Policy and SPD08, the requirements and standards recommended have been met. Standards expected to be achieved through SPD08 are for BREEAM 'excellent' with 60% in energy and water sections. The site will be assessed under three separate BREEAM Multi Residential assessments to be timetabled with phasing of the development. This is met with relatively high scores within the BREEAM excellent range. Water credits easily exceed the 60% at 87.5%.

The site has been designed to minimise energy use and will benefit from a site wide district heating and power systems fuelled by an energy centre housing two gas combined heat and power plants. Additional sustainability innovations include passive design measures, use of LED lighting, green roofs, water catchment for irrigation and composting facilities. The University of Brighton also seeks to encourage behaviour change with students' resident at the halls. This will be facilitated by extensive metering of water and energy, and monitoring of waste tied in to existing University of Brighton sustainability projects.

**Ecology:** *(No additional comment made)*

There were a number of concerns raised. Conditions would have to be worked up very carefully to ensure adequate mitigation and enhancement is implemented as a part of any development:

The development site is completely surrounded by Stanmer Park statutory Local Nature Reserve (Local Plan Policy NC3) and this should be addressed in the submission. It is also partly adjacent to ancient semi-natural woodland



(PPS 9 paragraph 10). Legally protected species immediately adjacent to the site (and within the LNR) include Early Spider Orchid and Badger.

The site itself supports at least one bat roost (European Protected Species), reptiles and nesting birds. The nature of the development (student halls of residence) also creates an unusual opportunity to involve and educate students in biodiversity conservation as a part of their residential experience, in accordance with the aims of the England Biodiversity Strategy and the aspirations of Local Plan Policies QD18 and NC3.

The application is supported by three ecological survey reports (Bat Survey Report January 2010, Final Mitigation and Enhancement Strategy January 2010 and Ecological Impact Assessment & BREEAM Assessment January 2010). These are generally comprehensive and propose a range of ecological mitigation and enhancement measures as a part of the proposed development.

The Final Mitigation and Enhancement Strategy includes a number of welcome proposals but these address only the 5-6 metre wide buffer land between the LNR and the new development in any detail. The rest of the site needs to be addressed by the Strategy. In particular, commitments need to be made to habitat creation as a part of landscaping between the blocks and on the buildings themselves (green walls, roofs and wall mounted nest boxes would be appropriate in this policy context).

Although the 5-6 metre buffer between development and the ancient woodland is less than the 10m minimum established by case law, it is a significant improvement on the existing development and is therefore acceptable.

Any planning approval would need to be conditioned to ensure detailed mitigation and enhancement measures for bats, reptiles and nesting birds are secured. Conditions would also be required to ensure damage to the surrounding LNR is avoided during construction (the development boundary would need to be securely fenced at all times and no machinery or storage of materials should stray over the fence at any time).

**Public Art:** *(No additional comment made)*

The consultation response highlighted the lack of acknowledgement of Local Plan Policy QD6 (Public art), although the plans suggest there would be various opportunities to incorporate the requirements of Policy QD6 into these proposals. It was highlighted that 'The Arts and Cultural Projects' can assist developers in identifying opportunities to incorporate the public art element in this instance and welcomed future discussions. It is suggested that the public art element for this application is to the value of 36k.

**Arboriculture:** *(Amended comment)*

Confirm in full agreement with the submitted Arboriculture Report findings.

There are over 460 trees on this site, of which, 51 trees will be lost to facilitate development. These are mostly of poor form and not worthy of retention post-development. The front screen between the site and Coldean Lane is to be retained. Although the 1 for 1 comment of the arboriculture report is appreciated (i.e. 1 for 1 planting is not always appropriate), the central square aspect of the proposed development allows for replanting of many trees. Relevant conditions should be attached to ensure that the trees retained on site should be protected to BS 5837 (2005) during the development as detailed in the submitted report.

**Environmental Health:** *(No additional comment made)*

*Noise and Contaminated Land:*

Confirmed impact on future and existing residence has been considered and the submitted documentation suggests that the WHO (World Health Organisation) criteria for undisturbed sleep and the British Standard BS8233 maybe achieved.

*Air Pollution: (No additional comment made)*

The site falls outside BHCC's Air Quality Management Area and 70 metres from the nearest carriageway (A27). The development is expected to comply with the English Air Quality Strategy Objectives.

**Access Consultant:** *(No additional comment made)*

The Uni has considered the needs of disabled people and has made it clear in the access statement that, in addition to providing some specially designed units from the outset, it has an ongoing policy of making adaptations as and when they are needed. It is also mentioned that the Universities has a lot of more suitable accommodation elsewhere and the flexibility to locate wheelchair users where their own units are fully accessible and other units are accessible for visiting friends. That leaves the question of possible discrimination against temporary users (holiday lets/seminars etc). The issue has obviously been considered by the access consultants acting for the University and they are clearly content to say that reasonable steps have been taken.

David Bonnett Associates (DBA) were closely involved in the creation of the Lifetime Homes Standards and have recently been involved with the Universities proposed revision. They were also instrumental in producing the Local Government Association (LGA) policy on accessible housing and contributing to many other nationally recognised publications. This gives the consultants opinion considerable weight.

## 6 PLANNING POLICIES

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR2	Public transport accessibility and parking
TR4	Travel Plans
TR5	Sustainable transport corridors and bus priority measures

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TR7	Safe development
TR8	Pedestrian routes
TR13	Pedestrian network
TR14	Cycle access and parking
TR15	Cycle network
TR18	Parking for people with a mobility related disability
TR19	Parking standards
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SU3	Water resources and their quality
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SU5	Surface water and foul sewage disposal infrastructure
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QD18	Species protection
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NC8	Setting of the Downs Area of Outstanding Natural Beauty
HE11	Historic parks and gardens
HE12	Scheduled ancient monuments and other important archaeological sites

Supplementary Planning Documents (SPD)

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SPD06	Trees and Development Sites
SPD08	Sustainable Building Design
SPD11	Nature Conservation and Development

Supplementary Planning Guidance Notes

SPGBH4 Parking Standards

SPGBH9 A guide for residential developers on the provision of recreational space. (Draft)

**7 CONSIDERATIONS**

The main considerations relating to the determination of this application are, the principle of development, the impact on the character and appearance of the South Downs National Park (SDNP), the historic park and garden of Stanmer and archaeology, neighbouring amenity, the suitability of the accommodation to be provided, highway impacts, sustainability, ecology and the proposed Local Nature Reserve, controlled waters and air quality.

Principle of development

The application site is currently in operation as a halls of residence in connection with the Brighton University. The application seeks planning permission to demolish the existing buildings and increase the number of bed spaces from 270 within the application site to 564 bed spaces and provide new shared facilities including café/bar, laundry facilities, fitness suite, car and cycle parking.

The proposed development is contained within the built-up area boundary and there are no policy constraints that would prohibit the redevelopment of the site as proposed in principle, provided the proposed scheme adequately accords with the relevant development plan policies. The principle is therefore acceptable.

Design

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 whilst having consideration of key characteristics of an area.

Policy QD4 relates to strategic impacts and considers the impacts of a development on view across, to and from the Downs, across valleys and initial views of Brighton & Hove from access points by all modes of transport.

The site is currently developed for student housing, the applicant's aspiration is to significantly increase the density of student accommodation upon the site in a phased development of increased scale, height and bulk, an acknowledged driving force for which is that of viability. Linked to which is the requirement to phase the construction of the development to maintain maximum rental income during the construction process; taking one element at a time out of service, constructing the phase and bringing it into use while maintaining occupation of the unaffected buildings.

The site is within the city's designated built up area, and adjoins both the South Downs National Park and the Stanmer Park registered park/ garden,

and as such regard should be had to the effect of the development on the setting of these designated areas.

The far side of the by-pass provides the boundary to the Stanmer Park Conservation Area. The site adjoins 18<sup>th</sup> /19<sup>th</sup> C woodland to the south, east and west and open unused grazing land to the north, which is a publicly accessed proposed Local Nature Reserve (LNR). The land immediately to the south, west and north falls within an area designated in the local plan as 'urban fringe'.

The development site is set back from Coldean Lane on a southwest facing steeply sloping hillside, historically known as Farm Hill, rising to the Stanmer Great Wood. It is framed by woodland and tree belts but nevertheless is clearly visible from Coldean, and from higher open downland to the southwest and south east, and from the surrounding registered park/garden.

*Landscape and visual impact:*

*Impact on South Downs National Park (SDNP) and Stanmer Conservation Area (as extended) and historic park/garden*

Policy NC7 relates to the protection of SDNP (previously AONB) and restricts development within or adjacent to unless the proposal conserves or enhances the visual landscape quality and character, and accords with other Development Plan policies, or the proposals are of national importance and there are not alternative sites available elsewhere. The site borders the SDNP and Stanmer Park registered park/garden, regard on the impact of both is therefore given in considering the application and the potential impact on the setting of each.

The site is situated within the registered park/garden and is therefore protected by policy HE11 which seeks to resist development that would harm the historic character or setting of an area within the Register of Parks and Gardens of Special Historic Interest in England.

A landscape and visual impact assessment has been provided to test the success of the proposal in this respect and is considered acceptable in terms of its approach, and the views selected are considered sufficient to reach a view on the overall impact of the development on its wider landscape context.

The application has been considered by Conservation and Design and it is noted that the development will not be visible from public paths within the Stanmer Park Conservation Area (as recently extended), but it will be visible from various viewpoints around the edge of the South Down National Park. That said the site is on lower ground and seen in the context of other urban developments, and the characteristic woodland belts and the natural down land topography will remain the dominant landscape features. For these reasons, and subject to careful control over the selection of materials and finishes, the visual impact of the development on the National Park and Conservation Area is considered acceptable. The visual impact will be



greater from Coldean to the south west and from the adjacent farmland and woodland in the Stanmer Park registered Park/Garden; most particularly that part immediately to the north east.

Viewed from Coldean, the development will appear more prominent than the existing disparate collection of low rise developments on the site. Careful selection of the proposed cladding to provide the desired texture and colour will be important, as will additional tree planting within the sparse woodland in the foreground, which will help soften the impact of these blocks and enhance the setting of the historic park/garden. Subject to careful control over these requirements, Conservation and Design are satisfied that the 'Woodland' blocks take sufficient account of the natural and developed background or framework against which the development will be set as required by local plan policy QD2.

The open 'fringe' land immediately to the northeast of the development is a proposed local nature reserve which is publicly accessible and is crossed by an informal path. From this path, views between the existing student housing blocks are possible and views of the distant downland ridge above the roof tops preserved. Moreover the existing development and adjacent hedgerow tree planting provides an appropriate soft urban edge to the open countryside. The 'Hill Houses' proposed along this perimeter will limit these views across the Coldean valley. Conservation and Design are satisfied that the proposed development will cause no significant harm to the setting of the Stanmer Historic Park/ Garden as required by local plan policy HE11. The above views held by the Conservation and Design Team regarding the impact of the scheme on the surrounding landscape are noted and adequately address relevant development plan policy in this respect.

*Scale, design, architectural detail, materials and visual interest:*

In relation to scale and design, the revised heights of the blocks are considered acceptable, particularly now that 'Hill House' 3 complements the height of the neighbouring 'Hill Houses' 1 and 2, which are part of the same design typology and to respond more positively to its wider context.

The 'hub' building has an unusual form and has the potential to provide the desired focus at the entrance to the site. Its contemporary style is supported, and it provides the desired access to the various public levels. The hill blocks now include sufficient variety to humanise the effect of these quite substantial elements, and break up the form of the 'Woodland' and 'Hill' House blocks.

The range of materials and colours specified for the various blocks provide the desired visual interest. The switch from render to brick in key places creates the desired restrained mix of materials appropriate to this semi rural location and the use of traditional colours and materials for the residential blocks is welcomed. It is acknowledged that where traditional and modern materials and features are juxtaposed, the design will require careful attention to detail, if the development is to create a coherent whole and be convincing

as such a condition is recommended to secure larger scale detailed plans which demonstrate how these areas will be articulated. Significant efforts have been made to improve the overall design of the scheme and limit the visual impact. The amended scheme is not considered to cause harm to the surrounding landscape and is of an acceptable design.

*Landscape design:*

The development involves the loss of the majority of the existing trees in the central area on the site, which is regrettable. The garden landscaping proposed within the site appears to be of an appropriate quality and specification and the careful, discrete siting of the parking is particularly welcomed.

It is noted that the new planting will take some time to reach maturity and take effect, and Conservation and Design therefore seek early planting of the agreed off site tree planting. Owing to the phased nature of the development, appropriate root direction and tree protection measures should also be secured once the planting has been implemented to ensure their long term preservation. It is considered that this will go some way to maintaining the rural setting, and satisfy local plan policy QD15. In addition to conditions relating to materials, detailing and tree planting, details of the flues to the energy centre and construction details of the steps, walls and seating are also recommend. With the imposition of recommended conditions to control the design of the development in detail and on considering the above, which has been informed by Conservation and Design who have been fundamental to the evolution of this scheme, the proposed development is considered to be of an acceptable standard of design and adequately accords with relevant Development Plan Policies.

*Impact on Archaeology*

Local Plan policy HE12 requires development proposals to preserve and enhance sites of known archaeological interest. The site is situated within an archaeologically sensitive area defining a Prehistoric landscape rich in archaeological remains. As noted by the County Archaeologist, prior to the current campus construction in 1990s archaeological excavation recorded the remains of substantial Bronze Age settlement, much of which was subsequently destroyed by construction. The applicants have submitted an archaeological desk based assessment which suggests that there is potential for isolated remains to survive in areas not previously impacted. In light of this, the County Archaeologist has recommended that the area affected by the proposals should be the subject of a programme of archaeological works to enable any deposits and features disturbed during the proposed works to be adequately recorded. A written scheme of investigation should be submitted to confirm the action to be taken. With a suitably worded condition to fulfil these requirements will satisfy policy HE12.

Impact on neighbouring amenity and suitability of accommodation for future occupants

Brighton & Hove Local Plan policy QD27 requires that new residential development does not cause unacceptable detriment to the living conditions of neighbouring properties. The Building Research Establishment Report, 'Site layout planning for daylight and sunlight: A guide to good practice' states *"privacy of houses and gardens is a major issue in domestic site layout. Overlooking from public roads and paths and from other dwellings needs to be considered. The way in which privacy is received will have a major impact on the natural lighting of a layout. One way is by remoteness; by arranging for enough distance between buildings, especially where two sets of windows face each other. Recommended privacy distances in this situation vary widely, typically from 18m to 35m"*.

The site is situated on the east side of Coldean Lane, a minimum distance of approximately 98m exists between the nearest property on the Coldean Estate and the proposed development. Although concerns raised by residents in respect of noise disturbance caused by late night activity in particular, allegedly from the student population, it is not considered that the harm caused by the increase in the number of students which is likely to occur would result in causing demonstrable harm to neighbouring amenity. At a distance of approximately 98m, the development will not cause harm through overlooking, overshadowing or have an overbearing impact on any neighbouring dwelling within the Coldean Estate.

Within the site main site, the existing more modern buildings to either end are to be retained for the time being. At some locations, the proposed buildings are to be sited close to the retained blocks. Those which are likely to be most affected by the proposal are sited to the north east of the proposed Hub Building, known as Chalvington Close. The minimum distance between the rear of the Hub Building and the existing buildings to the north of the Hub is approximately 5.7m. The rooms which front onto the rear of the Hub are single aspect study bedrooms. They are very close to a number of windows within the Hub building servicing the main kitchen and servery on the ground floor and kitchen/lounge areas for the residential student units above as well as the main rear entrance into the Hub building with terraced access.

The Hub is four storeys in height above ground level to the rear with the ground floor resulting at basement level to the rear where it sits in the slope. The Chalvington Close buildings are also set on higher land than the Hub, as such the servery windows are set below the bottom of the ground floor windows of the Chalvington Close blocks behind. There will however be some opportunity for overlooking and as such it is recommended that a condition is imposed on any permission to ensure that any windows servicing the kitchen and servery are conditioned to be glazed in obscure glass. Above the first floor servery where the buildings are closest the Hub Building is cut away and the minimum distance increases to approximately 8m, which is the same distance between the buildings in Chalvington Close and is considered

acceptable in this context.

The applicant submitted a sunlight/daylight assessment in support of the scheme for the buildings directly behind the Hub. Although the results suggest that only two of the bedrooms would be just below the BRE recommended Average Daylighting Factor of 1% for bedrooms, this is contested as all of the bedrooms are study bedrooms and as such should afford greater levels of light as a minimum more akin to a living room and should therefore achieve 1.5%. As such seven of the bedrooms in the building to the north east of the Hub fail to achieve the minimum Average Daylighting Factor (ADF) of 1.5%. It is however noted that the University has aspirations to redevelop the rest of the site in the future which will result in an improved relationship between the Hub and neighbouring buildings in Chalvington Close. The draft masterplan shows these buildings being replaced by a single larger block set at a much greater distance from the Hub which would be strongly encouraged. It is regrettable that these bedrooms do not achieve the recommended minimum ADF and on assessment of the Vertical Sky Component (VSC), a number of the rooms will have a notable reduction in the level of daylighting achieved. However, on balance, given the overall benefits of the scheme and the aspiration to improve this relationship on redevelopment of the remainder of the site, it is not considered that a reason for refusal could be upheld on this matter alone.

To the south of the Hub building is Woodland house 1 which is a four storey building with two groups of 'flats' on each floor which are also single aspect. Half of which front onto the main access road around the site and a number onto the Hub building opposite approximately 9m away. These rooms front onto the seminar rooms at ground floor level of the Hub, the restaurant at upper ground floor and the main living and kitchen areas for the three levels above. They will therefore have the potential to be overlooked by the users of these areas within the Hub. It is however considered that within this form of development the level of privacy afforded to the rooms would be less than would be expected of in a private residential flatted development. In addition, the distances between the blocks is similar to existing relationships on the site and is considered acceptable.

Although small the proposed bedrooms are considered to be comparable to those recently developed in the City and are therefore considered acceptable.

Local Plan policy HO5 requires that new residential development provides adequate private and usable amenity space for future occupiers, appropriate to the scale and character of the development. The proposal includes three large main shared amenity spaces across the site between the Hub and Slope buildings. The spaces are generally square ranging from 28m to 34m in width and between 39m to 27m in depth. The topography of the spaces vary, sloping up from west to east with provision of some terraced spaces within garden space/courtyard 1 next to the Hub which is the most accessible and the area over the energy centre within garden space/courtyard 3. Given the

nature of the development it is not considered appropriate to insist on each unit having private amenity space and the general shared provision made on site is considered to provide an acceptable provision of amenity space in accordance with HO5.

In relation to HO6, this element of the application has been the subject of further negotiation to ensure that the development accords with the requirement of the policy regarding open space. 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. It is rarely possible to provide the entire requirement on site. In recognition of this, the policy allows for contributions towards the provision of the required space on a suitable alternative site. The calculations for contributions towards offsite improvements to open space are based on the demand created by the development and are broken down into three categories; children's equipped play space, casual/informal play space and adult/youth outdoor sports facilities.

As the proposal does not include any accommodation for families with children, the demand created relates to casual/informal, which equate to £32,095.98 and adult/youth which totals £37,584.96.

In relation to the casual/informal play space, negotiations have resulted in the applicant agreeing to provide a kick wall and basket ball hoop, the free use of 20 bicycles on site, a collection of sporting equipment including footballs, basket balls and rounders equipment in addition to the University designing and distributing information packs to the students informing them about the walking and cycling routes/trails and how to access existing recreational facilities in the area – the details of which are recommended to be agreed by condition. In addition to the above, it is noted that the redevelopment of the site will result in the provision of improved areas of open space on the site which can be used for casual informal recreation. The site is also situated on the urban fringe of the city and therefore has good access to the open countryside as well as the development providing improved access to the pLNR to the north east side of the site. Taking all of the above into consideration and securing relevant details and provision by condition, the application is considered to negate the requirement for a financial contribution towards casual/informal play space.

The scheme initially made no provision of outdoor sporting facilities, however as a result of negotiation the applicant has agreed to provide and maintain a 'Trim Trail' which consists of a marked routes around the site for exercise with a series of stations set out along the routes. The applicant has submitted an invoice for the installation of the trail which is to be deducted from the adult/youth sports facilities contribution and has been recalculated to a total of £19,682.96. The application is therefore considered to adequately accord with policy HO6.



Highway impacts

Policy TR1 of the Local Plan requires development proposals to provide for the demand for travel which they create and maximise the use of public transport, walking and cycling. Policy TR7 will permit developments that would not increase the danger to users of adjacent pavement, cycle routes and roads. Policy TR14 requires the provision of cycle parking within new development, in accordance with the Council's minimum standard, as set out in BHSPG note 4. Policy TR18 requires the provision of parking for people with mobility impairments in accordance with the Council's minimum standard, as set out in BHSPG note 4. Policy TR19 requires development to accord with the Council's maximum car parking standards, as set out in BHSPG note 4.

Sustainable Transport have been consulted on the application and have been closely involved in seeking additional justification and clarification on the applicant's position and in negotiating appropriate mitigation. It is noted that the proposal will result in a significant increase in the number of bed spaces provided on site (a net increase of 294 bedspaces). The applicants however propose to reduce the amount of parking in the core area of the site from the current provision of 128 to 61, 7 of which will be disabled bays. SPGBH 4 does not set out a standard for student accommodation. However, using best available comparators of housing and hotels which have been used in assessing previous applications of this type in the City the provision is considered acceptable. In addition the applicant has stated that they have used a reasonable comparator in Reading and SPGBH 4 standards for class D1 educational establishments and national guidance advises that Council's should not require applicants to provide more parking than is considered appropriate.

On consideration of potential for displaced parking, it is noted that the ratio of bed spaces to car parking spaces would increased substantially as a result of these proposals and on the evidence submitted in the Transport Assessment (TA) it appears likely that this would result in displaced parking in the Coldean area. However, there have been substantial discussions with the applicants which have clarified the situation and greatly reduced this concern. The main clarification relates to a 'park and ride' scheme the University has recently discontinued which provided parking for a number of staff members at the Falmer campus to park at Varley Halls and travel on the shuttle bus to the Falmer site. The withdrawal of this service has therefore lead to a reduction in parking demand on the Varley Halls site. In addition, the applicants propose to implement a travel plan and a car park management plan and are willing to make S106 contributions to make improvements to sustainable transport infrastructure.

Both the travel plan and the car park management plan are recommended to be subject to approval by the LPA. The travel plan should be required to include provision for annual monitoring and surveys including parking surveys informed by modal share targets, as proposed by the applicants, and similarly

the car park management plan should introduce a parking permit system. It is recommended that the initial travel plan should include consideration of the provision of additional bus services to the site and of free bus passes for students living in the halls, as suggested by the applicants. The applicant has also advised that the resident student's leases will strongly discourage residents without permits from parking cars within 3 km of the site. These measures will assist in reducing the potential for displaced parking in the area and contribute substantially to complying with policy TR1. It is relevant that there are no Controlled Parking Zone (CPZ) proposals for the Coldean area.

The level of provision for cycle parking adequately accords with the requirement of at least 189 spaces as the application proposes 200. However, only half of those spaces are proposed to be covered, there is insufficient justification for only half of the provision to be covered, the area is not within a conservation area where the design of such a provision may be more closely scrutinised. It is therefore recommended that a condition is imposed on any permission to require suitable details of the cycle parking to be submitted and agreed by the LPA in order to accord with policy TR14.

The applicants have not assessed in detail the quality of provision for sustainable modes locally such as the quality of bus stops and cycle routes. This development like others would generate new trips and a contribution towards the improvement of facilities would be appropriate. This contribution indicated by the standard methodology combined with the TRICS data provided by the applicants is £148,738. However this amount should not be required automatically but rather used as guidance. The applicant has agreed to provide real time bus information on site, the provision of which is deducted from the overall contribution. There have been substantial discussions to agree an appropriate contribution and suitable sustainable transport schemes in the area.

It has been agreed that an acceptable contribution should be £64,369 and this should be divided equally between (1) Enabling works for the improvement (widening/ resurfacing) of National Cycle Route (NCR) 90 between Coldean Lane and Sussex University (2) Improvements to the existing pedestrian crossing point in Coldean Lane (3) Improved access to the bus stops at Ingham Drive and the bus stop in Coldean Lane opposite Varley Halls. The applicants have confirmed that they have discussed the proposed development with the bus company who are satisfied that capacity exists to accommodate the extra bus trips which are likely to be generated by the development.

In conclusion, there is some modest scope for displaced parking as a result of this proposal. However the applicants have agreed to provide an acceptable package of sustainable transport and travel plan measures which will encourage the use of sustainable modes in addition to measures to strongly discourage the local parking of cars by resident students. The transport aspects of this application are therefore acceptable. The above

considerations and recommendations informed by Sustainable Transport are supported and appropriate conditions and clauses within the S106 legal agreement are recommended to ensure the impact of the proposed development in transport terms is limited and acceptable.

#### Sustainability

SPD08, Sustainable Building Design, requires the scheme to meet 'Excellent' BREEAM achieving 60% in the energy and water sections, and submit a Sustainability Checklist. It also recommends a commitment to join the Considerate Constructors Scheme, ensure zero net annual Carbon Dioxide from energy use, and a feasibility study on rainwater harvesting and grey water recycling systems.

The Council's Sustainability Officer has considered the application and notes that the key sustainability policy issues are that SU2 policy requirements and standards recommended in SPD08 have been met by the scheme.

Standards expected to be achieved through SPD08 are for BREEAM 'excellent' with 60% in energy and water sections. The applicants intend to bring forward the redevelopment of the core site in three phases; as such the proposal has been assessed under three separate BREEAM Multi Residential assessments to be timetabled with phasing of the development. On assessment they are met with relatively high scores within the BREEAM excellent range and water credits easily exceed the 60% at 87.5%. The only section which does not meet the recommendations set out in SPD08 relates to the energy section in Phase 1 which is 52.17%. However, given the overall achievement of BREEAM 'Excellent' and given that Phases 2 and 3 exceed the requirements of SPD08, the application is considered to acceptably accord.

The site has been designed to minimise energy use and will benefit from a site wide district heating and power systems fuelled by an energy centre housing two gas combined heat and power plants.

Additional sustainability innovations include passive design measures, use of LED lighting, green roofs, water catchment for irrigation and composting facilities. The University of Brighton also seeks to encourage a change of behaviour with students who are resident at the halls. This will be facilitated by extensive metering of water and energy, and monitoring of waste tied in to existing University of Brighton sustainability projects.

It is recommended that the conditions phased to ensure the sustainability aspirations are achieved. The applicant has requested that the LPA take a flexible approach to the first phase in particular. It is considered reasonable in this instance to be flexible given the submission of a full pre-assessment and supporting letter from the registered assessor to confirm that the scheme was on target to achieve the levels set out in the assessment. As such it is recommended that the design stage certificate is submitted within 6 months of

the date of the permission and the completion certificate within 5 months of the occupation of Phase 1. The information submitted adequately demonstrates achievement of the recommendations set out by policy SU2 and SPD08.

#### Ecology and biodiversity

There are a number of ecological attributes on and around the site. It is surrounded by a proposed Local Nature Reserve (LNR), parts of which are made up of areas of Ancient Woodland. These areas are protected by policy NC3 which seeks to resist development within or in the setting of a proposed LNR where it is likely to have an adverse impact, directly or indirectly, on the nature conservation features of the site. There is also a greenway which runs alongside and into part of the site and policy QD19 requires development within its setting to contribute to the provision and/or enhancement of the network.

Protected species have also been detected including, slow worms and bats and at the far southern end of the main site is a Badger Set. Policy QD17 and QD18 seek to safeguard protected species and nature features and encourage integration of new nature conservation features.

The sensitivities of the site have resulted in the applicant being required to consider the proposal very carefully in relation to limiting the potential impact on protected species and features of nature conservation importance.

The Council's Ecologist has been consulted on the application and notes that the site itself supports at least one bat roost (European Protected Species), reptiles and nesting birds. The nature of the development (student halls of residence) also creates an unusual opportunity to involve and educate students in biodiversity conservation as a part of their residential experience, in accordance with the aims of the England Biodiversity Strategy and the aspirations of Local Plan Policies QD18 and NC3.

The application is supported by three ecological survey reports (Bat and Reptile Survey Reports January 2010, Final Mitigation and Enhancement Strategy May 2010, Ecological Impact Assessment & BREEAM Assessment May 2010). These are generally comprehensive and propose a range of ecological mitigation and enhancement measures as a part of the proposed development.

The Final Mitigation and Enhancement Strategy includes a number of welcome proposals but these address only the 5-6 metre wide buffer land between the LNR and the new development in any detail. The rest of the site needs to be addressed by the Strategy. In particular, commitments need to be made to habitat creation as a part of landscaping between the blocks and on the buildings themselves. Through negotiations on the application additional areas of green walls have been introduced to the Slope Buildings, details of which need to be secured by condition. In addition to the areas of green roof

on the Slope Buildings, wall mounted nest boxes would also be appropriate in this policy context. As such conditions are recommended to secure detailed enhancement and mitigation strategies for each of the three phases of development with a timetable for implementation and management plan.

Although the 5-6 metre buffer between development and the ancient woodland is less than the 10m minimum established by case law, it is a significant improvement on the existing development and is therefore acceptable.

With the imposition of carefully worded conditions to control the ecological mitigation and enhancement strategy in detail the application is considered to adequately accord with policy.

#### Trees

Policies QD15 and QD16 relate to landscape design, trees and hedgerows and require that proposals for new development must submit details to show that adequate consideration has been given to landscape design at an early stage in the design process, including open space provision, the spaces around and between buildings, making effective use of existing trees and hedgerows and where appropriate existing nature conservation features retained and new suitable ones created.

The Council's Arboriculturalist has been consulted on the application and have confirmed that they are in full agreement with the submitted Arboriculture Report findings noting that 51 trees will be lost to facilitate development. These trees are however mostly of poor form and not considered worthy of retention. The proposal also includes the planting of a total of 88 trees, 66 will be planted within the site and 15 are proposed to be planted off site within the pLNR. It is recommended that conditions should be attached to ensure that the trees retained on site should be protected to BS 5837 (2005) during the development as detailed in the submitted report. The proposed redevelopment of the site results in a significant improvement on the existing landscape design which has resulted in rather piecemeal, 'leftover' areas of grass; the proposed scheme has aimed to provide larger shared areas which consolidate the space. With the imposition of conditions to secure the submission of samples of hard landscaping materials and details of landscape features such as the stepped areas, the scheme is considered to adequately accord with policies QD15 and QD16.

#### Controlled waters and flooding

Local Plan policies SU3, SU4 and SU5 relate to protection of water supplies, surface water run-off and flood risk and foul sewage disposal infrastructure. Southern Water and the Environment Agency have been consulted on the application and with the imposition of conditions to agree details of the surface and foul water disposal, the application is considered acceptable.



**8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION**

The development will provide an increase of 294 (a total of 564) bed spaces and combined purpose built communal facilities in addition to the on site sporting and recreation provision resulting in an acceptable intensification of the use on an existing halls of residence site. With the imposition of conditions to control the development in detail and the agreement of the details set out in the legal agreement the development will have an acceptable impact on the character and appearance of the South Downs National Park, the historic park and garden of Stanmer and archaeology and the surrounding highway network and will maintain neighbouring amenity. The scheme will achieve an overall BREEAM rating of 'Excellent' and will not have an adverse impact on the existing ecology whilst improving biodiversity.

**9 EQUALITIES IMPLICATIONS**

The site is very steeply sloping and not all areas are fully accessible however the applicant has adequately demonstrated that all reasonable steps have been taken to ensure the development is accessible wherever possible.

# Bh2010/00235 Varley Halls of Residence, Coldean lane



Date: 18/08/2010 10:09:32

Scale 1:2500



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<b><u>No:</u></b>	<b>BH2010/00498</b>	<b><u>Ward:</u></b>	<b>HOLLINGDEAN &amp; STANMER</b>
<b><u>App Type</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Former Esso Petrol Filling Station, Hollingdean Road</b>		
<b><u>Proposal:</u></b>	<b>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.</b>		
<b><u>Officer:</u></b>	Aidan Thatcher, tel: 292265	<b><u>Valid Date:</u></b>	26/02/2010
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	28 May 2010
<b><u>Agent:</u></b>	Lewis & Co Planning, Paxton Business Centre, Portland Road, Hove		
<b><u>Applicant:</u></b>	Southern Primary Housing Ltd, Mr Richard Hill, Hole Farmhouse, Woodmancote, Henfield		

### UPDATE

Members considered this application on 19/05/10. The report is reproduced below. The applicant has requested that the affordable housing provision be reduced from 100% to 40%. The reason for this is to make the scheme more attractive to attract grant.

There is no objection to this proposed change as policy HO2 of the Brighton & Hove Local Plan seeks to secure 40% affordable housing.

The recommendation remains **MINDED TO GRANT** subject to the s106, conditions and informatives as set out but with Head of Term on affordable housing amended to read:

- A minimum of 10 of the units hereby approved shall be affordable housing (40%).

### 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 than 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

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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
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
<u>Supplementary Planning Guidance Notes</u>	
SPGBH 4: Parking Standards	
<u>Supplementary Planning Documents</u>	
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](http://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](http://www.planningportal.gov.uk)), on the Department for Communities and Local Government website ([www.communities.gov.uk](http://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](http://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](http://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.atkinsglobal.com](http://www.atkinsglobal.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](http://www.netregs.gov.uk/netregs/businesses/construction/62359.aspx) and [www.wrap.org.uk/construction/tools\\_and\\_guidance/site\\_waste\\_2.html](http://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 <sup>2</sup> m
2 Bedroom / 3 person homes	66 <sup>2</sup> m
2 Bedroom / 4 person homes	76 <sup>2</sup> m
3 Bedroom / 5 person homes	86 <sup>2</sup> 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 1<sup>st</sup> floor and 2<sup>nd</sup> 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 onto 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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TR11	Safe routes to school and school safety zones
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SU5	Surface water and foul sewage disposal infrastructure
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SU10	Noise nuisance
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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

## 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 in 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 compliant 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 originally proposed that all of the proposed 24 units would be transferred to a Registered Social Landlord as affordable housing. However since the resolution to grant consent, the funding for a 100% affordable scheme is unlikely to be forthcoming and thus the applicants need to alter the affordable housing contribution to reflect this. Whilst they are keen to retain as high a proportion of affordable housing as funding allows for, this amendment seeks to reduce this to 40% (as required by Policy HO2) with enough

flexibility to enable an increased proportion should funding allow. 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 from 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.

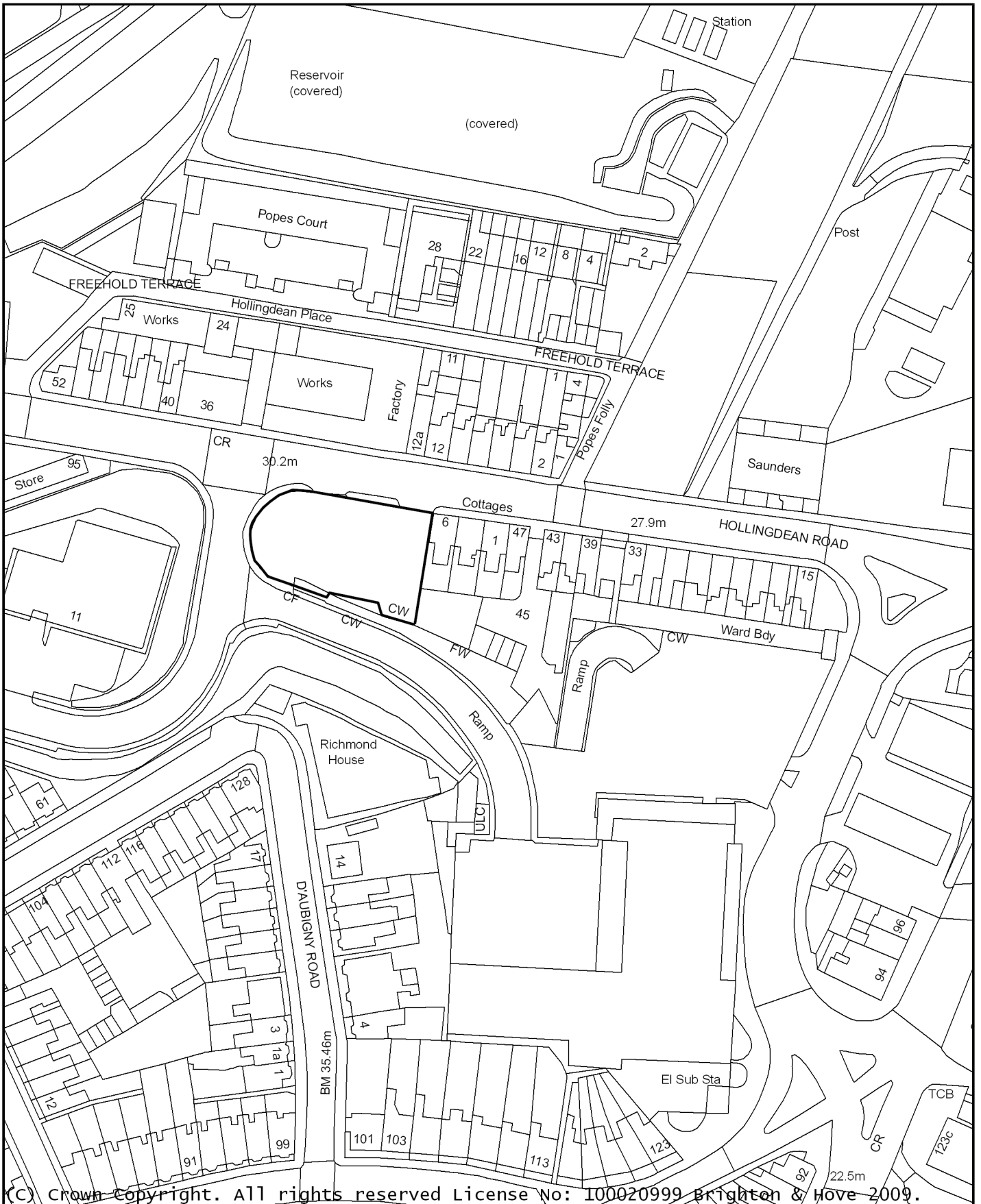
**9 REASONS FOR RECOMMENDATION TO GRANT PERMISSION**

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.

# BH2010/00498 Former Esso Site, Hollingdean Road



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**LIST OF MINOR APPLICATIONS**

<b><u>No:</u></b>	<b>BH2010/00909</b>	<b><u>Ward:</u></b>	<b>HOVE PARK</b>
<b><u>App Type:</u></b>	<b>Conservation Area Consent</b>		
<b><u>Address:</u></b>	<b>4 Tongdean Road, Hove</b>		
<b><u>Proposal:</u></b>	<b>Partial demolition and alterations to existing dwelling.</b>		
<b><u>Officer:</u></b>	Clare Simpson, tel: 292454	<b><u>Valid Date:</u></b>	29/03/2010
<b><u>Con Area:</u></b>	Tongdean Area	<b><u>Expiry Date:</u></b>	24 May 2010
<b><u>Agent:</u></b>	Lap Chan Riba, 177 Havelock Road, Brighton		
<b><u>Applicant:</u></b>	Mr & Mrs Liu, 4 Tongdean Road, Hove		

This application was deferred at the last meeting on 11/08/10 for a Planning Committee site visit.

**1 RECOMMENDATION**

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in this report and resolves to **REFUSE** Conservation Area Consent for the following reason:

1. Policy HE8 of the Brighton & Hove Local Plan states that where demolition of buildings within a Conservation Area are proposed, the redevelopment of the site should preserve the character of the Conservation Area. The existing garage building is not of merit, however to allow demolition where no acceptable replacement building or boundary treatments have been identified would have a negative impact on the character and appearance of the Tongdean Conservation Area. The proposal is considered contrary to policy HE8 of the Brighton & Hove Local Plan.

**Informatives:**

1. This decision is based on drawing nos. 2009/11-100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, and supporting statements received on the 29<sup>th</sup> March 2010.

**2 THE SITE**

The application relates to a detached property on the south side of Tongdean Road approximately 110 metres west of the junction with Dyke Road Avenue and is located within the Tongdean Area Conservation Area.

The Conservation Character Statement describes the area as characterised by large plots, individual designed houses set in large plots with mature vegetation. The area has been altered by infill development, however the area retains a largely open character.

### 3 RELEVANT HISTORY

There is a Full Planning application for the partial demolition and alterations to existing dwelling and erection of new detached 3 bedroom dwelling with separate garage, new access road and associated landscaping. This is registered and under consideration (ref: **BH2010/00908**).

**BH2008/00307:** Partial demolition and alterations to existing dwelling and erection of new detached dwelling with separate garaging, new access road and associated landscaping at land to rear refused 07/04/2008 for the following reasons:

1. The proposal would, by reason of its height, massing, building bulk and footprint, result in an excessive development which would be detrimental to the character of the area. It would further be detrimental to the amenities enjoyed by neighbouring occupiers by reason of an increased sense of enclosure to neighbouring properties, particularly 6b Tongdean Road. The proposal would therefore be contrary to policies QD1, QD2, QD3 and QD27 of the Brighton & Hove Local Plan which seek, amongst other requirements, to ensure all new developments make a positive contribution to the visual quality of the environment and protect neighbouring amenity.
2. The application involves the loss of a number of semi-mature trees on site. No information has been submitted regarding any replacement planting and therefore the applicant has failed to demonstrate that the development could adequately preserve the mature garden character of the surrounding area. There has been no information provided to demonstrate that the health and longevity of the retained trees can be secured. The application is contrary to policy QD16 and HE6 of the Brighton & Hove Local Plan and SPD06 Trees and Development Sites
3. The narrow access road over 55 metre in length presents an increased risk to users of the public highway by virtue of the additional stopping, turning and reversing of traffic that would be created. The application therefore fails to comply with policies TR1 and TR7 of the Brighton & Hove Local Plan.

This application was the subject of an appeal to the Planning Inspectorate. The appeal was dismissed with the Inspector concurring with the council on the first two reasons for refusal. The third reason for refusal was not upheld by the Inspectorate

**BH2005/01514/OA:** Demolition of existing garage block and construction of a private dwelling using existing access. (Resubmission of Refused application BH2004/02147/OA) Refused for the following reasons: The proposal would not only fail to preserve and enhance the character and appearance of the Tongdean Area Conservation Area by reason of its excessive size, footprint and siting in close proximity to the boundary, which consequently restricts the opportunity for new planting along the boundary, but would also represent an un-neighbourly form of development, detrimental to amenity of adjoining occupiers in terms of building bulk and increased sense of enclosure. The proposal is therefore contrary to policies BE1 and BE8 of the Hove Borough



Local Plan and QD1, QD2, QD3, QD27, HO3, HO4 and HE6 of the Brighton & Hove Local Plan Second Deposit Draft.

**BH2004/02147/OA:** Demolition of existing garage block and erection of a private dwelling using existing access – refused 07/10/2004 for the following reason: The proposal would not only fail to preserve and enhance the character and appearance of the Tongdean Area Conservation Area by reason of its excessive size, footprint and siting in close proximity to the boundary, which consequently restricts the opportunity for new planting along the boundary, but would also represent an unneighbourly form of development, detrimental to amenity of adjoining occupiers in terms of building bulk and increased sense of enclosure. The proposal is therefore contrary to policies BE1 and BE8 of the Hove Borough Local Plan and QD1, QD2, QD3, QD27, HO3, HO4 and HE6 of the Brighton & Hove Local Plan Second Deposit Draft.

**BH2002/00582/FP:** Roof extension to existing garage to provide artists studio accommodation, approved 01/05/2002

#### **4 THE APPLICATION**

Conservation Area Consent is sought for the demolition of the existing double garage to facilitate a vehicle access from Tongdean Road to the rear site. This is sought in connection with a full planning application for a proposed new dwelling at the rear of the site.

#### **5 CONSULTATIONS**

##### **External:**

**Neighbours:** A joint letter has been received from the occupiers of **2 Tongdean Place, 2a Tongdean Road, 2 Tongdean Road, 6b Tongdean Road, 41 Dyke Road Avenue, 1 Tongdean Place** objecting to the application for the following reasons:

- The house remains too large for the plot,
- The building is too close to neighbouring boundaries,
- To proposed house is the same height and distance to 2 Tongdean Road as previously refused,
- The building fails to address the concerns of the previous application,
- There would be significant increased sense of enclosure,
- The development does to enhance the conservation area,
- It would dominate the existing houses,

**8** letters have been received from the occupiers of **34 Dyke Road Avenue, 20 Ridgeside Avenue, 2 The Galleries, 44 Rose Hill Close, 4 Ash Grove, Lorton St, Cockermouth, 82 Stanley Avenue Romford, 13 Willow Way London, 82 Stanley Avenue Romford,** supporting the application for the following reasons:

- The application would not harm neighbouring properties,
- There would be no loss of privacy,
- There would be no noise and disturbance,

- The principle of the development has been considered acceptable by the council,
- The access has been considered acceptable,
- The applicant needs extra accommodation for this family and friends,
- It is essential so the applicant can stay in this property,
- The scheme is green and modest,
- The building will blend with the surroundings,
- It would not be visible from the street,
- No trees would be affected,
- It is surrounding by existing back land development,
- The green credentials are good,
- It would contribute additional family
- This is more appropriate than other development which has been given permission

1 letter has been received from **92 Milner Road** comment

- No objection.

**Mike Weatherley MP** objects for the following reasons:

- The house would intrude on neighbours with respect to light, privacy and openness.
- The scheme would contradict Tongdean Conservation Area Character Statement.
- Sub-division would harm the character of the area.
- This objection is in line with recent government measures to curb backland development.
- It is time to take a stand against this development.

### **Internal**

**Conservation and Design:** (verbal comment). The demolition of the garage should be resisted until such a time when details of the landscaping and boundary treatments around this part of the building, and the replacement garage have been assessed as acceptable under a full planning application

## **6 PLANNING POLICIES**

Brighton & Hove Local Plan:

HE6 Development within or affecting the setting of Conservation Area

HE8 Demolition in Conservation Areas

Planning Policy Statement

PPS5 Planning in the Historic Environment

## **7 CONSIDERATIONS**

The sole consideration with this application is the impact of the demolition of the existing double garage which is on the south-west boundary of site.

The demolition of the existing double garage requires Conservation Area

Consent due to the sites location within the Tongdean Conservation Area. The footprint would of the garage is approximately 60m<sup>2</sup>. National planning policy concerning the historic environment (PPS5), states that where demolition within a conservation area is proposed, the prime consideration is the preservation or enhancement of the character or appearance of the area. It also advises that the wider effects of demolition on the building's surroundings and on the conservation area as a whole should be taken into consideration and that the general presumption should be in favour of retaining buildings which make a positive contribution to the character or appearance of the area.

Policy HE8 of the Brighton & Hove Local Plan also states that buildings which make a positive contribution to the character or appearance of a conservation area should be retained. It further advises that any redevelopment should both preserve the area's character and would produce substantial benefits that would outweigh the building's loss.

Demolition will not be considered without acceptable detailed plans for the site's development.

An application seeking full planning permission (ref: **BH2010/00908**) accompanied the current Conservation Area Consent. The full planning permission proposes the demolition of the garage and the formation of an access to a new house in the rear garden of 4 Tongdean Road. As currently proposed, this development is not considered acceptable. The proposed development for an additional house represents an unacceptable scale, which would harm the character and appearance of the area and the residential amenity of neighbouring properties. This application is recommended for refusal.

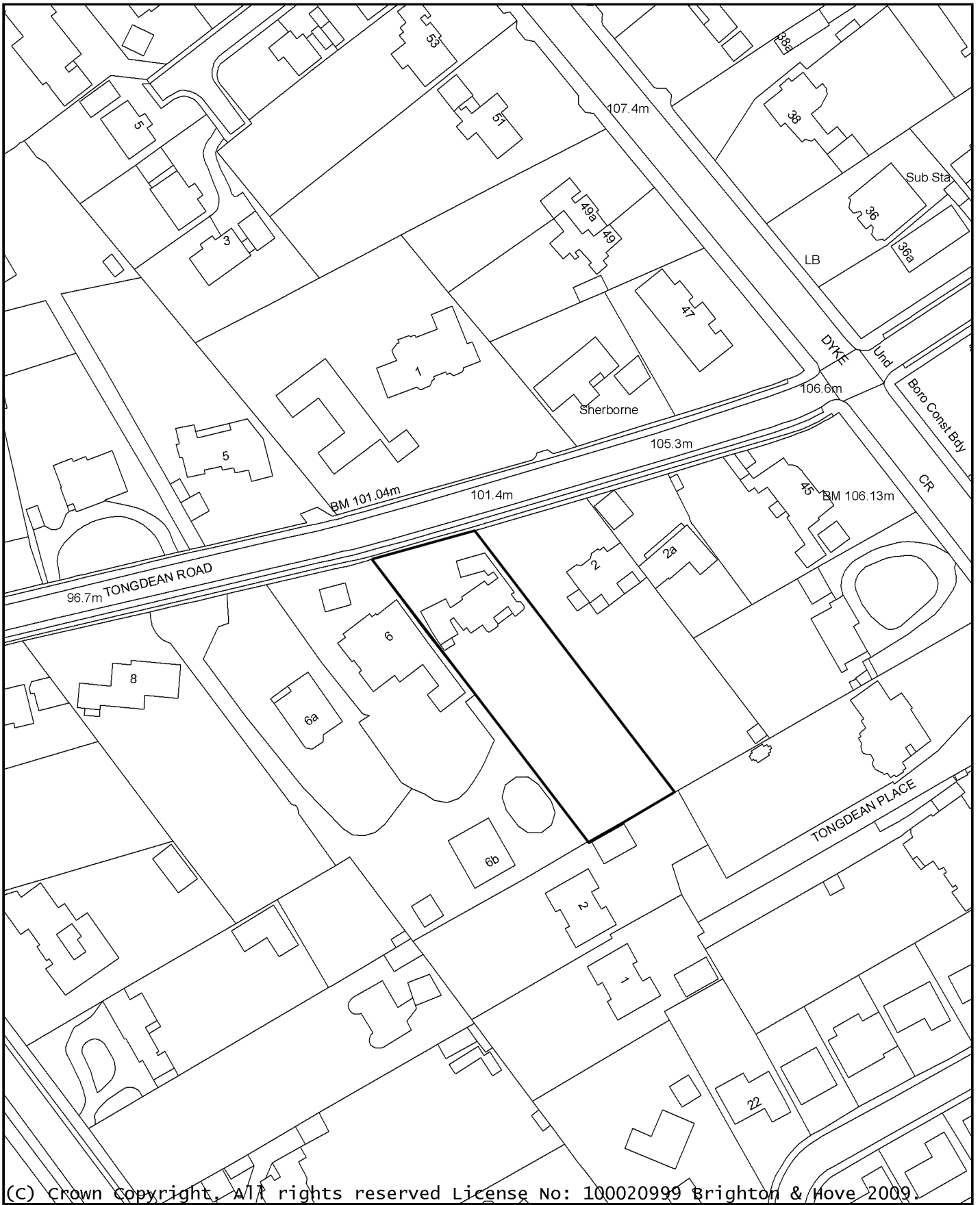
The Conservation Officer has advised that there is no objection in principle to the proposed demolition of the garage, but this is subject to the approval of a satisfactory replacement development for the site. There are no acceptable details for the development of the rear garden, a replacement garage or associated boundary treatments.

Furthermore, should consent to demolish the garage be granted it is considered inappropriate to leave this area undeveloped. This would result in a vehicle opening and access to the rear garden of over 7 metres in width. Such an opening would appear out of character for the area with the Tongdean Conservation Area. Given that this would affect the appearance of the site when viewed from public view points it would also harm the appearance of the street scene.

For these reasons it is not considered appropriate to grant the demolition of the existing double garage as the demolition would harm the character and appearance of the Tongdean Conservation Area. The application is therefore recommended for refusal.

**8 EQUALITIES IMPLICATIONS**  
N/A.

# BH2010/00909 4 Tongdean Road



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<b><u>No:</u></b>	<b>BH2010/00908</b>	<b><u>Ward:</u></b>	<b>HOVE PARK</b>
<b><u>App Type</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>4 Tongdean Road, Hove</b>		
<b><u>Proposal:</u></b>	<b>Partial demolition and alterations to existing dwelling and erection of new detached 3 bedroom dwelling with separate garage, new access road and associated landscaping.</b>		
<b><u>Officer:</u></b>	Clare Simpson, tel: 292454	<b><u>Valid Date:</u></b>	31/03/2010
<b><u>Con Area:</u></b>	Tongdean Area	<b><u>Expiry Date:</u></b>	26 May 2010
<b><u>Agent:</u></b>	Lap Chan Riba, 177 Havelock Road, Brighton		
<b><u>Applicant:</u></b>	Mr & Mrs Liu, 4 Tongdean Road, Hove		

This application was deferred at the last meeting on 11/08/10 for a Planning Committee site visit.

## 1 RECOMMENDATION

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

1. The proposal would, by reason of its height, massing, and footprint, result in an excessive development which would be detrimental to the character of the area. It would further be detrimental to the amenities enjoyed by neighbouring occupiers by reason of an increased sense of enclosure to neighbouring properties, particularly 2 and 6b Tongdean Road. The proposal would therefore be contrary to policy QD27 of the Brighton & Hove Local Plan which seek, amongst other requirements, to ensure all new developments make a positive contribution to the visual quality of the environment and protect neighbouring amenity.
2. The proposal by reason of its height, massing and footprint would constitute an overdevelopment of greenfield land within a Conservation Area. The house is considered to dominate its surroundings harming the garden character and visual amenities of the area and fails to preserve or enhance the character and appearance of the Tongdean Conservation Area. The new house would be contrary to QD1, QD2, QD3 and HE6 of the Brighton & Hove Local Plan.
3. The proposal represents development in the rear garden now classified as Greenfield land. Given the sensitive nature of the location, the highest level of resource-efficiency must be sought for the proposed building. The submitted information indicates that development would meet Code for Sustainable Homes Level 3 and the expected standards would be Code for Sustainable Homes Level 5. It is not considered that the development could meet the standards without material changes to the design. The proposal is considered to the contrary to policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document on Sustainable Building Design (SPD 08).



Informatives:

1. This decision is based on drawing nos. 2009/11-100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, and supporting statements received on the 29<sup>th</sup> March 2010.

**2 THE SITE**

The application relates to a detached property on the southside of Tongdean Road approximately 110 metres west of the junction with Dyke Road Avenue and is located within the Tongdean Area Conservation Area.

The Conservation Character Statement describes the area as characterised by large plots, individual designed houses set in large plots with mature vegetation. The area has been altered by infill development, however the area retains a largely open character.

**3 RELEVANT HISTORY**

There is a Conservation Area Consent which is registered for the demolition of part of the building to facilitate the access. This is under consideration (ref: **BH2010/00909**).

**BH2008/00307:** Partial demolition and alterations to existing dwelling and erection of new detached dwelling with separate garaging, new access road and associated landscaping at land to rear refused 07/04/2008 for the following reasons:

1. The proposal would, by reason of its height, massing, building bulk and footprint, result in an excessive development which would be detrimental to the character of the area. It would further be detrimental to the amenities enjoyed by neighbouring occupiers by reason of an increased sense of enclosure to neighbouring properties, particularly 6b Tongdean Road. The proposal would therefore be contrary to policies QD1, QD2, QD3 and QD27 of the Brighton & Hove Local Plan which seek, amongst other requirements, to ensure all new developments make a positive contribution to the visual quality of the environment and protect neighbouring amenity.
2. The application involves the loss of a number of semi-mature trees on site. No information has been submitted regarding any replacement planting and therefore the applicant has failed to demonstrate that the development could adequately preserve the mature garden character of the surrounding area. There has been no information provided to demonstrate that the health and longevity of the retained trees can be secured. The application is contrary to policy QD16 and HE6 of the Brighton & Hove Local Plan and SPD06 Trees and Development Sites
3. The narrow access road over 55 metre in length presents an increased risk to users of the public highway by virtue of the additional stopping, turning and reversing of traffic that would be created. The application therefore fails to comply with policies TR1 and TR7 of the Brighton & Hove Local Plan.

This application was the subject of an appeal to the Planning Inspectorate. The appeal was dismissed with the Inspector concurring with the council on the first two reasons for refusal. The third reason for refusal was not upheld by the Inspectorate.

**BH2005/01514/OA:** Demolition of existing garage block and construction of a private dwelling using existing access. (Resubmission of Refused application BH2004/02147/OA) Refused for the following reasons: The proposal would not only fail to preserve and enhance the character and appearance of the Tongdean Area Conservation Area by reason of its excessive size, footprint and siting in close proximity to the boundary, which consequently restricts the opportunity for new planting along the boundary, but would also represent an un-neighbourly form of development, detrimental to amenity of adjoining occupiers in terms of building bulk and increased sense of enclosure. The proposal is therefore contrary to policies BE1 and BE8 of the Hove Borough Local Plan and QD1, QD2, QD3, QD27, HO3, HO4 and HE6 of the Brighton & Hove Local Plan Second Deposit Draft.

**BH2004/02147/OA:** Demolition of existing garage block and erection of a private dwelling using existing access – refused 07/10/2004 for the following reason: The proposal would not only fail to preserve and enhance the character and appearance of the Tongdean Area Conservation Area by reason of its excessive size, footprint and siting in close proximity to the boundary, which consequently restricts the opportunity for new planting along the boundary, but would also represent an unneighbourly form of development, detrimental to amenity of adjoining occupiers in terms of building bulk and increased sense of enclosure. The proposal is therefore contrary to policies BE1 and BE8 of the Hove Borough Local Plan and QD1, QD2, QD3, QD27, HO3, HO4 and HE6 of the Brighton & Hove Local Plan Second Deposit Draft.

**BH2002/00582/FP:** Roof extension to existing garage to provide artists studio accommodation, approved 01/05/2002.

#### 4 THE APPLICATION

Full planning permission is sought for the erection of a two storey dwelling in the rear garden of 4 Tongdean Road. The building would have three bedrooms and a double garage.

#### 5 CONSULTATIONS

**External:**

**Neighbours:** A joint letter has been received from the occupiers of **2 Tongdean Place, 2a Tongdean Road, 2 Tongdean Road, 6b Tongdean Road, 41 Dyke Road Avenue, 1 Tongdean Place** objecting to the application for the following reasons:

- The house remains too large for the plot,
- The building is too close to neighbouring boundaries,
- To proposed house is the same height and distance to 2 Tongdean Road

as previously refused,

- The building fails to address the concerns of the previous application,
- There would be significant increased sense of enclosure,
- The development does to enhance the conservation area,
- It would dominate the existing houses.

**Sixteen (16) letters have been received from 6 Tongdean Road, 34 Dyke Road Avenue, 20 Ridgeside Avenue, 2 The Galleries, 44 Rose Hill Close, 16 Lincoln Road, 29 Trafalgar Gate, 2 Dyke Road Place, 8 Fairlawns 159 Kingsway, 19 Ainsworth Road, 25 Orchard Gardens, 4 Ash Grove, Lorton St, Cockermouth, 82 Stanley Avenue Romford, 13 Willow Way London, 82 Stanley Avenue Romford, The Old Rectory, Coombes, Lancing, supporting the application for the following reasons:**

- The application would not harm neighbouring properties,
- There would be no loss of privacy,
- There would be no noise and disturbance,
- The principle of the development has been considered acceptable by the council,
- The access has been considered acceptable,
- The applicant needs extra accommodation for this family and friends,
- It is essential so the applicant can stay in this property,
- The scheme is green and modest,
- The building will blend with the surroundings,
- It would not be visible from the street,
- No trees would be affected,
- It is surrounding by existing back land development,
- The green credentials are good,
- It would contribute additional family ,
- This is more appropriate than other development which has been given permission.

**Four (4) letters have been received from 92 Milner Road, 87 Swanborough Drive, 5 Hellingly Close, 68 Pelch Lane, Seend Cleeve, Melksham, Wiltshire, commenting:**

- No objection,
- The applicant needs this facility to continue to operate from this location,
- No trees would be lost,
- It would not affect neighbours,
- It is in line with guidance for the area.

**Mike Weatherley MP objects for the following reasons:**

- The house would intrude on neighbours with respect to light, privacy and openness,
- The scheme would contradict Tongdean Conservation Area Character Statement,
- Sub-division would harm the character of the area,
- This objection is in line with recent government measures to curb backland

development,

- It is time to take a stand against this development.

**CAG:** No objection. This proposal would not be seen from the public domain and would therefore not have an adverse impact on the street scene. The group raised no objection to this application.

**Internal:**

**Sustainable Transport Team:** No objection subject to conditions.

**Conservation & Design:** The existence of 6b Tongdean Road and 1 and 2 Tongdean Place in close proximity, without their own street frontages, means that this area to the rear of the main properties no longer has the feel of open back gardens, and therefore the principle of developing this rear area also is considered acceptable.

As with the previous proposal the impact of this development on the public parts of the conservation area would be extremely limited as no new access is proposed for Tongdean Road, and the building itself will not be readily visible from the street. It is noted that the replacement of the existing garage, which will be visible from the street, will be the subject of a separate application. However although the scale of the proposal is significantly reduced from the previous scheme, with only part of the building being 2 storey, the proposed house is still a substantial property with a footprint almost identical to the previous (refused) scheme and its size in relation to the plot means that an overly dominant impact on the immediate area would result.

The existing new 'backland' developments are set within their own substantial grounds, in keeping with the conservation area which is characterized by buildings set within generous plots, however the proposed site is significantly smaller than the other neighbouring 'new' plots and due to the size of the proposed building the relationship between dwelling and surrounding grounds would be more confined in comparison.

In addition to this it is considered that any development of this site should be with a less substantial property than the frontage building, whereas the footprint as proposed amounts to over 90% of that of the existing building (both garages excluded).

For these reasons it is considered that the proposed site coverage is too great for the established grain of the area, and does not reflect the character of the conservation area. This site would be more suitable for a more modest dwelling.

**Arboriculture Team:** The Arboriculture report submitted with the planning application is comprehensive and the Arboricultural Section is in full agreement with it.

Should planning consent be granted, several trees of insignificant arboricultural value will be lost (Leylandii, laurel hedge, old apple trees, laburnum). The Arboricultural Section would not object to this.

The Arboricultural Section would like to ask that the following conditions be attached to any planning consent granted: All trees to remain on site are surveyed to BS 5837 (2005) Trees on Development Sites, and are protected as recommended in that survey.

The root plates of the Limes etc may be affected by the proposed new driveway. An Arboricultural Method Statement should be submitted to show how this will be constructed in close proximity to the trees.

A landscaping condition should be attached showing the silver birches that are proposed to replace trees that will be removed.

## **6 PLANNING POLICIES**

### Brighton & Hove Local Plan:

- QD1 Development design
- QD2 Neighbourhood design
- QD3 Efficient and effective use of space
- QD5 Design – Street Frontages
- QD14 Extensions and alterations
- QD16 Trees and development sites
- QD27 Protection of amenity
- HE6 Development within Conservation Areas
- HO3 Dwelling type and size
- HO4 Dwelling densities
- HO5 Provision of private amenity space in residential development
- HO13 Lifetime homes
- SU2 Efficiency of development in the use of energy, water and minerals
- SU13 Minimisation and re-use of construction industry waste
- TR1 Safe development
- TR12 Cycle access and parking
- TR17 Parking Standards

### Supplementary Planning Guidance

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

## **7 CONSIDERATIONS**

The determining issues raised by this proposal are firstly, the suitability of the principle of development and impact on the Conservation Area, secondly whether the proposed works will have a detrimental impact on the amenity of neighbouring occupiers and thirdly the standard of accommodation being provided.

The principle of a new dwelling on the site and impact on character of the area

The proposal seeks permission to build a house in the rear garden of 4 Tongdean Road. The recent amendment to Planning Policy Statement 3 on Housing (PPS3) now excludes gardens from the definition of previously developed land. This was effective from the 9<sup>th</sup> June 2010. One of the revisions redefined gardens as greenfield land.

The change in national policy means that the Local Planning Authority can consider the specific qualities of the garden area which is proposed to be developed. Notwithstanding the change in national policy, the adopted local approach has not changed in that proposals for 'backland' development will always need to be rigorously examined in respect of the impact of the surrounding area and its impact on amenities. Special attention will be paid to the design and quality of spaces between buildings. Local plan policies remain applicable; policies QD3 and HO4 can support planning permission for backland development, including development on previously un-developed gardens providing that the proposed building responds well to the character or the area, does not harm neighbouring occupiers, and is acceptable in all other respects.

With regard to the ability of the plot to accommodate a new dwelling, in this instance the rear of the garden is not open in character. As the Conservation Officer has noted, the existence of 6b Tongdean Road and 1 and 2 Tongdean Place in close proximity, without their own street frontages, means that this area to the rear of the main properties no longer has the feel of open back gardens, and therefore the principle of developing this rear area also is considered acceptable. A similar conclusion was drawn by the Planning Inspector in respect of the previous application. It is acknowledged, however, that previous decisions on the site were made before the revision of PPS3. However, as noted above the revision to PPS 3 should necessarily not rule out the principle of garden development without full assessment of scheme.

4 Tongdean Road is a substantial plot. The existing house benefits from over 55 metres of rear garden and it is proposed that the new house takes advantage space and utilise the southern part of the garden. The proposed plot would have vehicle access from Tongdean Road and would be 18 metres in length. Given the size of the plot, and the presence of other buildings in the gardens of neighbouring properties, it is considered that the principle of a new house to the rear of 4 Tongdean Road should not be ruled out.

Notwithstanding this, 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. In addition policy HE6 requires development within conservation areas to preserve or enhance those areas. These policies require that the scale of development is appropriate to the layout of the scheme and the relationship to the surrounding area, that the design emphasises and enhances the positive aspects of the neighbourhood



with attention paid to the creation of spaces between development, and that overdevelopment and town cramming are avoided.

With this development, the impact of this proposal on the public parts of the Conservation Area would be extremely limited as the building itself will not be readily visible from the street. There is no objection in principle to adopting a modern approach in this location, even though it would be visible from a number of adjacent properties. The design of the building is considered to be acceptable in terms of the materials proposed. It is also considered to be a more modest proposal than the previous application.

The existing 'backland' developments adjacent to the site are set within their own substantial grounds, and generally in keeping with the Conservation Area which is characterised by buildings set within generous plots. The proposed site is significantly smaller than the other neighbouring new plots. The infill dwelling at 6b with approximately double the width of this proposed plot is an example of these larger plots. It is for these reasons the scale of the proposed house appears excessive. The size of the proposed building and the width of the plot would result in this proposal appearing more confined in comparison to other development in the area.

A comparison between the footprint of the existing house and the proposed house illustrates the excessive size of the proposal. It is usual for backland development to appear subservient to the principle dwelling which would usually be dominant with road frontage. The footprint of the proposed house fails to achieve this.

Although much of the footprint would be single storey, the size of the dwelling in relation to the plot is considered unduly large. The comparison drawing which has been submitted with the application should be viewed with caution as this under-represents the true scale of the proposed building as the roof overhang is omitted. As noted by the Conservation Officer, the footprint of the new building remains significant. This is particularly evident looking at the proximity to neighbouring boundaries. When the building would be viewed from neighbouring houses, the extent of the roof overhang would contribute to the visual prominence of the house.

Given the size of the proposed dwelling, and the positioning so close to the boundaries of neighbouring properties, the proposed dwelling would fail to respect the spaces around buildings which are part of the character of the area. The garden area would have an overdeveloped appearance, which would fail to preserve or enhance the character of the Tongdean Conservation Area.

In regard to the alterations to the existing house, the existing double garage would be demolished and necessary to facilitate adequate access to the rear of the property, they should be considered. The alterations will reduce the size of the property and result in no.4 having a reduced frontage. The

alterations would not necessarily harm the appearance of the property or the street scene should full details of the replacement buildings and boundary treatments be submitted.

The demolition of the garage shall be considered under the Conservation Area Consent.

Impact on amenity

The access road should not cause a significant impact on the property to the west. Whilst it is acknowledged that the provision of an access route along the boundary would increase levels of activity, they should not be so significant to cause noise and disturbance. Whilst aspects of the safety of this arrangement are discussed below, there could be some opportunity to use landscaping to improve these arrangements and contribute to the character of the area.

No contextual elevations were received with this application to demonstrate the relationship between the proposed property and neighbouring dwellings. A significant change in ground levels was observed on site which means the new property is likely to have the most impact to no.6b Tongdean Road. Although in absolute terms the separation between these properties appear acceptable at 19 metres, when viewed on site it is apparent that the new property would have significant impact on this property. As a result the new property would be overbearing, and unduly prominent. The property would be glazed on this elevation and a loss of privacy and general overlooking would be marked.

The proposed building would be positioned approximately 4 metres from the boundary with 6b Tongdean Road. The 2 storey building which was previous proposed was 5 metres form the boundary. The two storey element would be located approximately 13 metres form this property. Whilst this appears to be a significant distance, the change in land levels to this property are substantial. Despite the distance separating the two-storey element from this boundary given the change in levels it is considered that the proposed building would have a significant increase sense of enclosure on the occupiers of this property. The first floor terrace would also contribute to an un-neighbourly form of development. This is despite the presence of the pool building an proposed extension to the pool building

To the east, the building would be closer to 2 Tongdean Road than the previous proposal, within 1 metre of the boundary. The two storey building rises within 2.5 metres of the boundary which is 1 metre closer than in the previous application. The two-storey element would be 9 metres deep which is a reduction from the 15.5 metres previously proposed and land levels in 2 Tongdean Road are higher than those within the application site. However this does not satisfactorily mitigate for a two storey building in this location so close to the boundary. The development would significantly enclose the garden of this property to the detriment of the occupiers of this property.

In terms of the impact on the existing property at no.4 Tongdean Road, a distance of 27 metres would separate the properties. This is considered broadly acceptable given that the levels here are similar and that no.4 itself is an imposing property.

Representations received from neighbouring properties also make reference to the impact on the proposed development on no.2 Tongdean Place. There would be no impact on the residential amenity by way of loss privacy to habitable rooms. The Inspector when considering the potential impact on this building did not accept that there would be significant impact on this property. The building would be readily visible from this house, but there is some screening on the boundary. Having regard to the Inspectors findings, it is not considered that this scheme would have a significantly harmful impact on the occupiers of the neighbouring properties.

Whilst there has been a marked decrease in the scale of the proposed building when compared to the previous schemes, the development would still have a substantial footprint which would rise close to both the east and west boundaries. For this reason the development would cause an increased sense of enclosure to neighbouring occupiers contrary to policy QD27 of the Brighton & Hove Local Plan.

#### Trees and Ecology

The application has been accompanied by an Arboriculture Report and the development would involve the loss of some trees to the rear of the site. The only mature tree which is proposed to be felled is a Cedar in the rear garden which would have to be removed to facilitate the development. Replacement trees have been suggested close to the location of the Cedar.

The Arboriculture Team have not objected to the proposal and are in agreement with the submitted Arboriculture Report. Conditions would be necessary to secure the preservation of trees which are to be retained on site. Some additional planting has been identified on the Arboriculture report including new birch trees in the vicinity of the new house.

In regard to ecology, a biodiversity checklist has been submitted with the application. None of the biodiversity indicators have been triggered in the submitted checklist although it is not considered that this has been accurately completed. As stated above, a mature tree is to be removed and some hedges on site. For this reason it is considered that indicators 11 and 12 relating to potential habitats in hedges and mature trees have not been answered correctly. Should the proposal be considered acceptable, further information would have to be submitted to address this issue.

#### Highway Implications

Vehicle access is included as part of the proposal, and a detached garage is also proposed. With regard to safety, the Sustainable Transport Team have not raised an objection to the proposal due to the length and width of the

proposed access route. This has been noted, clearly if it is recognised that this site is a plot for an additional house, a long access route would be inevitable, but further details on this element of the application would be required.

In the previous application the Sustainable Transport Team objected to the proposal. This was not upheld by the Planning Inspectorate who noted the access was lengthy but did not identify any harm arising from the vehicle movements.

#### Standard of accommodation

Policy HO13 requires development to meet lifetime homes standards, where the property can be altered without major structural changes to meet to the needs of disabled occupants. The layout and room sizes proposed are considered of an adequate size to meet the requirements of this policy. The proposal would provide a good standard of accommodation in general with good levels of natural light and ventilation. Refuse and recycling facilities and cycle parking would be provided. The property would benefit from a good level of private amenity space in accordance with policy HO5.

#### Sustainability

A Sustainability Checklist has been submitted with the application. The checklist indicates that in terms of building performance, the proposed house is expected to meet Code for Sustainable Homes (CSH) Level 3. In the design and access statement it is claimed that Code Level 4 could be met. The details relating to this have not been supplied and it is not clear whether the application site has been registered for pre-assessment. Nevertheless the new building would benefit from natural light and ventilation and solar panels are proposed for the west and south roof slopes.

The application must be assessed with regard to the Supplementary Planning Document on Sustainable Building Design (SPD08). The recommended standards for Greenfield development are higher than the standards for previously developed land. The standard sought is Level 5 of the Code for Sustainable Homes.

The reason why a higher level is sought for Greenfield development is that some of the potential negative effects of Greenfield site development involve a reduction loss of amenity space and may involve the destruction of natural habitats. For these reasons the adopted SPD states that should the loss of Greenfield sites take place, then the highest level of resource efficiency must be sought to minimise the impact of development.

The applicant has been informed of the Code for Sustainable Homes standards which this development would be expected to achieve and given the opportunity to submit further information on this issue. Despite this request, no further information was submitted. Notwithstanding the claim in the Design and Access Statement, the supporting information in Sustainability

Checklist indicates that the new development would meet Code for Sustainable Homes Level 3. This is below the standard expected for development on Greenfield land. With no justification given on why the development fails the standards, and no alternative mitigation measures offered, the proposal is considered contrary to SU2 of the Brighton & Hove Local Plan and the Supplementary Planning Document on Sustainable Building Design (SPD 08)

Other considerations

A number of letters have been received from members of the public expressing support for the development and siting the specific needs of the applicant for more space. The existing house is a large residence and it is understood that the applicant does work from the site and on occasion clients visit the site.

Whilst the letters of support are recognised, this is a residential location and protecting the residential amenity of neighbouring properties and character of the area is important. It is not considered that the needs of the applicant for additional space outweighs the harm presented to neighbouring occupiers and the harm to the surrounding area from the scale of the house proposed.

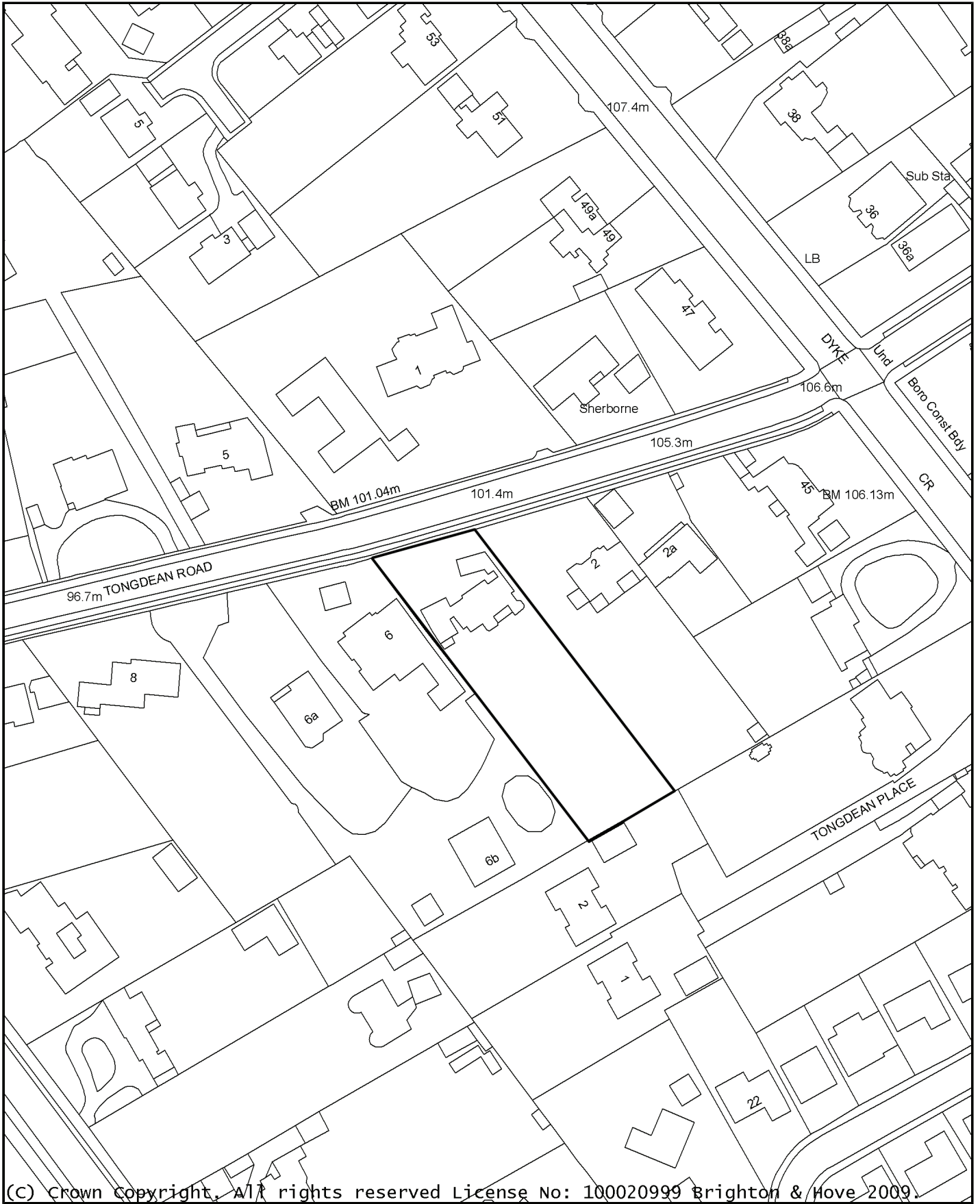
Conclusion

The site is of a sufficient size to accommodate a residential unit, however the height, massing, building bulk and footprint, result in an excessive development which would feel confined in the plot. Given the proximity to neighbouring properties and change in levels, the new property would be overbearing and unduly prominent and detrimental to the residential amenity of neighbouring properties. Refusal is recommended.

**8 EQUALITIES IMPLICATIONS**

The new house would need to meet lifetime homes standards in accordance with policy HO13.

# BH2010/00908 4 Tongdean Road



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<b><u>No:</u></b>	<b>BH2010/01059</b>	<b><u>Ward:</u></b>	<b>WESTBOURNE</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>51 Westbourne Villas, Hove</b>		
<b><u>Proposal:</u></b>	<b>Re-conversion of 3no existing flats back into 1no 5 bed dwelling house and conversion of garages to rear into a detached 3 bed house.</b>		
<b><u>Officer:</u></b>	Adrian Smith, tel: 01273 290478	<b><u>Valid Date:</u></b>	26/05/2010
<b><u>Con Area:</u></b>	Sackville Gardens	<b><u>Expiry Date:</u></b>	21 July 2010
<b><u>Agent:</u></b>	Chalk Architecture Ltd, 219b Preston Road, Brighton		
<b><u>Applicant:</u></b>	Baron Homes Corporation Ltd, Mr Michael Blencowe, 22a East Street, Brighton		

This application was deferred at the last meeting on 11/08/10 for a Planning Committee site visit.

## 1 RECOMMENDATION

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

### Reasons:

1. Policy HO5 of the Brighton & Hove Local Plan requires the provision of private useable amenity space in new residential development where appropriate to the scale and character of the development. The proposed conversion and extension of the main building would result in a five-bedroom family home with private rear amenity space that would be unsuitably small in comparison to the original layout of the site and the scale and character of the development. Additionally, the proposed annex house to the rear would be a three bedroom family home with no useable private amenity space. The proposed development therefore fails to provide a suitable standard of useable private amenity space for each dwelling and is contrary to the above policy.
2. The proposed annex house, by virtue of the limited amount of light and outlook to the basement and ground floor living spaces, and the perception of overlooking afforded by the close proximity of the main dwelling, fails to provide a suitable form of accommodation for future residents which would be of detriment to their living conditions. The proposal is therefore contrary to Policy QD27 of the Brighton & Hove Local Plan.
3. Policy HO8 of the Brighton & Hove Local Plan states that planning permission will not be granted for proposals involving the net loss of residential accommodation. Owing to the unacceptability of the proposed annex house having regard to policies QD27 and HO5 of the Brighton & Hove Local Plan, the suitability of converting the existing building from three residential flats into one dwellinghouse is unacceptable as it would result in the net loss of two residential units, thereby conflicting with the

above policy.

Informative:

1. This decision is based on the design and access statement, heritage statement, waste minimisation statement, site plan and drawing no.A.01 submitted on the 13<sup>th</sup> April 2010; the sustainability checklist submitted on the 26<sup>th</sup> May 2010; the arboricultural report submitted on the 1<sup>st</sup> July 2010; drawing nos A.02 rev A and A.04 submitted on the 13<sup>th</sup> July 2010; and drawing nos. D.11 rev A, D.12 rev B & D.13 rev A and the photograph submitted on the 16<sup>th</sup> July 2010.

**2 THE SITE**

The application relates to a large villa house located on the east side of Westbourne Villas, Hove, close to the junction with Westbourne Place and within the Sackville Gardens Conservation Area. The property has been vacant for a number of years and is in a derelict condition. It formally consisted of three flats spread across the basement, ground floor, first floor and roof levels. At the rear of the garden is a block of five garages fronting Westbourne Place.

**3 RELEVANT HISTORY**

None.

**4 THE APPLICATION**

The application seeks planning permission to return the building to residential use by converting the three flats into a single five bedroom house, adding a lower ground and ground floor extension to the rear. Additionally, the block of garages to the rear is to be converting into a second annex house fronting Westbourne Place, with the excavation of a basement level and the addition of a flat roof. This annex house would be a separate planning unit independent of the main dwelling.

**5 CONSULTATIONS**

**External:**

**Neighbours: Five (5) letters** of representation have been received from the residents of **Nos 3, 6, 15, 39 & 39A Westbourne Villas** supporting the proposed development on the grounds that:

- The proposed development would sympathetically restore the building to its original condition and will have a positive contribution to the area.
- The proposal will result in a family home and a better balance of properties in the area, and avoid its conversion into flats as per other similar buildings in the street.
- A house with parking rather than flats would reduce parking congestion in the street.
- The proposal would enhance the ugly garages on Westbourne Place.

One letter of objection has been received from **Hove Civic Society** on the grounds that the annex house will have virtually no garden amenity space,

whilst some of the original garden to the main house will also be lost. No objection is raised to the restoration of the main house or the addition of the rear extension.

**Internal:**

**Design and Conservation:** No objection.

The existing property is vacant and in poor condition and has suffered from past inappropriate alterations. The proposal to bring it back into use as a single dwelling and restore the building is welcomed. The proposals would enhance the appearance of the Conservation Area in Westbourne Villas. The reinstatement of a slate roof is very welcome and the proposed replacement of the existing UPVC windows with timber sash windows is also very welcome. The removal of the side porch is further welcomed and there is no objection to the proposed modern obscure glazed window, which would not be readily visible from the street. No soil or waste pipes, flues or vents for the new bathrooms should be exit the front elevation.

There is an opportunity to remove the existing rusticated concrete blocks from the front boundary wall and reinstate iron railings. This would further enhance the appearance of the building from Westbourne Villas.

The proposals to the rear of the building cannot be properly assessed at this stage due to inadequate and inaccurate drawings. There is no elevation drawing of the existing garages and no contextual drawing showing the proposed new house together with the existing house and in the wider street scene. There are also no sections through proposed new house.

Following the submission of amended drawings:

The revised plans generally address the concerns raised in the original comments and there are no remaining outstanding objections to the proposals. A condition will be needed to require large scale details of the sliding rooflight, including a section to show its height above the roof. Samples of materials will also be needed by condition and the standard condition on sash windows (12.03) should be added too.

**CAG:** No objection.

The group felt the removal of the garages would be an improvement to the conservation area and were satisfied that this proposal would not affect its appearance. The group therefore agreed to make no comment.

**Sustainable Transport:** No objection.

**Arboricultural Officer:** No objection.

The Arboricultural Section recently visited the above site and agree with the Arboricultural report submitted. There are no trees on the site that are worthy of a Tree Preservation Order. Most trees are of poor form and / or causing actual structural damage whilst the Poplar is an inappropriate species for a small suburban garden.

The Arboricultural Section would not object to the removal of all trees from the site, subject to a landscaping scheme showing replacement trees in appropriate locations within the curtilage of the property.

## 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
QD14	Extensions and alterations
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
HO8	Retaining housing
HO13	Accessible housing and lifetimes homes
HE6	Development within or affecting the setting of conservation areas

### Supplementary Planning Document:

SPD03	Construction and demolition waste
SPD08	Sustainable building design
SPD09	Architectural features

### Supplementary Planning Guidance:

SPGBH1	Roof Alterations and Extensions
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### Planning Policy Guidance:

PPS3	'Housing'
PPG15	'Planning and the Historic Environment'

## 7 CONSIDERATIONS

The main considerations material to this application are the principle of the loss of residential units to accommodate the conversion and the impact of the extensions on the appearance of the building and amenities of adjacent occupiers. Additional material considerations include the principle of converting the garages into a separate residential unit, the standard of accommodation it would provide for, its resultant impact on the street scene and amenities of adjacent occupiers, alongside sustainability, lifetime homes and access and parking issues.

Principle of Development

The main building was originally constructed as a single dwellinghouse but has subsequently been converted into three flats. These flats have since been vacated and the site is now disused and in a state of disrepair. The proposal seeks to revert the main building back into a single dwellinghouse, resulting in the loss of two residential units.

The primary judgement with regard the principle of this development is whether the loss of residential accommodation constitutes a material change of use contrary to policy HO8 of the Brighton & Hove Local Plan. The Council's current position is that the conversion from two residential units to one larger unit does not normally require planning permission, as demonstrated in case law. This is because the union of two units that are of the same use class (C3) is not considered a material change of use. In (Carrick DC 25/5/81) it was held that the union of two adjoining cottages to create a single dwelling did not create a material change of use whilst similarly, in (Penwith DC 27/6/90) the joining of the two semi-detached halves of a bungalow was also considered not to require planning permission. Furthermore, the proposed amalgamation of flats in a property to form a single dwellinghouse was the subject of an appeal (Islington LB 10/6/97) whereby the inspector noted that although sec.55(3)(a) of the Town and Country Planning Act 1990 made the creation of two or more dwellinghouse a material change of use, a change in the opposite direction would not always be material and any test must be a matter of fact and degree; the Act does not specifically render that such a change would not always be material.

In light of the above cases, the Council's position is that the conversion of two flats to a single dwellinghouse does not constitute a material change of use and planning permission is not required. For the conversion of three or more flats to a single dwellinghouse though, the Council's position is that a material change of use is considered to have occurred and planning permission is required. On this basis Local Plan policy HO8 resists the net loss of residential accommodation unless the proposal meets specific exception tests. These tests include whether the existing residential accommodation is unfit for human habitation and it can be demonstrated that it cannot be made fit for human habitation; a separate access to the residential accommodation is impracticable; a change of use is the only practicable way of preserving a Listed Building; where the proposal would result in a net gain in units of affordable housing; or where the previous use of the building would be a material consideration. It is clear that none of these exception tests apply to this site therefore the principle of converting the three flats to a single dwellinghouse would be unacceptable.

To counter this, the proposal includes the conversion of an existing garage block to the rear of the site into a single three-bedroom dwellinghouse, thereby resulting in the site as a whole being reduced from three residential units to two, albeit now within two stand-alone buildings rather than one. On the basis that the above case law has determined that the net loss of one

residential unit at a site does not require planning permission, so in this case the loss of one residential unit is not considered a material concern contrary to Local Plan policy HO8 providing the new unit of accommodation is deemed acceptable. The conversion of the garages to the second residential unit does though constitute a material change of use to be judged on its own merits against separate development plan policies.

In summary, should the conversion of the garages be considered acceptable then the loss of one residential unit on the site would be considered acceptable having regard to the above case law. Should the conversion of the garages be considered unacceptable and irresolvable having regard to the development plan, then the loss of two residential units as part of the de-conversion of the main dwelling would constitute a material change of use contrary to policy HO8 of the Brighton & Hove Local Plan. The acceptability of the scheme as a whole is therefore dependant upon the acceptability of the garage conversion as a separate stand-alone dwellinghouse. Should permission be granted then the annex house must be constructed first prior to the occupation of the main dwellinghouse in order to secure the number of units on the site and thereby avoid a material conflict with Policy HO8. This could be achieved by condition, in the event planning permission was granted.

With regard the principle of converting the garages to a dwellinghouse, within the context of the street scene such a conversion is considered acceptable. It is noted that the Westbourne Villas and Westbourne Place buildings lines pinch towards their southern ends such that the rear gardens to Nos 48 to 54 Westbourne Villas also front Westbourne Place and get progressively shallower. Of these, Nos 48 and 53 have existing large rear extensions that have been converted to separate residential units fronting Westbourne Place, whilst the vacant building adjacent at No.50 also has a large rear extension consuming over 50 percent of the garden area. In particular, the rear extension to No.53 (constructed when the site was in operation as a residential nursing home and then subsequently a boarding house) has removed all original garden space and now directly opens onto Westbourne Place as a single dwelling, No.46 Westbourne Place (BH2006/03623 & BH2006/04036). On this basis, the principle of converting the existing block of five garages to a single dwellinghouse is considered acceptable subject to the resultant residential unit providing a good standard of accommodation and not having adverse impacts on the amenities of neighbouring occupiers.

#### Design and Appearance

Policies QD1 and QD2 of the Brighton & Hove Local Plan seek to ensure all new development demonstrates a high standard of design and makes a positive contribution to the visual quality of the environment; with policy QD3 seeking to make efficient and effective use of sites, subject to the intensity of development being appropriate to the locality and/or the prevailing townscape.



The existing building is a large villa style property with a basement level and loft rooms serviced by four identically positioned dormers of a similar scale. The proposed conversion works would return the building to a single 5 bedroom dwellinghouse, with basement gymnasium and pool, the replacement of a side porch with a large glazed panel window, and the general restoration of the original detailing and fenestration to the building. The front elevation would be restored back to its original level of detailing and finish with no additional elements, whilst to the rear a 2.4m deep extension is to be constructed at basement and ground floor level. This would be of a more modern finish with white wire cut bricks, timber weather boarding, and brass cladding to two large projecting windows. This extension would be recessed from the flank wall to the main house, would appear subordinate, and would be of a level of design and finishing that would compliment the more traditional host building. No concern is raised over this element of the proposal.

The block of garages to the rear sits amongst a mix of high rear boundary walls, garages and residential frontages within converted extensions rear of Nos 48 and 53 Westbourne Villas, each directly fronting Westbourne Place. The existing garage building is a poor quality flat roofed structure that extends the width of the plot to a height of 2.6m. The development proposes to excavate a basement level and add a flat green roof above to enable its conversion to a single three bedroom dwelling. Given the poor structural quality of the existing building this would likely result in its complete demolition and rebuild. The resultant building would sit on the same footprint and be rendered to match the main building. The front elevation would be finished with oak weather boarding to mimic the existing garage doors, whilst the roof would have a sliding rooflight to bring more natural light into the basement rooms. The scale and proportions of the frontage would be largely similar to the existing garages and the adjacent boundary treatments, albeit with a new roof to an overall height of 3m. Within the context of the street scene this is considered an acceptable approach that would not be harmful to the immediate character of this section of the conservation area. The design and appearance of the annex building is therefore considered to meet relevant local plan policies QD1, QD2 and HE6.

#### Impact on Residential Amenity

The proposed alterations and extensions to the main house and the addition of the second annex house will not harm the amenities of adjacent occupiers. To the north, No.50 extends considerably further to the rear and their existing openings will not be impacted by any new principle windows or the 2.4m depth of the proposed extension. Likewise the property to the south, No.52, will not be impacted beyond existing levels by the works. The annex house will contain no openings in the north or south flank wall, thereby protecting the privacy of adjacent gardens.

The main concern is the overlooking potential afforded by the proximity of the main house and the proposed annex house. The rear elevations to each

building are separated by a back-to-back distance of just 7m with a line of small unspecified planting and a 2.1m fence acting as a boundary treatment in between. Although direct overlooking would be somewhat limited by the 2.1m fence between the dwellings, there would still be an element of overlooking potential from the raised ground floor and first floor windows into the rear bedrooms to the annex house. This potential would be exacerbated by the close proximity of the dwellings such that the perception of overlooking would likely be much greater than the actual degree of overlooking.

It is worth noting that although the rear extensions to Nos 48 and 53 Westbourne Villas have been converted to single residential units similarly fronting Westbourne Place, they form part of the fabric of a pre-existing building thereby resulting in no loss of amenity to existing occupiers both within the site and adjacent.

#### Standard of Accommodation

The main dwelling would contain rooms in largely the same layout as current, each with good access to natural light and ventilation. In this respect no harm is identified. Owing to the introduction of the rear extension and steps to basement level, and the position of the boundary fence to the annex house, the remaining rear garden depth would be just 3.6m in depth. For a five bedroom family dwelling such as this, this is an unacceptably small amenity space, and does not reflect the larger such spaces in the local area. Policy HO5 is explicit in stating that private useable amenity space should be appropriate to the scale and character of the development and in this regard the proposed development is considered to fail.

With regard the annex house, the main living spaces and master bedroom are to be located in the basement, with natural light access via a run of rooflights to the west side and a large sliding rooflight above the open stairwell. Although it is accepted that natural light will penetrate these rooms, it is not considered a wholly acceptable arrangement as there will be minimal sunlight penetration and no outlook to these rooms, neither will there be any significant outlook from the ground floor bedrooms which will face the 2.1m boundary fence at a separation of just 1.6m. This poor level outlook is reflective of the tight nature of the site, and consequently only serves to further confirm its poor suitability for a development of this scale representing an overdevelopment of the site. The overall layout is considered suitable for family occupation with three double bedrooms, however, no useable private amenity space would be provided, contrary to policy HO5. Although a 1.6m wide pathway area is provided to the rear, the majority of this would serve raised rooflights to the lower level and be wholly unusable. The sliding rooflight would allow sky views, sunlight and ventilation to the lower living spaces however this is not considered to be an acceptable alternative solution by itself.

In summary, the proposed development fails to provide a suitable standard of useable private amenity space commensurate to the scale and location of the

development, and fails to provide a suitable standard of accommodation for the annex house in respect of outlook and sunlight accessibility, contrary to policies QD27 and HO5 of the Brighton & Hove Local Plan.

#### Lifetime Homes

Local plan policy HO13, states that proposals for conversions and changes of use to provide residential accommodation will be expected to demonstrate that wherever it is practicable, Lifetimes Homes criteria have been incorporated into the design. Within the fabric of an existing building such as the main house, it is not reasonable or practicable to expect all 16 criteria to be met, especially with regard to level accesses etc. Notwithstanding this exception, the application must demonstrate the criteria that could reasonably be incorporated into the design and layout. With regard the rear annex house, as a new construction it would be expected that all 16 criteria are met in order to meet policy. The accompanying design and access statement states that this annex house can be practicably adapted to suit lifetime homes standards however no details pursuant to these standards are supplied. Likewise, the application contains no indication whether lifetimes homes standards would be incorporated into the layout and design of the main house. A brief assessment of the scheme reveals that no significant changes to the layout or design of each house would be required to meet the standards, therefore specific details pursuant to all 16 standards can be reasonably requested and secured by condition in the event planning permission was granted.

#### Sustainability

Policy SU2 of the Brighton & Hove Local Plan, including SDP08 'Sustainable Building Design', requires new development to demonstrate a high level of efficiency in the use of water, energy and materials.

Proposals for the conversion of existing buildings are expected to include a completed sustainability checklist, an EST Home Energy Report, reduced water consumption and the minimisation of surface water run-off. The completed sustainability checklist details that the proposal as a whole will achieve a 78 percent (best) rating however no further examples or justifications are given for this score, or indication given as to what standard each house will achieve. Notwithstanding this, conditions can reasonably be attached to ensure that the above sustainability measures are incorporated into the design of the main house.

With regard the annex building, the SPD states that proposals for new build residential development on previously developed land should include a completed sustainability checklist, achieve Level 3 of the Code for Sustainable Homes, and should meet all Lifetimes Homes Standards. It must be noted that although PPS3 now refers to backland sites as being greenfield land (requiring Code Level 5 to be attained under the above policy and SPD) the annex building is to be constructed on largely the same footprint as the existing garages. This, in accordance with PPS3, is considered to be previously developed land instead, requiring Code Level 3 to be achieved.

This can be secured by planning condition. As stated the completed sustainability checklist details that the proposal as a whole will achieve a 78 percent (best) rating but without examples or justifications, or any indication as to what standard each house will achieve. Notwithstanding this, conditions can reasonably be attached to ensure that the annex house meets Code level 3 as required by the policy, in the event planning permission was granted.

No details of appropriate refuse and recycling facilities for each house are shown on the plans (as required to meet policy SU2) however such details can be requested by condition.

#### Access and Parking

Brighton & Hove Local Plan policy TR1 requires all new development to provide for the travel demand it creates, whilst policy TR14 requires that new development must provide covered and secured cycle parking facilities for residents. No details of the location, form or quantity of cycle storage facilities are detailed however in this instance a condition can be attached requesting exact details in order to fully accord with the requirements of policy TR14. In terms of parking, no spaces are provided onsite for the annex house, however, 2 spaces (in the form of a basement and ground floor level car lift) are to be provided adjacent to the annex house for the benefit of the main house. Although the street has parking restrictions (Controlled Zone R) there is no significant waiting list, whilst the proposal is for a net loss of one residential unit. On this basis no concern is raised over local parking supply. The Council's transport planning officer has not raised an objection to this proposal.

#### Trees and Landscaping

The site contains ten trees within the front and rear gardens, including five Poplar trees, a Goat Willow, two Sycamores, a Cherry and an Elder. A tree survey has been submitted with the application that assesses each tree for its safety, value and appropriateness. The report concludes that none are worthy of a Preservation Order whilst several have decay concerns. The development would require the automatic loss of the six trees within the rear garden however the remaining garden area would not be suitable for any replacement trees of great stature. Within the front garden, all trees are recommended for removal on safety and suitability grounds. The report recommends that more suitable replacement trees be planted within the front garden that are more suited to its size and location. It is considered that this is an acceptable approach that can be secured by planning condition, along with an overall landscaping scheme for the development, should permission be granted.

#### Waste Minimisation

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. The submitted statement acceptably details how waste is to be minimised during demolition and construction works with regard to this policy.

Conclusion

The proposal is unacceptable in that it fails to provide suitable useable private amenity space for the main dwelling and no useable private amenity space for the annex dwelling, whilst each room to the annex dwelling would have a poor outlook and daylight/sunlight levels. This is primarily a result of the short back-to-back separation between the buildings of just 7m. For these reasons the addition of the annex dwelling is considered unacceptable. As such the conversion of the main dwelling results in the loss of 2 units of accommodation and is contrary to policy H08 of the Brighton & Hove Local Plan which seeks to retain self-contained units of residential accommodation within the city.

**8 EQUALITIES IMPLICATIONS**

Subject to conditions, the proposed development would comply with Lifetime Homes standards.

**BH2010/01059 51 Westbourne Villas**



Date: 27/07/2010 11:29:53

Scale 1:1250



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<b><u>No:</u></b>	<b>BH2010/00630</b>	<b><u>Ward:</u></b>	<b>HOVE PARK</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>City Park, Orchard Road, Hove</b>		
<b><u>Proposal:</u></b>	<b>Erection of part one storey, part two storey building to form 7no one and two bedroom residential units with associated landscaping, car parking and cycle spaces.</b>		
<b><u>Officer:</u></b>	Jason Hawkes, tel: 292153	<b><u>Valid Date:</u></b>	17/03/2010
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	12 May 2010
<b><u>Agent:</u></b>	Turner Associates, 19a Wilbury Avenue, Hove		
<b><u>Applicant:</u></b>	Mountgrange (Hove) Ltd (In Administration), c/o Deloitte LLP, PO Box 810, 66 Shoe Lane, London		

This application was deferred at the last meeting on 11/08/10 for a Planning Committee site visit.

## 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 be **MINDED TO GRANT** planning permission subject to the applicant entering into a Section 106 Agreement and to the following Conditions and Informatives:

### S106

- A Section 106 Obligation to secure £5,250 towards Sustainable Transport Strategy for improvements to accessibility to bus stops, pedestrian facilities and cycling infrastructure in the area of the site.

### Conditions:

1. BH01.01 Full Planning.
2. BH03.01 Samples of materials.
3. BH05.01 Code for Sustainable Homes – Pre-Commencement (New build residential - Code level 5).
4. BH05.02 Code for Sustainable Homes – Pre-Occupation (New build residential – Code level 5).
5. BH02.07 Refuse and recycling storage.
6. BH06.03 Cycle parking facilities to be implemented.
7. BH02.03 No permitted development (extensions) (amenity and character).
8. BH02.04 No permitted development (windows and doors).
9. BH02.06 No cables, aerials, flues and meter boxes.
10. BH04.01 Lifetime Homes.
11. BH15.04 Method of piling.
12. BH05.01 Hardsurfaces.
13. BH11.01 Landscaping / planting scheme.
14. BH11.02 Landscaping / planting (implementation / maintenance).
15. No works shall take place until full details of proposed photovoltaic

panels, including 1:50 elevations, have been submitted to and approved by the Local Planning Authority in writing. The panels as agreed will be installed prior to the occupation of the units.

**Reason:** To protect residential amenity and the appearance of the building in accordance with policies QD1 and QD27 of the Brighton & Hove Local Plan.

16. No works shall take place until full details of all the fencing for the site, including 1:50 sample elevations, have been submitted to and approved by the Local Planning Authority in writing. The fencing as agreed will be installed prior to the occupation of the units.

**Reason:** In order to protect adjoining properties from overlooking and noise disturbance and to comply with policy QD27 of the Brighton & Hove Local Plan.

17. During construction of the approved scheme, the Norway Maple trees on site shall be protected to standard BS 5837 (2005), in accordance with the Arboricultural Report and retained as such thereafter.

**Reason:** In order to protect and retain the substantial trees on site in accordance with policy QD16 of the Brighton & Hove Local Plan.

18. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a 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 is within a Source Protection Zone 1 area for a public water supply abstraction point and in comply with policies SU9 and SU11 of the Brighton & Hove Local Plan.

19. Access to the green roof hereby approved shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area.

**Reason:** In order to protect adjoining properties from overlooking and noise disturbance and to comply with policy QD27 of the Brighton & Hove Local Plan.

20. No works shall take place until full details of the green walls and roof have been submitted to and approved by the Local Planning Authority. The scheme shall include full specification of plants including densities, distribution and arrangements for future maintenance. All planting comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the works, whichever is the sooner. Any plants which within a 5 year period 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 interests of the visual amenities of the area and to comply with policies QD1 and QD15 of the Brighton & Hove Local Plan.

21. The development hereby permitted shall not commence until full details of site and finished floor levels and height of the development in relation to surrounding buildings have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in strict accordance with the agreed details.

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

Informatives:

1. This decision is based on the Design and Access Statement, Biodiversity Indicator List, Site Waste Management Plan, Site Waste Management Statement, Sustainability Checklist Detailed Report, Sustainability Report, Arboricultural Report and drawing nos. TA468/10A, 11A, 12C, 13B, 14A, 15A, 16A, 17, 18A and 19 received on the 5<sup>th</sup> & 17<sup>th</sup> March, 23<sup>rd</sup> April and 3<sup>rd</sup> June 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:

Planning Policy Guidance

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
SU9	Pollution and noise control
SU10	Noise nuisance
SU11	Polluted land and buildings
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
QD5	Design – street frontages
QD15	Landscape design
QD20	Urban open space
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:

SPG4: Parking Standards

Supplementary Planning Document:

SPD03: Construction and Demolition Waste

SPD08: Sustainable Building Design; and

ii) for the following reasons:

The proposed development is appropriate in terms of its design and appearance and results in the sustainable development of a vacant piece of brownfield land to the benefit of the character and appearance of the surrounding area. The scheme also provides suitable accommodation, does not significantly harm the amenity of any neighbouring properties and is appropriate in terms of its impact on local parking and the demand for travel it creates.

3. The applicant is advised that details of the Code for Sustainable Homes can be found on the Planning Portal ([www.planningportal.gov.uk](http://www.planningportal.gov.uk)), on the Department for Communities and Local Government website ([www.communities.gov.uk](http://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](http://www.brighton-hove.gov.uk)).
4. The applicant is advised that details of Lifetime Homes standards can be found in viewed on the Lifetime Homes web site at [www.lifetimehomes.org.uk](http://www.lifetimehomes.org.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](http://www.communities.gov.uk)).
6. 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](http://www.netregs.gov.uk/netregs/businesses/construction/62359.aspx) and [www.wrap.org.uk/construction/tools\\_and\\_guidance/site\\_waste\\_2.html](http://www.wrap.org.uk/construction/tools_and_guidance/site_waste_2.html)
7. The site lies within a very sensitive groundwater location, a Source Protection Zone 1 area for Southern Water's Goldstone Public Water Supply. The Environment Agency is aware that previous contamination studies have been completed for the original 2001 application and the conditions recommended will ensure that the development could proceed

safely. All appropriate pollution controls measures should be used during construction. Further guidance is available here: <http://www.environment-agency.gov.uk/business/topics/pollution/39083.aspx>.

## 2 THE SITE

The application site relates to a vacant piece of land which is currently enclosed by fencing. The site is situated between two three-storey blocks (Orchard House and March House on the north side of Orchard Road. To the north of the site is a large office block. These blocks are modern in design and were built as part of the City Park development. The site includes two Norway Maples trees near to Orchard Road which are included in Tree Preservation Order no.20. The southern side of Orchard Road is predominantly comprised of two-storey semi-detached dwellinghouses.

## 3 RELEVANT HISTORY

Planning permission was granted for the redevelopment of the City Park site under **BH2001/01019/FP** in October 2002. This permission was for the demolition of existing building (the former Alliance & Leicester House) and erection of a mixed development comprising 20,717 sq.m (gross) B1 office floorspace set out within 3 no 3 storey blocks with 665 parking spaces, 65 two and three bed flats (21 affordable) with 66 parking spaces, a crèche facility with 6 parking spaces, access roads and improvements and associated landscaping.

This application relates to the area allocated as a crèche in the previous scheme.

An application was submitted for the erection of a day nursery for 64 children in 2006 (**BH2006/00450**). This application was withdrawn by the applicant.

## 4 THE APPLICATION

Planning permission is sought for the construction of a block comprising 7 residential units. The scheme includes 5 two bed units and 2 one bed units with the rear flat including a basement level for accommodation. The block has a curved elongated shape with a curved roof and walls. This results in the two storey element to the front curving down to a single storey element at the rear. The front of the building includes a ground and first floor terrace for the dwellings and greens walls and roof are proposed surrounding all of the building. The scheme includes 7 dedicated parking spaces for the flats which are existing parking spaces accessed from Orchard Road.

## 5 CONSULTATIONS

### External:

**Neighbours: 12 emails and letters** have been received from **1, 2, 10, 14, 15 Orchard House, 5 Orchard Gardens, 5 (2 emails), 11 Orchard Road, 3 March House and 23 King George Square, Richmond (owner of 7 Orchard House) objecting** to the scheme on the following grounds:

- Whilst the design of the flats is pleasing and more appealing than a

crèche, there are concerns that the residents of the ground floor of Orchard House will be significantly affected by the proposal.

- On the east side of the scheme are gardens. If these are private garden, there are likely to be washing lines and clothes dryers which are unsightly.
- The drawings are unclear as to where the boundaries of the site are and what provisions are being made for the boundary treatments.
- The two-storey element is in close proximity to Orchard House resulting in an overbearing impact, loss of light, outlook and generally creating a feeling of being hemmed in. The development should be completely single-storey.
- The site was originally intended for a social use as part of the City Park development to provide community facilities for a crèche. The use for residential does not conform to the original approval. The use as residential will result in a noise impact on adjacent properties.
- The scheme is being used to increase the value of the company which owns the land and is administration.
- This area has no facilities and the area should be used a crèche for the local community or as an alternative community facility.
- The increase in traffic caused by the scheme will have a significant impact on the local community.
- The scheme requires more off-street parking.
- The development should not go beyond the line of the south west corner of the adjacent property. The development will be too near to the houses across the road and the trees on site.
- The land should be used for additional car parking for March House.
- The scheme will aesthetically detract from the flats at Orchard House and the scheme is too dense for this plot. It will reduce the value of adjacent buildings.

**Ward Councillor Jayne Bennett** has objected to the scheme. A copy of the email is attached.

**Environment Agency:** No objection.

The site lies within a very sensitive groundwater location, a Source Protection Zone 1 area for Southern Water's Goldstone Public Water Supply. The agency is aware that previous contamination studies have been completed for the original 2001 application and, subject to conditions, the development could proceed safely. All appropriate pollution controls measures should be used during construction. No objection is raised subject to conditions relating to appropriate piling or any other foundations and remediation measures if contamination, not previously identified, is found to be present during construction works.

**Internal:**

**Sustainable Transport:** No objection subject to the following conditions:

- The development shall not be occupied until the cycle and parking areas have been provided in accordance with the approved plans.



- The applicant enters in to a legal agreement with the Council to contribute £5,250 towards improving accessibility to bus stops, pedestrian facilities and cycling infrastructure in the area of the site.

**Arboricultural Section:** The Arboricultural officer is in full agreement with the Arboricultural report submitted and therefore has no objections. No objection subject to a condition is recommended that the Norway Maple trees on site shall be protected to standard BS 5837 (2005) and retained as such thereafter.

**Environmental Health:** No comment.

**Sustainability:** No objection.

The scheme incorporates commitment to achieving Code for Sustainable Homes Level 5 for all residential units according to the submitted Sustainability Report. This commitment is welcomed as it goes beyond the recommended code standards for the type of development contained in SPD08.

**Housing:** No objection.

## 6 PLANNING POLICIES

### Planning Policy Guidance

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
SU9	Pollution and noise control
SU10	Noise nuisance
SU11	Polluted land and buildings
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
QD5	Design – street frontages
QD15	Landscape design
QD20	Urban open space
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:

SPG4: Parking Standards

Supplementary Planning Document:

SPD03: Construction and Demolition Waste

SPD08: Sustainable Building Design

**7 CONSIDERATIONS**

The main considerations in the determination of this application relate to the principle of a residential use on this site, the affect upon the appearance of the area and wider street views, neighbouring residential amenity, transport issues and sustainability.

Principle of residential use:

The site is part of the larger City Park site which allowed the development of the site for a mixed use comprising B1 office floorspace set out within 3 storey blocks and 65 two and three bed flats. Two of the approved residential blocks are positioned either side of the vacant land which is the subject of this application (Orchard House and March House) and the new office blocks are located to the north of the application site. This vacant plot was originally designated for a crèche facility for 40 children under BH2001/01019/FP. The crèche was proposed as a two storey building with an outside play and 6 dedicated parking bays.

The crèche has not been implement as it was not considered financially viable. However, it is important to note that the building to accommodate the crèche could still be implemented as the remaining elements of the scheme was implement. The supporting statement indicates that in the interim period a crèche facility has been opened in the adjoining Coral Sports Centre in 2008. The supporting statement goes on to state that this facility expected demand from the staff at Legal and General offices but the crèche only has 2 children whose parents work at City Park. There also 3 other day nurseries in the immediate vicinity, Footsteps at Old Shoreham Road, Early Years at Wilbury Villas and Hopscotch in Portland Road.

If constructed, the crèche would have provided a community facility for the area. This would have been advantageous to the area. Whilst the loss of the crèche facility is regrettable, there is unfortunately no recourse to require the developer to build the nursery since the implementation of the crèche was neither conditioned or secured by a S106 legal agreement. There are phasing conditions relating to the office accommodation on site but there is no reference to the nursery. As the Local Planning Authority has no recourse to require the applicant to construct the nursery, the City Park scheme is seen as part implemented and the applicants have the option of building the nursery in the future, if they so wish. As the nursery was never constructed, this piece of land is not classed an existing community use and is a vacant piece of brownfield land which is suitable for development for housing, therefore policy H020 which seeks to retain community facilities does not

apply.

As outlined in Planning Policy Statement 3 (PPS3), when assessing potential housing sites, local authorities must look to 're-use of vacant and derelict sites or industrial and commercial sites for providing housing as part of mixed-use town centre development.' PPS3 states that the Government's policy is to ensure that housing is developed in suitable locations which offer a range of community facilities and with good access to jobs, key services and infrastructure. This should be achieved by making effective use of land, existing infrastructure. A key objective is that Local Planning Authorities should continue to make effective use of land by re-using land that has been previously developed.

PPS3 states that the national annual target is that at least 60 per cent of new housing should be provided on previously developed land. This includes land and buildings that are vacant or derelict as well as land that is currently in use but which has potential for re-development. This site is deemed suitable for redevelopment for housing as it is already positioned between two blocks of residential units and, as outlined below, provides an innovatively designed scheme with high sustainability credentials. Whilst the loss of the nursery is regrettable, the alternative use of the site for residential development is deemed appropriate and in accordance with local and national policies for the re-use of brownfield sites.

Design and impact on wider street scene:

Policies QD1 & QD2 of the Brighton & Hove Local Plan states that all proposals must demonstrate a high standard of design and make a positive contribution to the visual quality of the surrounding area. Policy QD1 states that it does not seek to restrict creative design provided that new development can still be integrated successfully into its context.

The appearance for the 7 residential units is a contemporary approach and not immediately recognisable as a residential building. It has been designed with this site specifically in mind taking into the constraints and characteristics of this site and its relationship with the two adjacent blocks of flats. The site is primarily flanked by two blocks of three storey flats with overlooking from the accommodation particularly from Orchard House to the east. The adjacent blocks of flats are modern in design. March House to the west is run by a registered social landlord and is set back further into its site behind a car parking area. This block has a more utilitarian appearance than Orchard House to the east of the site which is a larger block of privately owned flats. To the immediate south of the site are traditional two-storey detached dwellinghouses. Due to the separation of the site from these houses by the road and the retention of the two trees at the front of the site, the proposal will be viewed largely in the context of the two adjacent blocks of flats and the large office block to the rear.

In recognition of the two adjacent blocks and to minimise the impact of the

scheme on adjacent properties, the proposed building is two storeys to the front and then curves down to a single-storey aspect to the rear. The two-storey element is set further forward of the Orchard House and is separated from Orchard Road by two Norway Maple trees, which are to be retained on site. The building includes a curved roof form with green walls and a green flat curved roof to the building. To the front, two sets of balconies are proposed at ground floor and first floor level. The windows to the front follow the curved walls of the building. The windows to the side are narrower with a more vertical emphasis. The shape of the building to the east elevation has been designed to include sections which make the windows face at an angle in order to reduce overlooking of the adjacent property. The walls of the property are indicated as render on a timber frame which will have the green wall system installed upon them to all elevations. The windows are proposed in aluminium frames.

The proposed site is set at a higher ground level than Orchard House. This means that the overall height of the building to front elevation is a similar height of Orchard House to the east. The building has an elongated appearance to accommodate the narrowness of the site and is also set an appropriate distance from the boundaries to the east and west.

Policy QD1 encourages creative design stating that ‘modern design using contemporary and sustainable materials will be welcomed’, subject to the modern design being acceptable in the context of the area. Whilst the design of the building is unusual for a residential development, it is felt that the building has been thoughtfully designed to fit into this brownfield site and will appear as an appropriate addition in the context of the two adjacent modern blocks of flats and the overall character of the City Park development.

#### Impact on Neighbouring Properties

Brighton & Hove Local Plan policy QD27 requires that new development respects the existing amenity of neighbouring properties. The residential properties most affected by this proposal are the flats located in the two blocks to the immediate east and west of the site at March House and Orchard House. The building to the rear is occupied by offices and is set a significant distance from the proposed building. Additionally, the dwellings to the south of the site are separated from the development by Orchard Road and the two maple trees which are to be retained. Consequently, the offices to the north and the dwellings to the south would not be significantly affected by the proposed building.

March House, the block of flats to the west of the site, is a three block of affordable housing units and is set to the rear of the site with a car parking area to the front. March House includes side windows which overlook the rear of the site and is separated from the proposed building by a retained access path to the side of the site and a distance of 7.8m. The rear of the proposed building is single-storey and due to the distance between the proposed building and the side elevation of March House, the scheme will not

result in a significant impact on the amenity of this building.

In relation to Orchard House to the east of the site, the apartments in this block will be more affected by the proposal. The proposed building is approximately 7m away from the west facing elevation of Orchard House. Again, the side elevation of Orchard House includes side facing windows serving habitable rooms. Orchard House is set at a lower ground level of the proposed site which results in the scheme having more of an impact on the ground floor windows of Orchard House. The proposed building has been designed to minimise its impact on Orchard House with the two-storey part of the building set mostly in front of the building line of Orchard House which then curves down to single-storey to the rear.

Due to the distance between the Orchard House and the proposed building, the single-storey element will not result in a significant impact on the amenity of the side facing windows of Orchard House. There is concern that the two-storey element and the curve down to the single-storey part of the scheme may result in a loss of light to the ground floor windows in the south west corner of Orchard House. However, the scale of the approved nursery is a material consideration in the determination of this application.

The proposed nursery could still be constructed as it is part of the permission for the City Park development which has been part implemented and was commenced within the set implementation time in the original application. The nursery building is a two-storey structure set in a similar position to the proposed two-storey part of the current scheme. Drawing TA468/22 indicates the position of the approved nursery in relation to the current proposal. The drawing indicates that the current building for flats is smaller in scale when compared to the approved building. The proposed nursery building is a squarer building whereas the current scheme has a curved appearance. The squarer nursery building would have more bulk than the current proposal and would result in more of an impact on Orchard House if constructed. Having regard to the approved scheme and the fact that the current scheme would have less of an impact on the adjacent property than the approved nursery building, it is felt a refusal on the grounds of loss of amenity to Orchard House in terms of loss of light and outlook cannot be justified.

To protect the amenity of Orchard House, the side windows in the proposed building have been angled to avoid direct overlooking to the east. The balconies proposed have also been set to the front and partly to the side and are beyond the front building line of Orchard House so that would not allow any overlooking of the Orchard House flats. To ensure the amenity of Orchard House conditions are recommended removing permitted development rights for extensions and windows for the proposed residential units.

Currently the site is mostly surrounded by hoarding and the scheme would require fencing, especially along the eastern boundary where there are currently railings. It is important that appropriate fencing is secured in order to

protect the flats of Orchard House from being overlooked from the proposed gardens. Therefore a condition is recommended that full details of the fencing shall be submitted to the Local Planning Authority and installed, as approved, prior to the occupation of the proposed residential units.

Overall it is considered that the scheme is appropriate in terms of its impact on adjacent residential properties in accordance with policy QD27. It is also felt that the use of the site for residential units will not result in a significant impact in terms of noise disturbance, especially when compared to the potential use of the site as nursery.

#### Living Conditions for Future Occupiers

Policy QD27 states that permission for development will not be granted where it would cause material nuisance and loss of amenity to existing and proposed adjacent residents as well as future occupiers. The scheme is for 7 residential units, six 2-bed units and one 1-bed unit. Four of the units are sited in the front two-storey part of the building and the rear units include a basement level and lightwell area to serve a maisonette. The units are all accessed from the existing side access along the west elevation. It is considered that each unit will provide suitable accommodation with adequate light and outlook.

Policy HO5 of the Brighton & Hove Local Plan requires the provision of private usable amenity space in new residential development where appropriate to the scale and character of the development. For the purposes of this policy, balconies are taken into account. The scheme includes three private gardens for the three units and balconies are proposed for the four front units. As the gardens will be overlooked to some extent from the side windows at upper level of Orchard House, the scheme includes green wall trellises in the gardens to allow private areas.

New residential buildings are expected to be built to a lifetime homes standard whereby it can be adapted to meet the needs of people with disabilities without major structural alterations. The design already incorporates a number of lifetime homes criteria including turning circles as indicated on the proposed plans. There are concerns that the scheme does not indicate full compliance with Lifetime Homes. However, there is no apparent reason why these could not be redesigned and condition 10 of the recommendation therefore requires the units be constructed to Lifetime Homes standards to the satisfaction of the Local Planning Authority.

#### Traffic Matters

The scheme includes 7 dedicated car parking spaces on site which are accessed from Orchard Road. These spaces are existing however, the spaces are not currently used. The scheme also includes covered and secure cycle storage facilities for the units. The traffic engineer has no objection providing the cycle parking shown is provided prior to occupation and that the applicant enters into a legal agreement for a financial contribution



of £5250 towards the Sustainable Transport fund, towards improving accessibility to bus stops, pedestrian facilities and cycling infrastructure in the area.

Subject to the contribution towards sustainable infrastructure in the area and provision of cycle storage, it is considered that the impact of the scheme on local parking and the demand for travel it creates is acceptable.

#### Trees

As outlined above, there are two mature Norway Maple trees on site. The scheme includes an Arboricultural Report outlining the retention of the trees. The Arboricultural Section has commented that they are in full agreement with the Arboricultural report subject to a condition that the Norway Maple trees on site shall be protected to standard BS 5837 (2005), in accordance with the Arboricultural Report and retained as such thereafter.

#### Sustainability

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. Detail of the proposed sustainability credentials of the scheme are set out in a Sustainability Checklist submitted with the application. This is in accordance with SPD08 on Sustainable Building Design. The checklist is considered acceptable and states that the scheme will meet Code Level 5 of the Code for Sustainable Homes. This is above the requirement of Code Level 3 for a brownfield site as outlined in the SPD. The scheme is therefore considered to be in accordance with above policy and guidance.

Brighton & Hove Local Plan policy SU13 requires the minimisation and re-use of construction waste. Further detail of the information required to address this policy is set out in SPD03 Construction and Demolition Waste. The applicant has submitted an acceptable Waste Minimisation Statement which outlines waste minimisation measures and is in accordance with the above policy and supplementary document. An informative is also recommended stating 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.

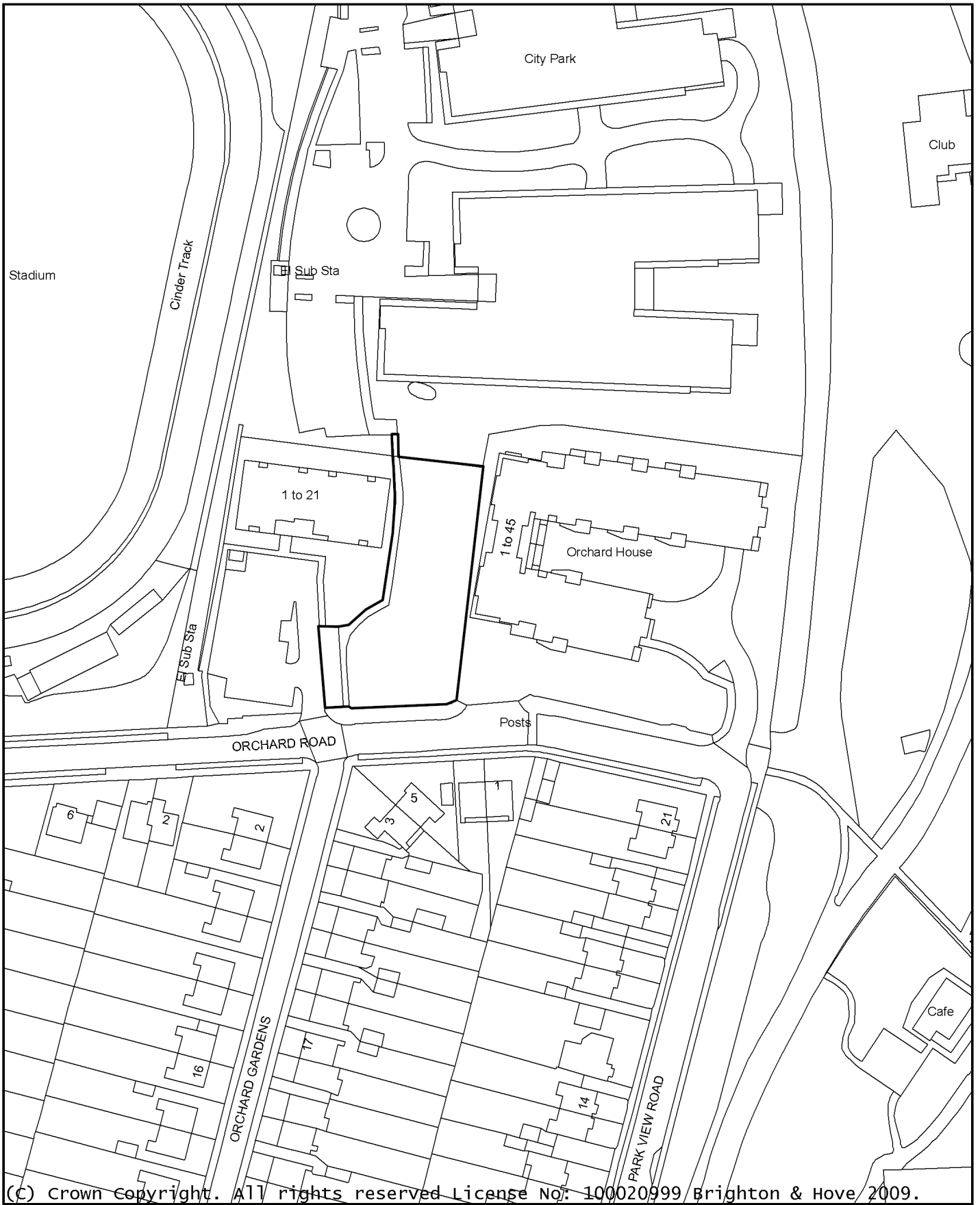
### **8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION**

The proposed development is appropriate in terms of its design and appearance and results in the development of a vacant piece of brownfield land to the benefit of the character and appearance of the surrounding area. The scheme also provides suitable accommodation, does not significantly harm the amenity of any neighbouring properties and is appropriate in terms of its impact on local parking and the demand for travel it creates.

**9 EQUALITIES IMPLICATIONS**

The new units are required to comply with Part M of the Building regulations and the Council's Lifetime Homes policy.

# BH2010/00630 City Park, Orchard Road



Date: 10/06/2010 04:18:02

Scale 1:1250

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**Brighton & Hove  
City Council**

PLANS LIST – 01 SEPTEMBER 2010

COUNCILLOR REPRESENTATION

**From:** Jayne Bennett [mailto:Jayne.Bennett@brighton-hove.gov.uk]

**Sent:** 15 June 2010 12:22

**To:** Jason Hawkes

**Subject:** BH2010/00630 Land between Orchard House and Marche House, Orchard Road

Dear Mr Hawkes,

As a councillor for Hove Park ward I know that permission was granted during the original City Park development application for a crèche on this site. However now all the offices and apartments are built you can see how small the space is for development and how carefully a new build should be designed to lessen the impact on existing residents in the apartment blocks. This proposal would affect the ground floor flats on the western corner of Orchard House and would make them feel hemmed in and I also believe there would be some loss of light. Because of the slope of the land it would have far less impact and be acceptable if it was one storey throughout. I feel that less weight should be applied to the history of this application site and more consideration given to the adjacent residents concerns.

Yours sincerely,

Jayne Bennett

<b>No:</b>	<b>BH2010/01838</b>	<b>Ward:</b>	<b>BRUNSWICK AND ADELAIDE</b>
<b>App Type:</b>	<b>Removal or Variation of Condition</b>		
<b>Address:</b>	<b>63 Holland Road Hove</b>		
<b>Proposal:</b>	<b>Application for deferral of pre-commencement conditions 9, 13, 18, 23, 25, 26 and 27 of application BH2009/01856 until supply of all information is available.</b>		
<b>Officer:</b>	Clare Simpson, tel: 292454	<b>Valid Date:</b>	03/06/2010
<b>Con Area:</b>	Brunswick and Adelaide	<b>Expiry Date:</b>	29 July 2010
<b>Agent:</b>	Felce & Guy Partnership, 73 Holland Road, Hove		
<b>Applicant:</b>	Mr Dan Fox, 4 Palmeira Grande, Holland Road, Hove		

## 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 they are **MINDED TO GRANT** planning permission subject an amendment to the s106 agreement for the site and the following Conditions and Informatives:

### Conditions:

1. BH01.01 Full Planning Permission.
2. BH02.05 Obscured glass – window serving rear stairwell.
3. BH02.06 No cables, aerials, flues and meter boxes.
4. BH02.08 Satisfactory refuse and recycling storage.
5. Access to the flat roof shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area except for the area shown as a roof terrace on the approved plans.  
**Reason:** In order to protect adjoining properties from overlooking and noise disturbance and to comply with policies QD1 and QD27 of the Brighton & Hove Local Plan.
6. BH04.01 Lifetime Homes.
7. BH05.01B Code for Sustainable Homes – Pre-Commencement (New build residential) (level 3).
8. BH05.02 Code for Sustainable Homes – Pre-Occupation (New build residential) (level 3).
9. BH05.06 BREEAM – Pre-Occupation (New build non-residential) (very good).
10. No development shall take place until a scheme demonstrating how solar panels will be incorporated into the scheme has been submitted to and approved in writing by the Local Planning Authority. The information will include technical details and profiles of the panels on the roof. The approved scheme shall be implemented prior to the premises opening and shall be retained as such thereafter.

**Reason:** To ensure that the development is sustainable and makes

efficient use of energy, water and materials and in accordance with policies S1 of the East Sussex and Brighton & Hove Structure Plan 1991-2011 and SU2 of the Brighton & Hove Local Plan.

11. The commercial premises in the northern section of the ground floor of the building shall be for a retail unit or office unit falling within Class A1 or A2 of the Town and Country Planning (Use Classes) Order 1987 or any subsequent similar re-enactment.  
**Reason:** To protect the vitality and viability of the Regional Shopping Centre and to comply with policy SR4 of the Brighton & Hove Local Plan.
12. BH06.03 Cycle parking facilities to be implemented.
13. BH12.01 Samples of Materials – Cons Area.
14. BH12.08 No demolition until contract signed.
15. No development shall take place until full details of the window and door frames, including sections and samples have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in strict accordance with the approved details.  
**Reason:** To ensure a satisfactory appearance to the development and to comply with policies QD1, QD2 and HE6 of the Brighton & Hove Local Plan.
16. Prior to commencement of external finishes of the building, full details of the balustrading to the balcony areas, including samples, have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in strict accordance with the approved details.  
**Reason:** To ensure a satisfactory appearance to the development and to comply with policies QD1, QD2 and HE6 of the Brighton & Hove Local Plan.
17. No development shall take place until full details of the boundary treatments, including sections and samples, have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in strict accordance with the approved details.  
**Reason:** To ensure a satisfactory appearance to the development and to comply with policies QD1, QD2 and HE6 of the Brighton & Hove Local Plan.
18. BH08.01 Contaminated Land
19. The commercial units shall not be open or in use except between the hours of 09.00 and 00.00.  
**Reason:** To safeguard residential amenity and to comply with policy QD27 of the Brighton & Hove Local Plan.
20. No vehicular movements for the loading or unloading of vehicles to the commercial units at ground floor level shall take place between the hours of 20.00 to 08.00 on Monday to Saturday and not at any time on Sundays and Bank Holidays.  
**Reason:** To safeguard the amenities of the occupiers of adjoining properties and in accordance with policies SU10 and QD27 of the Brighton & Hove Local Plan.
21. Prior to occupation of units, a scheme for the suitable treatment of all plant and machinery against the transmission of sound and/or vibration is



submitted to and agreed in writing by the Local Planning Authority. The use of the premises shall not commence until all specified works have been carried out in accordance with the agreed details and thereafter be retained to the satisfaction of the Local Planning Authority.

**Reason:** To protect residential amenity and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

22. 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 neighbouring occupiers and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

23. Prior to occupation of the commercial units a scheme for the fitting of odour control equipment to the building has been submitted to an agreed in writing by the Local Planning Authority. The use of the premises shall not commence until all odour control equipment works have been carried out in accordance with the approved details and thereafter be retained to the satisfaction of the Local Planning Authority.

**Reason:** To protect residential amenity and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

24. Prior to occupation of the approved commercial units a scheme for sound insulation of odour control equipment referred to in the condition set out above shall be submitted to and agreed in writing by the Local Planning Authority. The use of the premises shall not commence until all sound insulation works have been carried out in accordance with the agreed details and thereafter be retained to the satisfaction of the Local Planning Authority.

**Reason:** To protect residential amenity and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

25. Prior to occupation of the approved units, details of the external lighting of the site has been submitted to and approved in writing by the Local Planning Authority. The lighting installation shall comply with the recommendations of the Institution of Lighting Engineers (ILE) "Guidance Notes for the Reduction of Light Pollution" (dated 2005) for zone E or similar guidance recognised by the council. A certificate of compliance signed by a competent person shall be submitted with the details. The approved installation shall be maintained and operated in accordance with the approved details and thereafter be retained to the satisfaction of the Local Planning Authority.

**Reason:** To protect residential amenity and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

Informatives:

1. This decision is based on drawing nos. 2424-P01, -2, 03, 04, 05, 06, 07, 08, 09 submitted on the 31<sup>st</sup> July 2009 and supporting statements received on the 31<sup>st</sup> July 2009 under BH2009/01856 and application form

and supporting letter received on the 3<sup>rd</sup> June 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
TR2	Public transport accessibility and parking
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
SU9	Pollution and nuisance control
SU10	Noise Nuisance
SU11	Contaminated land and buildings
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 – street frontages
QD10	Shopfronts
QD15	Landscape design
QD27	Protection of amenity
QD28	Planning obligations
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
SR4	Regional shopping centre
SR12	Large use Class A3 (restaurants and cafes) and Use Class A4 (pubs and bars)
HE3	Development affecting the setting of a Listed Building
HE6	Development within or affecting the setting of conservation areas
HE8	Demolition in conservation areas

Supplementary Planning Guidance:

SPGBH4: Parking Standards

Supplementary Planning Document:

SPD03: Construction and Demolition Waste

SPD08 Sustainable Building Design; and

(ii) for the following reasons:-

The proposed variations are not considered to cause demonstrable harm to the character and appearance of the Brunswick Town Conservation Area. The amenity of neighbouring occupiers would not be harmed by way of significant loss of light, noise and disturbance, overlooking or loss of privacy.

3. IN05.02A Informative: Code for Sustainable Homes.
4. IN05.06A Informative: BREEAM.
5. IN05.07A Informative – Site Waste Management Plans.
6. IN07.11 Informative – External Lighting.
7. IN08.01 Informative – Land Contamination.

## 2 THE SITE

The application relates to a single storey vacant commercial unit, which has an authorised use as a restaurant. The premises are located on the eastern side of Holland Road at the junction with Church Road. The site adjoins a three storey building to the south, 61 Holland Road and also towards the rear, adjoins Palmeira Grande, (82 Western Road) a five-storey Grade II Listed Building. The site is located within the Brunswick Town Conservation Area.

## 3 RELEVANT HISTORY

**BH2010/01744:** Application for Approval of Details Reserved by Conditions 2, 4, 6, 7 (part), 11, 14, 15, 16, 17 and 20 of application BH2009/01856 – under consideration.

**BH2010/00814** Erection of 1no 5 storey building incorporating retail/office and restaurant facilities at ground floor and basement levels and 7no self contained flats above. This application was presented to Planning Committee on the 21st July 2010 and members voted to grant planning permission subject to the completion of a legal agreement.

**BH2009/01856:** Demolition of existing building and erection of a five storey building accommodating retail/office and restaurant facilities on the ground floor and basement 6no two bedroom and 1no 3 bedroom flats above. This application was granted at planning committee on the 14/10/09. This application was essentially a submission of the previous scheme (outlined below) with the addition of an extended penthouse accommodation.

There is a current application submitted with the Local Planning Authority to discharge the condition imposed on this consent.

**BH2007/02707:** Demolition of existing building and erection of a part four, part five storey building containing restaurant/cafe and/or retail/office use at ground floor level with 7 two bedroom flats. Decision issued 20/05/2008 after completion of a section 106 agreement. Reasons for granting consent were as follows:

The loss of the existing single storey building is considered acceptable.

The development would make an efficient and effective use of this previously developed site. Its height and bulk would relate well to that of the existing buildings to the south and would contribute to the creation of a coherent frontage on Holland Road causing no significant harm to the Brunswick Town Conservation Area or the adjacent Listed Building. It would integrate well with and be complimentary to the area, would improve the character and quality of the area, would not compromise the quality of the local environment and would not be inappropriate in its context. An appropriate mix of housing units built to Lifetime Home standards would be provided and every unit would have access to private usable outside amenity space. Solar panels are proposed to address sustainability requirements. The overshadowing caused would be substantially similar to that already caused by neighbouring buildings and the obstruction caused is unavoidable for the proposed development to match the height and proportions neighbouring buildings. Subject to compliance with the above conditions, the scheme would achieve a Level 3 Code for Sustainable Homes, a Site Waste Management Plan and a suitable provision for cycle storage and refuse and recycling storage.

**BH2007/02699:** (Conservation Area Consent) Demolition of existing building approved 07/05/2008. This remains an extant permission until 2011.

**BH2005/02329/FP:** Planning permission was refused in September 2006 for the demolition of the existing building and erection of new five storey residential development comprising 9 flats.

**BH2004/01949/OA:** Outline planning permission was refused in August 2004 for the demolition of the existing building and erection of a 5 storey block containing 10 flats.

**BH2003/01447/OA:** Outline planning permission was refused in July 2003 for a 5 storey block of 10 flats.

**BH2003/01445/OA:** Outline planning permission was refused in July 2003 for a 6 storey block of 12 flats.

**BH2002/01961/OA:** Outline planning permission was granted in February 2003 for the demolition of no. 63 Holland Road and the erection of a 4 storey block of 8 flats (ref:.

**BH2002/01962/CA:** Conservation Area Consent was granted in February 2003 for the demolition of no. 63 Holland Road.

#### **4 THE APPLICATION**

This application is for the variation of pre-commencement conditions, 9, 13, 18, 23, 25, 26 and 27 of application BH2009/01856. These conditions require the approval of details before development commences. The applicant has stated not all of the information is currently available and would be required to be submitted for approval prior to occupation of the development.

## 5 CONSULTATIONS

### External

**Neighbours:** 1<sup>st</sup> floor flat, 11A (x2), top floor flat (x2) 11 Lansdowne Street, Flat 1 3 Lansdowne Street, 2 29 Brunswick Terrace, flat 2 Lansdowne Street, basement flat 13 Lansdowne Street object for the following reasons:

- to defer or remove the conditions would mean the impact of the development would not be brought to light,
- waste management, noise and vibration pollutants and vehicle movements must be controlled,
- the developer has not provided information about how the changes would impact on neighbouring properties,
- still concern over the bin storage which would seem un-necessary and would encourage dumping and rats,
- all the conditions were imposed for a reason, and there has been no justification for the change,
- activity on site has commenced,
- loss of light and loss of property value,

**Sussex Police:** No comment.

### Internal

**Environmental Health Team:** No objection to noise attenuation measures or odour control details to be submitted and agreed prior to the occupation of the commercial units.

**Sustainability Team:** The BREEAM design stage certificate cannot be issued if, as stated, the developer is only providing the shell of the building and not the fit-out. The BREEAM pre-assessment indicate that the development would meet a BREEAM 'very good' which is the required standard in Supplementary Planning Document on Sustainable Building Design (SPD08). It is noted that a Design Stage Certificate has been provided for the residential dwellings.

## 6 PLANNING POLICIES

### Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR2	Public transport accessibility and parking
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
SU9	Pollution and nuisance control
SU10	Noise Nuisance
SU11	Contaminated land and buildings
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 – street frontages
QD10	Shopfronts
QD15	Landscape design
QD27	Protection of amenity
QD28	Planning obligations
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
SR4	Regional shopping centre
SR12	Large use Class A3 (restaurants and cafes) and Use Class A4 (pubs and bars)
HE3	Development affecting the setting of a Listed Building
HE6	Development within or affecting the setting of conservation areas
HE8	Demolition in conservation areas

Supplementary Planning Guidance:

SPGBH4: Parking Standards

Supplementary Planning Document:

SPD03: Construction and Demolition Waste

SPD08 Sustainable Building Design

## **7 CONSIDERATIONS**

The determining issues relate to the acceptability of the request to vary condition imposed under the previous approved scheme for the erection of mixed use development.

Background information

Members very recently considered a revised planning application to develop this site which was presented at Planning Committee on the 21<sup>st</sup> July 2010. This was to a completion of a s106 and granted subject to conditions (ref BH2010/00814). Through dialogue with the applicant, the conditions of this approval were worded to allow the submission of some detail prior to occupation, but only where it is considered that the conditions would still meet to the tests of conditions outlined in the Government Circular on The Use of Conditions in Planning Permissions 11/95.

The current application however is for the variation of condition of an approved scheme for the demolition of existing building and erection of a five storey building accommodating retail/office and restaurant facilities on the ground floor and basement 6no two bedroom and 1no 3 bedroom flats above.



which was approved by planning committee on the 24/11/2009 (ref: **BH2009/01856**)

This application has been submitted as the applicants want to commence works under this approved scheme, whilst a number of details are yet to be finalised. As standard practice, the Local Planning Authority use pre-commencement conditions to control the submission of, and approval of details.

Notwithstanding this, the Government Circular on The Use of Conditions in Planning Permissions 11/95 advises that conditions should not be imposed unless they are both necessary and effective, and do not place unjustifiable burdens on applicants. As a matter of policy, conditions should only be imposed where they satisfy all of the tests described in paragraphs 14-42. In brief, these explain that conditions should be

- i. necessary;
- ii. relevant to planning;
- iii. relevant to the development to be permitted;
- iv. enforceable;
- v. precise; and
- vi. reasonable in all other respects.

Therefore it may be appropriate to vary the wording of standards conditions, providing that the condition would still meet the tests of Circular 11/95. The conditions which are sought to be varied were considered necessary to the control the environmental performance of the building, site waste management, external appearance, and impact on amenity. Although a split decision cannot be issued, it is appropriate to consider each request in turn.

Condition 9 of BH2009/01856

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

- (a) evidence that the development is registered with the Building Research Establishment (BRE) under BREEAM (either a 'standard' BREEAM or a 'bespoke' BREEAM) and a Design Stage Assessment Report showing that the development will achieve an BREEAM rating of 50% in energy and water sections of relevant BREEAM assessment within overall 'Very Good' for all non-residential development have been submitted to the Local Planning Authority; and
- (b) a BRE issued Design Stage Certificate demonstrating that the development has achieved a BREEAM rating of 50% in energy and water sections of relevant BREEAM assessment within overall 'Very Good' for all non-residential development 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.

The applicant has stated that they will not fit out the ground floor of the building as the applicant is only providing the shell of the building at ground floor level. The future tenants of the building would control the fit-out of the ground floor of the building. This prevents a Design Stage Certificate being issued and therefore the applicant has stated he cannot comply with part b of this condition. A submitted pre-assessment has been submitted, and this indicates that the commercial ground floor uses are predicated to meet 'very good' standard.

This is not ideal, however some reassurance can be taken that a pre-assessment has been submitted and also that a Design Stage Certificate has been issued for the residential flats above. Furthermore given that the external fabric of the building has been assessed as performing adequately, it is a reasonable expectation that the fit-out to meet BREEAM 'very good' would follow without problem. For these reasons the Sustainability Officer has not objected to the request to vary this condition.

The requirement for evidence that BREEAM 'very good' is met through a post-construction certificate is still maintained and this is secured through condition 10 of the approval which would remain in place to meet the standards of Supplementary Planning Document on Sustainable Building Design SPD 08. As previously stated, with the reassurance of a pre-assessment estimator for the commercial units, and confirmation of the Design Stage certificate for the upper floors of the building, it is not considered that future occupiers would have any problems in meeting the required 'very good' BREEAM rating.

For this reason it is considered that the condition to ensure that design stage certificate of BREEAM 'very good' is secured prior to occupation is sufficient. Condition 9 of BH2010/01856 can be removed. For confirmation that BREEAM 'very good' rating will be required before the development is occupied, please see suggested Condition 9 in Section 1 of the Committee report.

Condition 13 of BH2009/01856

No development shall take place until a written Site Waste Management Plan, 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 Plan shall be implemented in strict accordance with the approved details.

Since the adoption of Supplementary Planning Document on Construction and Demolition Waste, the Local Planning Authority were imposing a standard condition requiring Waste Management Plans to be submitted, for new-build development over 5 units of accommodation.

The applicant has submitted details of a Site Waste Management Plan as part of the original application.

New legislation on Site Waste Management Plans (SWMP) was introduced on 6 April 2008 in the form of Site Waste Management Plans Regulations 2008. This legislation sits within Section 54 of the Clean Neighbourhoods and Environment Act 2005.

The recommendation is to delete condition 13 of BH2009/01865, as the requirement for an acceptable Site Waste Management Plan now falls under this recent legislation. It is also understood that, for development of this scale, Site Waste Management Plans have to be submitted as part of the Building Research Establishment Code for Sustainable Homes (CSH) assessment.

In regard to securing the Site Waste Management Plans, the Planning Enforcement Team with assistance from the South East Centre of Built Environment (SECBE), and the Environment Agency have a programme of planned site inspections across the city which will monitor compliance with the Site Waste Management Plans Regulations.

For this reason Condition 13 of BH2009/01856 is no longer necessary and therefore fails the tests set out in Circular 11/95 on Planning Conditions.

Condition 18 of BH2009/01856

No development shall take place until full details of the balustrading to the balcony areas, including samples, have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in strict accordance with the approved details.

**Reason:** To ensure a satisfactory appearance to the development and to comply with policies QD1, QD2 and HE6 of the Brighton & Hove Local Plan.

The applicant has explained that he has had difficulties sourcing a sample of the balcony. A sample of the stainless steel was submitted on the 18<sup>th</sup> July; however this has yet to be considered with the input from the Conservation and Design Team. To allow further time to consider the detail of this feature, it is considered reasonable to ensure that this is agreed before commencement of external finishes of the building. It is recommended that this condition is varied to reflect this timescale. This is the same approach recently agreed at committee under BH2010/00814

For the revised wording please see suggested Condition 16 in Section 1 of the Committee report.

Condition 23 of BH2009/01856

No development shall take place until a scheme for the suitable treatment of all plant and machinery against the transmission of sound and/or vibration is submitted to and agreed in writing by the Local Planning Authority. The use of the premises shall not commence until all specified works have been

carried out in accordance with the agreed details and thereafter be retained to the satisfaction of the Local Planning Authority.

**Reason:** To protect residential amenity and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan

Neighbours have been particularly concerned about revising this condition and the implications that this would have on their amenity. This condition was imposed to control any noise from plant and machinery which could be located internally in the commercial units. The Environmental Health Team has raised no objection to this condition being varied to ensure that the information is submitted and agreed in writing before occupation of the commercial units. This does not impact on the Local Planning Authority's ability to control this element of the scheme. Acceptable details would still be required to be submitted, considered by the Environmental Health and approved in writing before occupation of the unit

This is the same approach recently agreed at committee under BH2010/00814. Any additional plant and machinery located externally would require planning permission to be assessed in a new application

For the revised wording please see suggested Condition 21 in Section 1 of the Committee report.

Condition 25 of BH2009/01856

No development shall take place until a scheme for the fitting of odour control equipment to the building has been submitted to an agreed in writing by the Local Planning Authority. The use of the premises shall not commence until all odour control equipment works have been carried out in accordance with the approved details and thereafter be retained to the satisfaction of the Local Planning Authority.

**Reason:** To protect residential amenity and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

An external ventilation duct was proposed and assessed as acceptable under the approved application. This condition controls the technical specification of the extraction system. The level of equipment required will be depend to some extent on the end-user for the permitted A3 use on the ground floor of the new building. Therefore the suitability of this information is best assessed when an occupier is known, but before they start operations on the site.

As with Condition 23 of BH2009/01856, neighbours have been particularly concerned about the revising this condition and the implications that this would have on noise and disturbance to the site.

The Environmental Health Team have raised no objection to this condition being varied to ensure that the information is submitted and agreed in writing before occupation of the commercial units. It is recommended that this condition is varied to reflect this timescale. This is the same approach recently

agreed at committee under BH2010/00814. This does not impact on the Local Planning Authority's ability to control this element of the scheme. Acceptable details would still be required to be submitted, considered by the Environmental Health and approved in writing before occupation of the unit.

For the revised wording please see suggested Condition 23 in Section 1 of the Committee report.

Condition 26 of BH2009/01856

No development shall take place until a scheme for sound insulation of odour control equipment referred to in the condition set out above shall be submitted to and agreed in writing by the Local Planning Authority. The use of the premises shall not commence until all sound insulation works have been carried out in accordance with the agreed details and thereafter be retained to the satisfaction of the Local Planning Authority.

**Reason:** To protect residential amenity and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

This condition was imposed to control any noise and disturbance which could arise from the odour control equipment required to be submitted under Condition 25. As with condition 25, this technical information can be quite specific to the extraction system used and therefore it can be more practical to assess this when an end-user is identified. The Environmental Health Team has raised no objection to this condition being varied to ensure that the information is submitted and agreed in writing before occupation. It is recommended that this condition is varied to reflect this timescale. This is the same approach recently agreed by Planning Committee under BH2010/00814

This does not impact on the Local Planning Authority's ability to control this element of the scheme. Acceptable details would still be required to be submitted, considered by the Environmental Health and approved in writing before occupation of the unit

For the revised wording please see suggested Condition 24 in Section 1 of the Committee report.

Condition 27 of BH2009/01856

No development shall take place until details of the external lighting of the site has been submitted to and approved in writing by the Local Planning Authority. The lighting installation shall comply with the recommendations of the Institution of Lighting Engineers (ILE) "Guidance Notes for the Reduction of Light Pollution" (dated 2005) for zone E or similar guidance recognised by the council. A certificate of compliance signed by a competent person shall be submitted with the details. The approved installation shall be maintained and operated in accordance with the approved details and thereafter be retained to the satisfaction of the Local Planning Authority.

**Reason:** To protect residential amenity and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan

The applicant has advised that the details external lightning have yet to be finalised. It is anticipated that this will be available within the next three months. The request relates to this fact. It is recommended that this condition is varied to reflect this timescale. Again this is the same approach recently agreed at committee under BH2010/00814

For the revised wording please see suggested Condition 25 in Section 1 of the Committee report.

Other matters

Representations have been received from neighbours objecting to the proposed scheme on more general terms. It is not appropriate to reconsider the principle of the development under this application. The scheme already has planning permission. For the reasons above, it is considered that securing the requested details before external finishes have commenced and before occupation of the site, would not harm the amenity of neighbouring occupiers. The same standard of finishes, and the same specification of internal equipment is expected. The revised conditions are considered to ensure the Local Planning Authority retain control over these features

Conclusion:

To vary the timescales for the submission of details under conditions 18, 23, 25, 26 and 27 is considered to be acceptable. The Local Planning Authority would still control the finalisation of these details before any occupation of the building. No harm to neighbouring amenity would result. In regard to the agreement of the balustrade detail, this would need to be submitted and agreed before works commenced on the external finish of the property, therefore no harm to the design and appearance building or the surrounding area would result.

Condition 9 and 13 of the approved application can be deleted. The BREEAM certification prior to occupation is considered sufficient and the Site Waste Management Plan is now required, and enforced under the Site Waste Management Plans Regulations 2008.

The applicant has an application to discharge the remaining conditions of the approval BH2009/01856 under consideration. Much of the detail has been submitted, and is under consideration in a separate planning application BH2010/01744. Given that these conditions have not been formally discharged to date, it is necessary to impose the outstanding conditions agreed under BH2009/01856 on the current scheme.

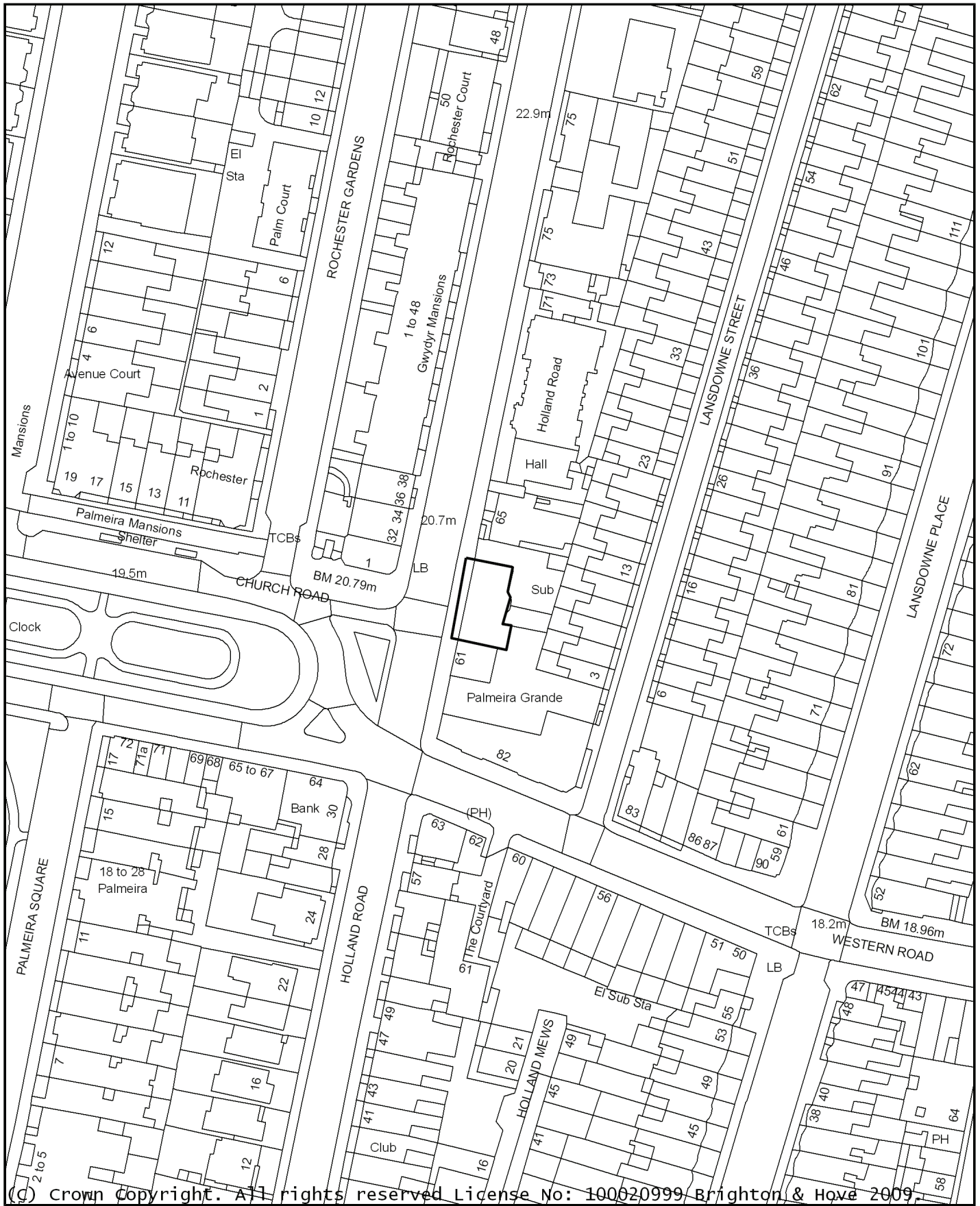
**8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION**

The proposed variations are not considered to cause demonstrable harm to the character and appearance of the Brunswick Town Conservation Area. The amenity of neighbouring occupiers would not be harmed by way of significant loss of light, noise and disturbance, overlooking or loss of privacy.



- 9** **EQUALITIES IMPLICATIONS**  
None identified for this application.

BH2010/00814 63 Holland Road



Date: 06/07/2010 04:05:38

Scale 1:1250

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<b><u>No:</u></b>	<b>BH2010/02056</b>	<b><u>Ward:</u></b>	<b>WITHDEAN</b>
<b><u>App Type</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Blocks E &amp; F Kingsmere, London Road</b>		
<b><u>Proposal:</u></b>	<b>Creation of 4no three bedroom penthouse flats with private gardens over blocks E &amp; F.</b>		
<b><u>Officer:</u></b>	Steven Lewis, Tel: 290480	<b><u>Valid Date:</u></b>	19 July 2010
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	13 September 2010
<b><u>Agent:</u></b>	DMH Stallard, 100 Queens Road, Brighton		
<b><u>Applicant:</u></b>	Anstone Properties Ltd, C/O DMH Stallard		

## 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 no new additional representation from members of the public and to the following Conditions and Informatives:

### Conditions

1. BH01.01 Full planning permission.
2. BH03.01 Samples of materials – non cons area (new buildings).
3. BH02.08 Satisfactory refuse and recycling storage.
4. BH04.01A Lifetime Homes.
5. BH05.03A Eco homes refurbishment – Pre-commencement.
6. BH05.04A Eco Homes refurbishment – Pre-occupation.
7. BH05.09 General sustainability measures.
8. BH06.02 Cycle parking details.

### Informatives:

1. This decision is based on sustainability checklist, DMH Stallard planning statement, location plan, Andrew Borley RIBA design and access statement, drawing nos. A910/03, A910/04, A901/05, A901/06 Rev B & A901/07 submitted on 09/07/2010.
2. 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](http://www.brighton-hove.gov.uk)).
3. IN05.07A – Waste Minimisation Plans.
4. 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:

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
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
QD14	Extensions and alterations
QD16	Trees and hedgerows
QD27	Protection of amenity
HO3	Dwelling type and size
HO4	Dwelling densities
HO5	Provision of private amenity space in residential development
HO7	Car free housing
HO13	Accessible housing and lifetime homes
HE6	Development within or affecting the setting of conservation areas

Supplementary Planning Guidance

SPGBH4	Parking Standards
SPD03	Construction & Demolition Waste
SPD06	Trees and Development Sites
SPD08	Sustainable Building Design; and

ii) for the following reasons:

The proposed development would have a satisfactory appearance and would have no adverse impact on the character and visual amenity of the area. There would be no material detriment to the amenities of nearby residential occupiers and subject to planning conditions would provide an acceptable level of sustainability, transport measures, lifetime homes and refuse and recycling facilities. The development would be in accordance with the policies of the adopted local plan.

**2 THE SITE**

The application site relates to a site on the eastern side of London Road known as Kingsmere: a residential development of four purpose built four-storey blocks comprising 120 flats.

Blocks E & F are sited to the front of the Kingsmere estate, set back from the edge of London Road by the spacious formal front landscaping and are partially screened by mature trees. Blocks E&F are a joint building of four storeys comprising flats of a modern appearance, with set back sections,

forward projecting bays and tile hanging clad top floor.

The surrounding area is predominantly flatted residential development within large sites with off-street surface parking. London Road is partly characterised by the presence of adjoining green space and established trees / vegetation. The site is surrounded to the south east and west by, but is not specifically located within, the Preston Park conservation area.

### 3 RELEVANT HISTORY

There have been numerous applications on the site for the original Kingsmere development, alterations to the buildings and works to trees which are subject to a preservation order. The following applications are most relevant to this application.

**BH2007/02691:** Planning permission was refused in 2007 for 'roof extensions to blocks A & B and E & F to provide 8 penthouse flats and provision of 22 additional car spaces and new secure cycle store'. An appeal against this decision was dismissed (see Considerations in Section 7 below).

**BH2007/00709:** Planning permission was refused in April 2007 for 'roof extensions to blocks A + B & E + F to provide 8 penthouse flats, provision of 23 additional car spaces & a new secure cycle store'.

**3/93/0501/OA:** Planning permission was refused in 1993 for an additional storey on the roof of each of the existing 6 blocks in the form of a mansard roof to provide an additional 16 flats and an increase in parking to provide an additional 24 spaces.

**73/325:** Permission was granted in 1973 for the erection of 115 s/c flats in 3/4 storey blocks with service roads and car parking space for 120 cars.

### 4 THE APPLICATION

The application seeks consent for the construction of an additional storey to block E & F to create a total of additional four flats, all of which will have three bedrooms. The additional storey incorporates extensive full-height glazing and roof gardens enclosed by balustrades.

### 5 CONSULTATIONS

**External:**

**Neighbours: Flats 1, 4, 5 (x3), 7, 9 (x2), 11, 17, 18, 20, 22, 24, 25, 28, 29, 31, 34, 37, 43, 44, 49, 50, 55, 58, 65, 72, 73, 77, 78, 81, 100, 106, 108, 112 Kingsmere, London Road, Old Preston and Patcham Society, 35 Grand Avenue Rottingdean, 18 Westfield Crescent object on the following grounds:**

- An increase in height is poor design, the design approach is poor and would harm the character and appearance of the area.
- The development will result in overlooking and a loss of privacy to residents in Kingsmere.
- The existing access is inadequate to serve additional traffic.
- The proposed development will place further pressure upon parking on site.
- The lifts will not be available for use during construction to the detriment

of elderly residents.

- There is no evidence that an additional storey would not cause subsidence and no method of construction has been detailed.
- The development will cause noise, disturbance and dust during construction.
- The development would have an adverse impact upon the quality of life of residents from increase pollution from traffic.
- The development will set a precedent for additional storeys across the Kingsmere estate.
- The original planning permission was granted on the basis that the blocks of flats would not exceed the current four storeys.
- There are no details on how utilities will be delivered to the new flats.
- The new flats may have an impact upon the value of existing flats and their council tax bands.

**76 properties within Kingsmere signed letter from the Kingsmere Residents Association objecting on the grounds:**

- The proposed design is out of character for the area and the additional storey will discord with the existing four storey blocks on the Kingsmere Estate.
- The development will set an uncomfortable precedent for future similar developments.
- The use of the proposed roof gardens will alter the quiet nature of the site
- The proposed flats and gardens would result in overlooking, a loss of privacy, noise and disturbance.
- When Kingsmere was approved, the Council only permitted 4 storeys along the London Road area and specified in a planning condition.
- The proposed access and existing parking is inadequate, the development would place further pressure upon these. The A23 (sustainable transport route) is a busy road and the development would place further congestion upon it.
- There are no disabled parking spaces and many of the garages on the estate are unsuitable for disabled users, with many being let out privately and not in use by those living in Kingsmere. This causes concerns for access of emergency and service vehicles due to illegal and inconsiderate parking on the estate.
- There are a number of inaccuracies in the application with regards to notice being served up residents, distances given in the application of railways stations, schools, location, the numbers of flats and their numbers of bedrooms.
- The existing refuse facilities are already in adequate.
- The layout and private amenity space are inadequate for family occupation.
- The Design and Access statement is disingenuous with misleading information with regards to energy use, Co2 emissions, removal of the lift motor room, consultation with stakeholders, visual impact, availability of play space, ecology and composting facilities.



**Cllr Pat Drake:** Objects to the application (comments attached).

**Internal:**

**Sustainable Transport Team:** Would not wish to restrict grant of consent of this Planning Application, subject to the inclusion of conditions relating to cycle parking and a S106 contribution of £3,000 towards improving accessibility to bus stops, pedestrian facilities and cycling infrastructure in the vicinity of the site.

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
TR18	Parking for people with a mobility related disability
TR19	Parking standards
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
QD3	Design - efficient and effective use of sites
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HE6	Development within or affecting the setting of conservation areas

Supplementary Planning Guidance

SPGBH4	Parking Standards
SPD03	Construction & Demolition Waste
SPD06	Trees and Development Sites
SPD08	Sustainable Building Design

**7 CONSIDERATIONS**

The main issues in the determination of this application are the design of the proposal upon the character and appearance of the area, the planning history of the site, amenity issues, transport and highways issues, sustainability and living accommodation standards.

Planning history and principle of development

The Kingsmere estate was granted planning permission in January 1973 (ref 72/4136 & 73/325). Contrary to representations received, neither planning permission imposed a planning condition to restrict further floors of accommodation on the Kingsmere estate.

Planning permission was refused in December 2007 for roof extensions to blocks A & B and E & F to provide 8 penthouse flats and provision of 22 additional car spaces and new secure cycle store. This application was refused upon design grounds, harm to residential amenity and the unknown impact of the new parking facilities upon protected trees located on the site. The decision was subsequently appealed and was dismissed by the Planning Inspector, who upheld the Council's reasons for refusal on design and arboricultural grounds.

The current planning application differs significantly in design and scope to that of the 2007 proposal. The current scheme seeks an additional storey upon blocks E & F located at the site, no longer including blocks A & B located to the northern boundary of the site adjacent to Cliveden Court. The design has been amended to present a predominantly glazed upper storey and would now be set back from the existing front, side and rear elevations rather than flush. Additionally, the proposal does not seek to provide any further parking spaces, therefore not having any adverse impact on trees around the car park.

In principle subject to meeting the applicable policies of the Local Plan and other material considerations, an additional storey in this location would be acceptable.

Within the Planning Statement accompanying the application the agent has referred to a recent application at The Priory located on London Road to the north of the application site, on the western side of the road opposite the junction with Carden Avenue (BH2009/00058). This application was similar to the scheme now under consideration in respect that it sought an additional storey of accommodation to provide 4 x 3 bedroom flats with a comparable design. The case was refused in September 2009 and subsequently allowed on appeal in April 2010. The design of the original building, the appearance of the immediate locality and provision of parking differs between the two cases. However, the applications are sufficiently similar with respect to a number of issues raised that weight should be afforded to the Inspector's decision as a material consideration in determining this application.

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 of the area.

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.

HE6 relates to development within or affecting the setting of conservation area. The policy seeks that new development preserve or enhances the character and appearance of conservation areas.

The additional storey by reason of its scale, height, materials, form, detailing and siting would provide a quality design in contrast to the existing building and would provide visual interest to the building. Furthermore, an additional height with an acceptable design would a more efficient and effective use of the site without compromising the intensity of development appropriate to the surrounding area. The additional height would not affect the setting of the Preston Park conservation area given it lies outside of the designated area, would be seen in the context of the modern Kingsmere estate and is satisfactorily designed in relation to its surroundings.

The additional height of the extensions would be approximately 3m taking the building to a total height of 14.2m, with an additional 0.3m protrusion to accommodate the lift motor rooms. However, the new front and rear elevation of the extension would be set back approximately 2.5m from the existing elevations and approximately 5m from the side elevation. This approach, combined with the use of glazing and set back sections for the rendered parts, would significantly reduce the visual impact of the additional height and articulate an acceptable form. In this respect it would be similar to the proposal at The Priory granted on appeal.

The large exposure of glazing and simple pattern would provide a clean modern contrast to the existing building and provides a visual relief to the main building and would preserve the positive characteristics of the area. Samples of materials should be secured by planning conditions to ensure that a satisfactory finish to the development.

#### Amenity

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.

The Kingsmere estate is characterised by modest sized block of flats set within a spacious communal formal grounds with attractive landscaping. The proposed extension would be entirely within the current footprint of an existing

block of flats and as such the new extension will maintain an acceptable relationship with its surroundings. Neighbouring residents have primarily objected upon noise and disturbance grounds, both during construction and occupation.

The blocks within Kingsmere estate are sufficiently spaced from one another as to avoid a harmful loss of privacy, loss of outlook, loss of light or cause overshadowing and overlooking or any adverse increase as a result of the additional height. The proposed accommodation would be required to meet Building Regulations standards for sound insulation and should therefore not cause noise disturbance issues for those living directly below. Furthermore there responsible use of the private amenity areas would not cause disturbance.

The additional concerns raised by neighbouring occupiers regarding potential noise, disturbance and inconvenience during the construction period have been noted. These matters do not fall within the remit of planning control. However, local residents may have recourse under Environmental Health legislation in relation to noise and disturbance outside normal working hours.

As such it is considered that the development would not cause a harmful level of noise, disturbance and environmental harm.

Again, Members are asked to bear in mind the Appeal Decision on The Priory, where the Inspector found the development acceptable in amenity terms.

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

The site provides 119 car parking spaces and this is in line with the council's adopted parking standards. The Highway Authority is not aware of any safety capacity concerns relating to overspill on to the public highway. Furthermore they comment there are no significant adverse circumstances in the surrounding area that would be exacerbated by the proposal.

The comments from the Sustainable Transport Team are noted, in that the scheme would be acceptable subject to a sustainable transport contribution of £3,000. Under a scheme of temporary measures to assist the development industry published in May 2010, the Local Planning Authority has currently suspended seeking transport contributions for schemes involving 5 or less new residential units. As such, no contribution is sought in this case.

Living Accommodation Standards and Housing Issues.

The proposal would provide four flats capable of family occupation and in principle it is considered to meet a strategic housing need in the city. The quality of the accommodation would be acceptable in respect of the standards of living space, private amenity space and access.

Each of the proposed units would have access to its own private amenity space in the form of roof gardens. Each of the gardens would be separated by obscure glazed screen and provide an appropriate amount of private space.

Each of the flats would have separate kitchens and living rooms and three bedrooms and two bathrooms. The size of each unit is appropriate and would provide a comfortable standard of living for the occupiers.

Policy HO13 requires that applications demonstrate that wherever practicable, Lifetime Homes criteria should be incorporated into the scheme.

Whilst the Design and Access statement contends that the flats will meet Lifetime Homes Standards, it is considered in this case that it would be unlikely that all standards could be met in a building with existing access and other physical constraints. Given the layout and the design of the additional storey it is considered that a number of Lifetime Homes criteria could be incorporated into the scheme and a planning condition is therefore recommended to secure appropriate measures.

Sustainability

Any new residential development upon the site would need to conform to the requirements of SPD08 in respect of medium scale developments as conversions.

These require the submission of a Sustainability Checklist and the achievement of EcoHomes for refurbishment.

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 application has been accompanied by a sustainability checklist which details the sustainability features of the scheme. These include the use of solar hot water system, a reduction in CO2 emissions, smart metering, joining the considerate constructor's scheme, refuse and recycling facilities and attaining BREEAM Very Good, or Code level 3 for sustainable homes.

Planning conditions should be imposed to secure this standard of sustainability. The planning statement also sets out a number of other criteria which can be met which goes beyond EcoHomes for refurbishment standards and a general sustainability measures condition may be added.

Policy SU13 seeks to minimise construction industry waste. SPD03 supports the objectives on this policy. However new legislation on Site Waste Management Plans (SWMP) was introduced on 6 April 2008 in the form of Site Waste Management Plan Regulations 2008. This legislation sits within Section 54 of the Clean Neighbourhoods and Environment Act 2005.

In regard to securing the Site Waste Management Plans, the Planning Enforcement Team with assistance from the South East Centre of Built Environment (SECBE), and the Environment Agency have a programme of planned site inspections across the city which will monitor compliance with the Site Waste Management Plans Regulations.

On that basis a condition is not necessary.

#### Other issues

A number of grounds for objection have been raised by local residents in relation to potential construction methods, subsidence, sewer capacity, utilities, value of existing flats and their rateable value. However, these are not material planning considerations in this case.

All other matters raised by residents as highlighted in this report have been examined, and are not cannot be considered as part of an assessment of the planning merits of the proposal.

### **8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION**

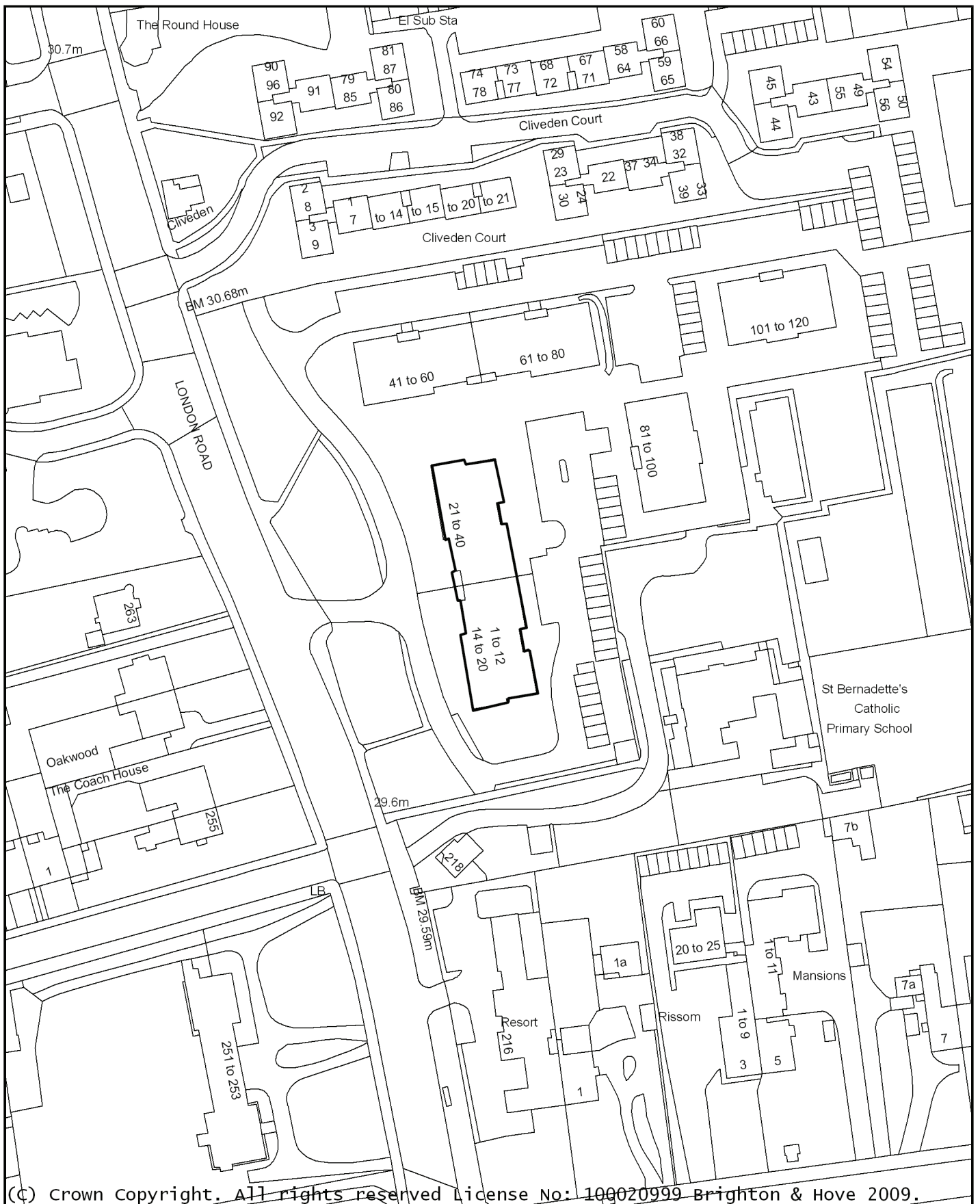
The proposed development would have a satisfactory appearance and would have no adverse impact on the character and visual amenity of the area. There would be no material detriment to the amenities of nearby residential occupiers and subject to planning conditions would provide an acceptable level of sustainability, transport measures, lifetime homes and refuse and recycling facilities. The development would be in accordance with the policies of the adopted local plan.

### **9 EQUALITIES IMPLICATIONS**

The development should incorporate Lifetime Home standards wherever practicable into the design.



# BH2010/02056 Blocks E & F Kingsmere, London Road



Date: 12/08/2010 03:22:54

Scale 1:1250



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**Brighton & Hove  
City Council**

PLANS LIST – 01 SEPTEMBER 2010

COUNCILLOR REPRESENTATION

**From:** Pat Drake [mailto:Pat.Drake@brighton-hove.gcsx.gov.uk]  
**Sent:** 09 August 2010 11:54  
**To:** Steven Lewis  
**Subject:** BH2010/02056Kingsmere London Road

Dear Mr Lewis

I object to this application which is very similar in nature to previous applications for roof extensions on this site which have been rejected in the past.

The large flats proposed on blocks E and F are out of character with the existing flats and would dominate the outlook for other flat dwellers and vary the decision by the council in granting permission for the original build to not allow flats above four floors. The building materials proposed are very different from the original concept.

No further parking is proposed and it is absurd to believe that three bedroom flats would have no requirement for this however much alternative means of transport are advocated and available.

Kind regards

Pat Drake  
Councillor Withdean ward

