

<u>No:</u>	BH2011/03509	<u>Ward:</u>	HOVE PARK
<u>App Type:</u>	Full Planning		
<u>Address:</u>	7 Elm Close, Hove		
<u>Proposal:</u>	Erection of 1no five bedroom house. (Part Retrospective)		
<u>Officer:</u>	Clare Simpson	<u>Valid Date:</u>	14/12/2011
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	08 February 2012
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	ADC Ltd, 72a Beaconsfield Road, Brighton		
<u>Applicant:</u>	Mr Tony Thomas, C/O ADC Ltd		

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 to be **MINDED TO GRANT** planning permission subject to the receipt of an amended rear elevation showing a juliet balcony on the rear elevation at ground floor level and the following Conditions and Informatives.

Regulatory Conditions:

- 1) The development hereby permitted shall be carried out in accordance with the approved drawings no.ADC355/ 09A, 26 and 28B received on the 16th November 2011 and revised rear elevation awaited.
Reason: For the avoidance of doubt and in the interests of proper planning.
- 2) The external finishes of the development hereby permitted shall match in material, colour, style, bonding and texture those of the existing building.
Reason: To ensure a satisfactory appearance to the development in the interests of the visual amenities of the area and to comply with policies QD1 and QD14 of the Brighton & Hove Local Plan.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extension, enlargement or other alteration of the dwellinghouse(s) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.
Reason: The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and to the character of the area and for this reason would wish to control any future development to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no window, dormer window, rooflight or door other than those expressly authorised by this permission shall be constructed without planning permission obtained from the Local Planning Authority.
Reason: To safeguard the amenities of the occupiers of nearby properties and to comply with policies QD14 and QD27 of the Brighton & Hove Local

Plan.

- 5) The first floor rear windows shall not be glazed otherwise than with obscured glass and thereafter permanently retained as such.
Reason: To safeguard the privacy of the occupiers of the adjoining property and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
- 6) The cycle parking facilities outlined on the approved drawing ADC355/26 received on the 16th November 2011 shall thereafter be retained for use by the occupants of, and visitors to, the development at all times.
Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan.
- 7) The approved scheme of landscaping shown on drawing number ADC355/09A and RW Green Method Statement received on the 16th November 2011 shall be maintained for a period of 5 years from the completion of the development and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. 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.

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 principle of the development has been approved under application BH2008/00196. The house does have impact on neighbouring properties but an adequate separation distance to neighbouring properties is retained and the overall impact is considered acceptable. The revised window detail at ground floor level results in an additional glazing compared to the approved scheme, however no significant additional harm can be attributed to this change. The additional glazing at lower ground floor level has a negligible impact on neighbouring occupiers. With the modification to the first floor rear gable window no significant loss of privacy would result.

2 THE SITE

This application relates to the eastern plot (plot 2) of 7 Elm Close. The house has been recently constructed and is currently occupied.

The property is two storeys at the front with land levels sloping down to the rear

of the site allowing for lower ground floor accommodation at the rear. The rear site boundary is shared with the residential properties in Woodruff Avenue with some vegetation on the boundary. The rear elevation of the house is prominent when viewed from the neighbouring properties at the rear, particularly from Woodruff Avenue.

The character of the area is two storey dwellings with pitched roofs.

3 RELEVANT HISTORY

BH2011/01594 Erection of 1no five bedroom house (part retrospective) Refused under delegated powers 19/10/2011 for the following reason:

The installation of French doors on the rear elevation at first floor level results in an area of extensive glazing in an elevated position close to neighbouring gardens in Woodruff Avenue. The incorporation of such a dominant element gives the impression that the door is primary source of outlook over neighbouring gardens. Notwithstanding the assertion that these could be obscured and fixed shut, the development creates a perception of severe overlooking and has an un-neighbourly impact for adjoining occupiers. The scheme is contrary to policy QD27 of the Brighton & Hove Local Plan.

BH2010/02117 Application for Approval of Details Reserved by Conditions 5, 8, 9, 11, 12 and 13 of application BH2008/00196. Approved 02/09/2010.

BH2008/00196 Erection of 2 new family homes on vacant plot Approved 10/06/2008.

This application was subject to numerous planning conditions including Condition 4 The first floor rear elevation window(s) shall not be glazed otherwise than with obscured glass and thereafter permanently retained as such.

BH2005/01533/FP Demolition of existing dwelling and erection of 3 new dwelling and associated garaging (Resubmission of Refused application BH2004/03622/FP) – approved 30/08/2005 by the Planning Inspectorate.

4 THE APPLICATION

Part-retrospective planning permission is sought for this detached house which fronts Elm Close. This application follows the permission which was issued in 2008 under application **BH2008/00196** for erection of two houses on this plot. This consent was granted following a series of unsuccessful planning permissions including an appeal decision which was useful in guiding parameters of future developments for the site (see planning history). This application relates only to Plot 2 which is the eastern house.

The works that have been undertaken on site conflict with the approved plans in the use of materials and the size, positioning and numbering of fenestration. This current application seeks consent to retain the changes as built with the exception of the first floor rear window which is proposed to be modified.

5 CONSULTATIONS

External

Neighbours: Five (5) letters of representation have been received **from 19, 17, Woodruff Avenue, 1, 3, 5, Tongdean Avenue**, objecting to the application for the following reasons:

- the previous applications refused for the site were found to be contrary to policies QD14 and QD27 of the Brighton & Hove Local Plan; this revised application does not overcome these issues,
- the plans and conditions of the 2008 consent should be enforced,
- the plans depict a temporary solution by rendering part of the top floor French window,
- the property is currently on the market as built even though the windows do not have planning permission,
- the current obscured glass film stuck to the window does not comply with the condition 'the first floor rear elevation windows shall not be glazed other than with obscured glass and thereafter permanently retained as such'
- no changes to the first floor cill level is proposed which gives the appearance of substandard work,
- if granted, people will be sitting at the balconies looking out,
- the developer has lopped and felled and trees on site which compounds a loss of privacy,
- the development onsite overshadows long-established properties resulting in a loss of amenity,
- the size of other windows vary considerably from the approved scheme.
- the actions of the developer are un-neighbourly,
- the development has caused much distress to residents and should be regretted.

Internal:

A letter objecting to the application has been received from **Councillor Jayne Bennett and Councillor Vanessa Brown**. A copy of the letter is attached.

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

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

QD15 Landscape design

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

HO13 Accessible housing and lifetime homes

Supplementary Planning Guidance:

SPGBH4 Parking Standards

Supplementary Planning Documents:

SPD06 Trees & Development Sites

SPD08 Sustainable Building Design

8 CONSIDERATIONS

The main considerations in the determination of this application relate to the design and appearance of the new house, including the impact on the character and appearance of the surrounding area, and the impact on the residential amenity of neighbouring occupiers.

This application follows the approval for a new house under application BH2008/00196. The design of the elevations of the house as-built, including materials and size/type of fenestration, is different to that of the approved application. The application has been submitted in order to regularise the building works to date with a further proposed change to the first floor window in the rear gable. Given that there are a number of the changes from the approved application, this application reverts back to an application for a single house, however the approval under BH2008/00196 remains an extant planning permission as works commenced under this permission.

Planning Policy:

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 9th June 2010. One of the revisions redefined gardens as

greenfield land and requires Local Planning Authorities to rigorously examine proposals for development in garden.

This approach is largely reflected in policies QD3 and HO4 of the Brighton & Hove Local Plan. QD3 and HO4 can support planning permission for higher density infill development in some circumstances. However, this must not result in 'town cramming' or cause other problems for neighbours or the future occupants of the proposed building, nor should it result in a development that is detrimental to its surroundings.

When assessing the principal application to redevelop the land in 2008, it was considered that there was sufficient space to allow the redevelopment to form 2 houses. The layout was considered to respect the traditional plot layout in area whilst making efficient use of the site and responded to the views of the planning inspector in an appeal on the 2005 application. There have been no changes in planning policy or site specific circumstances which would now make this development unacceptable in principle.

Design:

Policies QD1, QD2 and QD4 state that new development will be expected to demonstrate a high standard of design and should make a positive contribution to the environment and take into account local characteristics including the height, scale, bulk and design of existing buildings. In this instance the development must respond to an area with particularly strong character created by the Barrowfield Estate. This estate was built in the late 1920's in the garden city tradition and designed by Harold Turner. Although the site is not in a Conservation Area, Barrowfield was previously defined as an area of High Townscape Merit in the Hove Local Plan 1995 and has a strong character worthy of preservation.

The design and appearance of the building responds well to the setting in Elm Close and materials and finishes appear of a good standard. Some of the more traditional detail of the house which was originally approved under BH2008/00196 has not been carried through to the construction. However it is considered that the overall finishes of the house are in keeping with the surrounding area. The timber detailing on the front of the building is not in place, some of the tile hanging on the rear and side elevations approved in 2008 has not been implemented (thereby increasing the amount of render) and the chimney has not been constructed. This increase in the amount of render relative to approved areas of tile hanging is minor and does not make this development unacceptable. The loss of chimney makes the house feel less traditional than the house previously approved, however this change is not considered to make the house unacceptable.

The main design change from that of the previously approved application relates to the size and type of fenestration. On the side elevations of the house, the window designs approved had vertical emphasis. As installed, the windows are more horizontal in proportion; there is no objection however to this design change. The additional glazing at lower ground floor level is not readily visible from outside the boundaries of the property and this design change is

considered acceptable.

Turning to the rear gable elevation, the windows approved under application BH2008/00196 were relatively understated and had dimensions of approximately 1.4 x 1.8 metres and tile hanging was proposed between the ground and first floor windows.

The fenestration which has now been installed is French doors which have a larger amount of glazing and dimensions of approximately 1.8 metres in width and 2 metres in depth. The proposal in this application is to reduce the size of first floor window and retain the ground floor French doors. Neighbours have objected to the design of the first floor window alteration. The existing cill level would be retained and a render panel would in-filling the lower part of the existing opening. The objections are on the design of this feature and concerns that it appears to be temporary solution. It is considered that is approach is not unacceptable in principle. Despite the render panel being distinct from main part of the elevation, it would provide a functional solution by reducing the amount of glazing in this location and providing a discernable separation between the glazed areas at ground floor and first floor level.

The full height windows at ground floor window would be retained. This is shown on the plans as fixed shut. There is no objection to this feature at this level. A juliet balcony would need to be erected on the rear elevation for building control purposes. This has not been installed to date. An additional elevation is required to depict this change and is expected at the time of writing this report.

The impact on the residential amenity of neighbouring occupiers is discussed in the relevant section below.

Impact on Amenity:

Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it 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 principle of the development has been approved under the 2008 consent. Neighbours have once again raised objections to the size and scale of the development. The scale of the house is as approved by the 2008 application, although excavation close to the rear of the house has allowed for the formation of a lower ground floor terrace.

The treatment of the rear elevation of this building was the focus of pre-application discussions prior to the 2008 consent and informed the design approach eventually approved under the 2008 consent. This elevation is particularly sensitive due to the change in the land levels from the application site down to the houses in Woodruff Avenue. As a result, in the 2008 consent a modest sized window was proposed at first floor and this was to be obscure glazed and fixed shut. The first floor side bedroom windows were approved to provided the outlook and ventilation to this room.

The main change in this application which affects neighbours is that two windows on the rear gable of the house have been changed from modest windows to two pairs of French doors. As discussed above, this current application seeks to retain the ground floor French doors in situ but change the first floor fenestration on the gable to a more conventional size window, following the earlier refusal in 2011.

Residents have objected to this change on the grounds of addition overlooking and loss of privacy. It is considered that with the proposed modification to the first floor bedroom window, which will reduce the level of glazing to an amount comparable to the approved application, no loss of privacy or overlooking would result. Primary outlook from this bedroom will remain through the window on the east elevation.

In regard to the ground floor French doors which are proposed to be retained, this change would result in additional glazing compared to the 2008 approval. As the ground levels for this site are higher than those to the rear in Woodruff Avenue and Tongdean Avenue, this area of glazing can be seen from neighbouring properties, however with the separation distances between the houses, it is not considered neighbourly to retain this feature as built. Any increased perception of overlooking is considered to be negligible.

The other window alterations do not face neighbouring properties and it is not considered that these alterations present any issues for neighbours.

Sustainable Transport:

The Sustainable Transport Team have not commented on this application. The highway access was agreed in the previous application and there is no design changes proposed. Cycle parking is shown on the drawings within the double garage of the house. This considered being a suitable accessible facility.

Landscaping:

The landscaping scheme for this plots relied on retention of trees along the rear boundary and no unauthorised tree felling has been identified on site with trees on the boundary of this plot retained. The site is the subject of Tree Preservation Orders and some authorised tree works have take place since 2008 permission which include reducing tree crowns and lopping this year. As consistent with the usual practice, the landscaping does need to be maintained for a period of five years. This will be secured by condition.

Sustainability:

The development was subject to an Ecohomes 'very good' rating or Code for Sustainable Homes Level 3 which was discharged prior to development commencing in accordance with condition 8 of planning permission BH2008/0019. Following the change in the designation of gardens to Greenfield land in PPS3 the development would now be expected to reach Code of Sustainable Homes Level 5 to comply with the adopted SPD08 on Sustainable Building Design. However, the house has not been designed to meet this standard and given that the changes to the elevations are cosmetic, seeking a different energy performance at this stage is considered unreasonable.

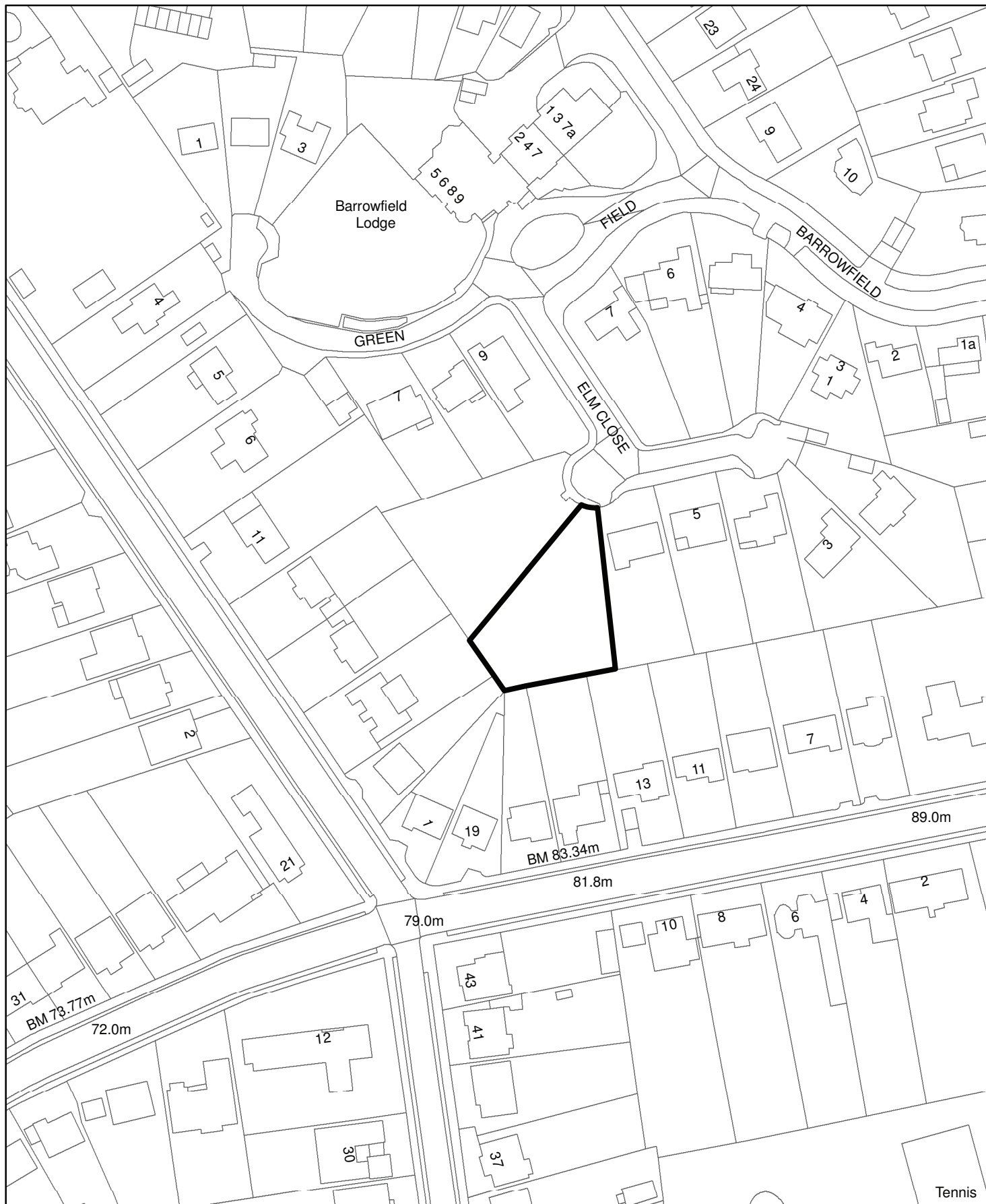
9 CONCLUSION

The principle of the development has been approved under application BH2008/00196. The house does have impact on neighbouring properties but an adequate separation distance to neighbouring properties is retained and the overall impact is considered acceptable. The revised window detail at ground floor level results in an additional glazing compared to the approved scheme, however no significant additional harm can be attributed to this change. The additional glazing at lower ground floor level has a negligible impact on neighbouring occupiers. With the modification to the first floor rear gable window no significant loss of privacy would result.

10 EQUALITIES IMPLICATIONS

The property provides a generous layout and which is largely compliant with HO13 and the Lifetime Homes Criteria.

BH2011/03509 7 Elm Close, Hove.



**Brighton & Hove
City Council**



Scale: 1:1,250



**Brighton & Hove
City Council**

PLANS LIST – 14 MARCH 2012

COUNCILLOR REPRESENTATION

Clare Simpson
Planning Officer
1st Floor
Hove Town Hall
Norton Road
HOVE

Date: 11 January 2012

Our Ref: JB/VB/eb

Your Ref:

Dear Ms. Simpson

Re: Planning Application BH2011/03509 – 7 Elm Close, Hove

As Hove Park ward councillors we wish to object to these proposals because of the adverse effect it will have on nearby homes. There was a huge amount of care and work in the original application that was finally agreed by the Planning Committee to ensure the privacy and amenity of neighbouring properties was protected. The windows in this new proposal are unneighbourly and cause significant overlooking and loss of privacy. The windows in the original design were smaller and gave a much more balanced appearance to the house.

We wish this application to go before the planning committee if it is recommended for approval, and also urge a site visit for members.

Yours sincerely

Councillor Jayne Bennett

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Councillor Vanessa Brown

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