

<u>No:</u>	BH2011/03887	<u>Ward:</u>	WITHDEAN
<u>App Type:</u>	Extension to Time Limit Full Planning		
<u>Address:</u>	Land East of 55 Highcroft Villas, Brighton		
<u>Proposal:</u>	Application to extend the time limit for implementation of previous approval BH2007/03843 for the erection of an apartment building containing 24 flats with parking and access.		
<u>Officer:</u>	Guy Everest, tel: 293334	<u>Valid Date:</u>	21/12/2011
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	21 March 2012
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	Town & Country Planning Solutions Ltd., Sandhills Farmhouse, Bodle Street Green, Hailsham		
<u>Applicant:</u>	Kingsbury Estate Ltd, Maria House, 35 Millers Road, Brighton		

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and the policies and guidance in section 7 of this report and resolves that it is **MINDED TO GRANT** planning permission subject to a Section 106 Agreement and to the following Conditions and Informatives:

S106

- The provision of 10 units of affordable housing, the details of which are to be submitted and approved in writing by the Local Planning Authority prior to commencement of development;
- A contribution of £43,940.05 towards the enhancement and maintenance of existing outdoor space and/or outdoor sports facilities in the vicinity of the site;
- A contribution of £35,145 towards the improvement of education facilities in the vicinity of the site;
- A contribution of £18,000 towards improvements to sustainable transport infrastructure in the vicinity of the site, and £2,000 to amend a TRO (removing on-street parking bays) to allow construction of the site access; and
- The translocation of slow worms from the site to an agreed (Council owned) receptor site, and a contribution of £3,440 towards habitat management of the receptor site.

Regulatory Conditions:

- 1) The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
- 2) The development hereby permitted shall be carried out in accordance

with the approved drawings no. 0561/SO2 A, 0561/P300, 0561/P301, 0561/P304, 0561/P305, 0561/P306 & 0561/P307 received on 12th October 2007; and approved drawings no. 0561/P302 E & 0561/P303 E received on 9th July 2008.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3) The bathroom windows within the west (side) elevation of the building hereby approved shall be glazed with obscure glass and thereafter permanently retained as such.

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

- 4) The balcony screens to the west (side) elevation of balconies shall be obscure glazed and 1.5m in height. The screens shall be provided before occupation of the dwellings and thereafter be permanently retained as such.

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

- 5) All planting, seeding, or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority give 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.

Pre-Commencement Conditions:

- 6) No development shall take place until samples of the materials 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. The 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.

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

(a) evidence that the development is registered with an accreditation body under the Code for Sustainable Homes and a Design Stage/Interim Report showing that the development will achieve Code level 4 for all residential units have been submitted to the Local Planning Authority; and

- (b) a Design Stage/Interim Code for Sustainable Homes Certificate demonstrating that the development will achieve Code level 4 for all residential units has been submitted to, and approved in writing by, the Local Planning Authority.

A completed pre-assessment estimator will not be acceptable.

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

- 8) The development hereby permitted shall not commence until a working method statement in respect of the demolition and construction period of the proposed development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall specify hours of working, the provision of wheel cleaning apparatus, details of parking for site operatives and visitors, details of the siting of temporary buildings and stacking of materials. The development shall be carried out in accordance with the working method statement so approved.
- Reason:** To safeguard the amenities of the occupiers of nearby properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
- 9) No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a scheme for landscaping, which shall include hard surfacing, planting of the development, and details of any trees/shrubs to be retained, together with measures for their protection in the course of development.
- Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD1 and QD15 of the Brighton & Hove Local Plan.
- 10) Prior to commencement of the development hereby permitted, details of fencing to be provided around the boundaries of the site and any other means of enclosure shall be submitted to and approved in writing by the Local Planning Authority and the scheme so approved by the Local Planning Authority shall be erected prior to the first occupation of the site and retained thereafter to the approval of the Local Planning Authority.
- Reason:** To ensure a satisfactory appearance to the development, safeguard the amenities of the occupiers of nearby properties and to comply with policies QD1 and QD27 of the Brighton & Hove Local Plan.
- 11) The development shall not commence until fences for the protection of trees to be retained have been erected to a specification and in positions to be agreed in writing by the Local Planning Authority. These fences shall be maintained in good repair until the completion of the development and no vehicles, plant or materials shall be driven or placed within the areas enclosed by such fences.
- Reason:** To 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.
- 12) Prior to the commencement of the development the applicant shall submit to the Local Planning Authority a written report from an appropriately

qualified person, advising upon the stability of the land, most particularly, but not exclusively, in relation to its impact on the role the land plays in supporting the highway at Highcroft Villas and the impact of the development on the stability of the railway embankment and any works (including works of drainage) as may be necessary to ensure the stability of the land, building and services and any neighbouring land or buildings. Details of any stabilisation work to be carried out as a result of the report shall be submitted to and approved in writing by the Local Planning Authority before the development commences. The works shall not be carried out otherwise than in accordance with the approved details.

Reason: As insufficient information has been submitted to comply with policies SU5 and SU8 of the Brighton & Hove Local Plan.

- 13) Prior to the commencement of works details of nesting boxes shall be submitted to and approved in writing by the Local Planning Authority. The boxes approved by the Local Planning Authority shall be erected prior to the occupation of the building and thereafter maintained.

Reason: To ensure the enhancement and protection of ecological interest on site and to comply with policy QD17 of the Brighton & Hove Local Plan.

- 14) Prior to the commencement of works details of the green roof to the first floor hereby approved, which should be vegetated with a chalk grassland mix, shall be submitted to and approved in writing by the Local Planning Authority. The details thereby approved shall be carried out and thereafter maintained in accordance with the specification.

Reason: To ensure the enhancement of ecological interest on site and to comply with policy QD17 of the Brighton & Hove Local Plan.

- 15) Construction work shall not begin until a scheme for protecting the proposed development from noise and vibration from the neighbouring railway line has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include details regarding any ventilation measures that may be necessary and all works which form part of the approved scheme shall be completed before any part of the development is occupied.

Reason: To safeguard the amenity of future occupiers of the development and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

- 16) Prior to the commencement of development on site, detailed drawings, including levels, sections and constructional details of the proposed road, surface water and foul drainage, and lighting to be provided, shall be submitted to and approved in writing by the Local Planning Authority. The works shall be undertaken in accordance with the approved details prior to the first occupation of the dwellings.

Reason: To ensure the safety of persons and vehicles entering and leaving the access and proceeding along the highway and to comply with policies TR1 and TR7 of the Brighton & Hove Local Plan

- 17) Details of the solar roof panels shall be submitted to and approved in writing by the Local Planning Authority before works commence. The panels thereby approved shall be installed before the units are occupied

and thereafter retained as such.

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

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

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

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

Pre-Occupation Conditions:

- 19) Unless otherwise agreed in writing by the Local Planning Authority, none of the residential units hereby approved shall be occupied until a Final / Post Construction Code Certificate issued by an accreditation body confirming that each residential unit built has achieved a Code for Sustainable Homes rating of Code level 4 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.

- 20) The cycle storage details shown on the approved drawings shall be fully implemented and made available for use 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.

- 21) The development hereby approved 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.

Informatives:

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

- (i) having regard to the policies and proposals in the Brighton & Hove Local Plan set out below, including Supplementary Planning Guidance and Supplementary Planning Documents:

(Please see section 7 of the report for the full list); and

- (ii) for the following reasons:-

The development is of an appropriate scale, design and detailing; provides 40% affordable housing with an acceptable standard of residential accommodation throughout; and would not cause undue harm to neighbouring amenity through loss of light, outlook, privacy, increased noise or disturbance, or the creation of a harmful demand for travel.

The development would make efficient use of resources, makes provision for ecological mitigation and enhancement, and meets the demand it creates for infrastructure.

2. 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 and

www.wrap.org.uk.

3. The applicant is advised that details of the Code for Sustainable Homes can be found on the Planning Portal (www.planningportal.gov.uk), on the Department for Communities and Local Government website (www.communities.gov.uk) and in Supplementary Planning Document SPD08 Sustainable Building Design, which can be accessed on the Brighton & Hove City Council website (www.brighton-hove.gov.uk). Accreditation bodies at March 2010 include BRE and STROMA; other bodies may become licensed in future.
4. The applicant is advised that condition 18 (on land contamination) has been imposed because the site is known to be or suspected to be contaminated. Please be aware that the responsibility for the safe development and secure occupancy of the site rests with the developer.

To satisfy the condition a desktop study shall be the very minimum standard accepted. Pending the results of the desk top study, the applicant may have to satisfy the requirements of (i) (b) and (i) (c) of the condition.

It is strongly recommended that in submitting details in accordance with this condition the applicant has reference to Contaminated Land Report 11, Model Procedures for the Management of Land Contamination. This is available on both the DEFRA website (www.defra.gov.uk) and the Environment Agency website (www.environment-agency.gov.uk).

2 THE SITE

The application relates to a triangular shaped piece of land between the northern side of Highcroft Villas and railway land. The site is overgrown with trees and shrubs and was last use for private allotments for railway employees. The site slopes from south to north (towards the railway line) and is at a lower level than Highcroft Villas. The greatest level change is at the western end of the site where the ground slopes by approximately 10 metres.

The wider area is primarily residential with a mix of semi-detached and terraced housing, and a large multi-storey block of flats, known as Highcroft Lodge, opposite the site.

3 RELEVANT HISTORY

BH2007/03843: Erection of an apartment building containing 24 flats with parking and access. Refused for the following reasons:-

1. *The Planning Policy Guidance Note 17: Sport and Recreation, states that existing open space should not be built on unless an assessment has been undertaken which clearly shows that the land is surplus to requirements. In the absence of an independent assessment carried out by the applicant it is considered that it has not been adequately*

demonstrated that the land is surplus to requirement and should not be retained as open space. Planning policy S1(L) of the East Sussex and Brighton & Hove Structure Plan 1991-2011 and QD20 and QD21 of the Brighton & Hove Local Plan seek to retain public and private open space and allotments except in exceptional circumstances, none of which have been identified. For these reasons the proposal is contrary to PPG17, policy S1(L) of the East Sussex and Brighton & Hove Structure Plan 1991-2011, and policies QD20 and QD21 of the Brighton & Hove Local Plan.

2. *The site is home to slow-worm which are protected under the Wildlife & Countryside Act 1981. The proposal fails to identify adequate means for the protection of the slow-worm, contrary to policies QD17 and QD18 of the Brighton & Hove Local Plan.*
3. *Policy HO13 of the Brighton & Hove Local Plan requires all new residential development to be built to a Lifetime Homes standard and a proportion of all new dwellings to be built to wheelchair accessible standards. None of the units have space to store and recharge an electric wheelchair or scooter, bathrooms and lobbies would require structural alterations to meet standards and no units have been identified for Wheelchair Accessible Homes. For these reasons the proposal is contrary to policy HO13.*

A subsequent appeal against this decision was allowed:-

- In respect of reason for refusal no. 1 the Inspector concluded that the proposed development would not have a materially harmful effect upon the provision of open amenity space in the locality and therefore allowed the appeal.
- An agreement was submitted as part of the appeal process making provision for a financial contribution to allow the translocation of slow worms from the application site to an alternative site in the Council's ownership. This overcame reason for refusal no. 2 which, as a result, was not considered further as part of the appeal.
- Reason for refusal no. 3 was not considered as part of the appeal following the submission of amended floorplans which demonstrated that Lifetime Home standards would be incorporated in the development.

BH1999/01945/OA: Residential development - 3 storey building comprising 6 two bed flats and 6 one bed flats. Refused, subsequently allowed at appeal.

4 THE APPLICATION

Planning permission is sought for the erection of 24 self-contained flats. The building would comprise 4-storeys above the height of Highcroft Villas and 6-storeys to the rear as a result of ground level changes across the site. The

development incorporates private balconies and terraces to all levels with materials including render and hung tiles.

The development would provide a mix of 9 x 1-bed, 13 x 2-bed and 2 x 3-bed units and 10 units would be affordable (equating to 40% of the total). It should be noted that the mix of units was amended as part of the appeal process to ensure the development met Lifetime Home and Wheelchair Standards. The drawing references and received dates are those which were considered at appeal and not the references and received dates as outlined on the original decision notice.

A new vehicular access would be created off Highcroft Villas. The development would provide 24 covered parking spaces, 2 of which would be disabled accessible, at lower ground floor level and a further 5 surface parking spaces. A covered cycle store (adjoining the car park at lower ground floor level) would provide parking for 24 cycles.

5 CONSULTATIONS

External:

Neighbours: Thirteen (13) letters of representation have been received from **5 Brigden Street; 4 Chatsworth Road; 38A Compton Road; 36 Coventry Street; 18 (flat B), 25, 29, 53 (x2), 55B Highcroft Villas; Flats 2, 13 & 23 Highcroft Lodge, Highcroft Villas; 92A Springfield Road;** and **81 Stanford Road** objecting the application for the following reasons:

Character and appearance

- The building would not fit with the Victorian architecture of the street, and is a standard 'contemporary lump with balconies';
- The road is already overcrowded – fewer dwellings varying in size would be more appropriate for the location;
- The site is narrow, forms a high cliff above the railway, and unstable - it would be dangerous to develop;
- The development would spoil views of Preston Park.

Impact on amenity

- The development will cause overshadowing and loss of light to adjoining properties;
- The development would block views from Highcroft Villas across to the Downs and Preston Park;

Ecology

- The site is a green area and the development would destroy wildlife, which includes slow worms and badgers;
- Since the original planning permission the site is likely to have become more of a wildlife haven and less appropriate for development.

Open Space

- Since the original permission the amount of green open space in the City

has diminished (with a similar plot near London Road Station granted planning permission in late 2009);

- The site could become a community garden, allotments or open space for the school;
- There is a shortage of allotments in the City.

Transport & Highway Safety

- The new entrance to the flats would be unsafe for pedestrians and road users;
- Whilst the development traffic impact of 6 vehicles at peak times may not impact on the highway network it would have an impact in Highcroft Villas, which is already busy, opposite a school, with traffic regularly backed up;
- Recent traffic calming measures have not worked and cars continue to travel too fast through the street. This application would worsen the existing situation and create a safety hazard;
- Before starting work a zebra crossing should be provided in Highcroft Villas and at the bottom of Millers Road. May also contribute to a roundabout at the junction of Highcroft Villas and Millers Road, blocking off the southern end of Reigate Road and provide a pedestrian footbridge from the edge of the site to Rookery / Preston Road.

Other issues

- The contribution to society, claimed by providing affordable housing, should have been done by now – not simply to buy and sell to another company;
- The application should not be renewed just because of the economy and not being able to afford to build.

East Sussex Fire & Rescue Service: The applicant should be reminded that at Building Regulations Approval stage the plans must show compliance with the functional requirements of approved document B5, in respect of suitable access for both firefighting purposes and for fire appliance access to the development.

Network Rail: No comments have been received.

Southern Water: No objection.

Sussex Police: No objection.

Internal:

Arboriculturalist: No objection, although the perimeter of the site has tree cover nothing is worthy of a Tree Preservation Order. However, some trees on the site are to be retained and these should be protected, through condition, to BS 5837 (2005), Trees on Development Sites.

Ecology: (*Previous Comments*) The development is accompanied with an ecological report which confirms the presence of Slow-worm. A Mitigation

report has been submitted and translocation to an alternative site is seen as a preferred option and a replacement site has been identified. (*Any further comments will be reported on the late list*).

Environmental Health: No objection, subject to conditions relating to noise mitigation and land contamination.

Housing: Support the application. The scheme would provide much needed additional affordable homes in the City. There are currently have over 12,000 people on the Housing Register waiting for affordable rented housing and 676 people waiting for low cost home ownership

Planning Policy: No significant material changes to indicate that a different decision should be taken in respect of the development. Since the appeal decision a number of development plan background studies have been completed and formally approved by the Council.

The Open Space, Sports and Recreation Study and the Open Space Assessment have been completed. The studies identify the site as an open space and categorise it as 'natural and semi-natural urban greenspace'. However, in view of the issues considered by the Inspector at appeal the weight to be given to the change in circumstances in respect of this development, which does not form statutory planning policy, is unlikely to be sufficient to override the granting of permission.

It is therefore considered that, on balance, there have been no significant material changes in planning policy or considerations of planning relevance sufficient to indicate permission should be refused.

Private Sector Housing: No comments.

Sustainable Transport: No objection subject to conditions requiring the submission of details and specifications of the new access layout, and to ensure the residential units are not occupied until the car and cycle parking facilities are provided.

A sum of £20,000 should be sought as a contribution towards the costs of implementing Local Transport Plans would be required to process and consult on the alteration to the relevant Traffic Order (which would be needed to remove the parking bays as required to allow the construction of the site access).

6 MATERIAL CONSIDERATIONS

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that "if regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The development plan is the Regional Spatial Strategy, The South East Plan (6 May 2009); East Sussex and Brighton & Hove Minerals Local Plan (1999); East Sussex and Brighton & Hove Waste Local Plan (February 2006); Brighton & Hove Local Plan (21 July 2005).

7 RELEVANT POLICIES & GUIDANCE

Planning Policy Statements (PPS):

- PPS 1: Delivering Sustainable Development
- PPS 3: Housing
- PPS 9: Biodiversity and Geological Conservation

Planning Policy Guidance Notes (PPGs):

- PPG 13: Transport
- PPG 17: Planning for Open Space, Sport, Recreation
- PPG 24: Planning and Noise

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
- SU8 Unstable land
- 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
- QD4 Design - strategic impact
- QD6 Public Art
- QD15 Landscape design
- QD16 Trees and hedgerows
- QD17 Protection and integration of nature conservation features
- QD18 Species protection
- QD20 Urban Open Space
- QD21 Allotments
- QD27 Protection of Amenity
- 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
- HO9 Residential conversions and the retention of smaller dwellings
- HO13 Accessible housing and lifetime homes

Supplementary Planning Guidance:

SPGBH4 Parking Standards

SPGBH9 A guide for Residential Developers on the provision of recreational space (draft)

SPGBH15 Tall Buildings

Supplementary Planning Documents:

SPD03 Construction & Demolition Waste

SPD06 Trees & Development Sites

SPD07 Advertisements

SPD08 Sustainable Building Design

SPD11 Nature Conservation & Development

8 CONSIDERATIONS

The application seeks an extension to the time limit for implementation to the previous application reference BH2007/03843 which was allowed at appeal.

Planning permission on the site was granted at appeal in December 2008 for a development of 24 residential units on the site. In granting planning permission the Planning Inspector considered that the previous use of the site as allotments was an ancillary use of operational railway land carried out by railway employees. The Inspector also took into account an earlier appeal decision on the site (ref: BH1999/01945/OA) which concluded that use of the application site to meet any unsatisfied need for allotments would not be realised, and that development plan policies did not prevent use of the appeal site for residential purposes.

There is no new evidence about previous use of the site and there have been no material changes to the site, surrounding area or relevant planning policies that would alter the above view. The previous conclusions of the Inspector as set out above therefore remain applicable to this application. The application (BH2007/03843) was originally refused due to the effect of the development on the provision of open space in the City.

Planning Policy Guidance Note 17: *Planning for Open Space, Sport and Recreation* (PPG17) indicates that existing open space should not be built on unless an assessment has been undertaken which clearly shows that the open space is surplus to requirements and that such an assessment should take into account all the functions that open space can perform.

Local Plan policy QD20 provides a similar restriction on the use of open space and states that planning permission will not be granted for proposals that would result in the loss of areas of public or private open space that are important to people because of their recreational, community, historical conservation, economic, wildlife, social or amenity value.

The original application was refused as an open space assessment, as required by PPG17, had not been submitted and there was an inadequate

case to demonstrate an exemption as outlined in local plan policy QD20.

The appeal decision considered though that it was unreasonable to expect a city-wide assessment of open space be submitted as part a planning application. This view took into account the fact that the application site had not been identified as open space in either the Local Plan or other published document and the planning history of the site as operational railway land. The appeal decision concluded that the site provides *'little actual amenity value to the locality.....the majority of the site is difficult to see from Highcroft Villas being at a lower elevation than the road and is for the most part an area of overgrown vegetation'*, and the development would not have *'a materially harmful effect upon the provision of open amenity space in the locality'*.

The Inspector's decision is a material consideration in the determination of this application.

There has not been any significant change to national or development plan policy since the appeal decision. A number of relevant studies have though been completed and formally approved by the Council as background studies for the Local Development Framework. These studies are an Open Space, Sports and Recreation Study and an Open Space Assessment.

These studies identify the application site as open space and categorise it as 'natural and semi-natural urban greenspace'. This status has not though changed since the previous application and the studies were informed by an open space audit which was taken into account as part of the appeal process. The audit did not establish that the site was of amenity value and, in the appeal decision, was not considered of sufficient weight to justify retaining the application site as open space.

In view of the issues considered at appeal the publication of an Open Space, Sports and Recreation Study and an Open Space Assessment does not represent a change in circumstances that would justify refusing the planning application, particularly as the documents do not form adopted planning policy. The appeal decision therefore remains a relevant interpretation of current national and local planning policy relating to open space.

A site visit has revealed that there have been no material changes to the nature of the site or adjoining properties / land since the previous application. Therefore issues relating to the design and appearance of the development, the standard of accommodation / lifetime homes, housing mix, the impact on amenity, land stability, ecology, sustainability, landscaping and traffic remain identical to the previous application. As part of the appeal it was common ground between the Council and applicant that the development was acceptable in relation to these issues and the Inspector did not take a different view.

There has been no change in local or national policy that would affect

consideration of these issues. The development therefore remains acceptable subject to the s106 heads of terms and planning conditions as set out in section 1 of the report.

Other Considerations

Contaminated Land

Environmental Health Officers have recommended an additional condition relating to potential contamination to the existing site. Whilst the application site does not appear on the Council's potentially contaminated land database a review of historic mapping of the area does identify a number of cuttings and embankment areas. As the site is adjacent to railway land it would be appropriate that a desk top survey be carried out, since it is typical of such locations that "made ground" can, and are known to, contain wastes from other areas. The suggested condition is considered to meet the tests of Circular 11/95 and is therefore recommended.

Waste Minimisation

The existing planning permission includes a condition requiring a site waste management plan prior to the commencement of development. Following the introduction of the Site Waste Management Plans Regulation (SWMP) (in April 2008) it is now a legal requirement for all construction projects in England over £300,000 to have a SWMP, with a more detailed plan required for projects over £500,000. The proposal represents a major development and is therefore required under the regulations to have a SWMP. An informative is recommended to advise the applicant of this and the previous condition is not now necessary.

9 CONCLUSION

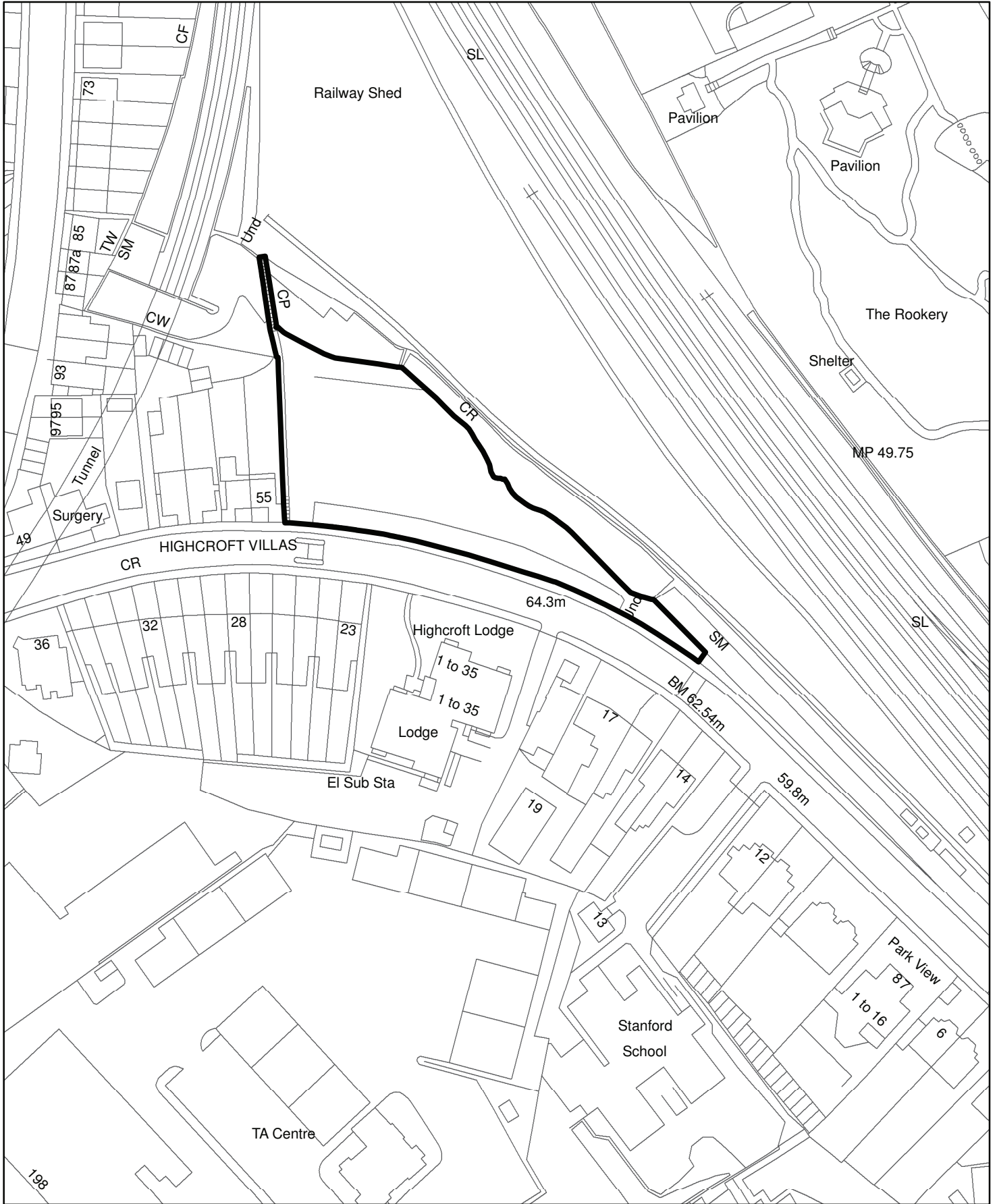
The development is of an appropriate scale, design and detailing; provides 40% affordable housing with an acceptable standard of residential accommodation throughout; and would not cause undue harm to neighbouring amenity through loss of light, outlook, privacy, increased noise or disturbance, or the creation of a harmful demand for travel.

The development would make efficient use of resources, makes provision for ecological mitigation and enhancement, and meets the demand it creates for infrastructure.

10 EQUALITIES IMPLICATIONS

The development would be built to Lifetime Home standards and makes provision for 40% affordable housing provision.

BH2011/03887 Land east of Highcroft Villas, Brighton.



**Brighton & Hove
City Council**



Scale: 1:1,250