

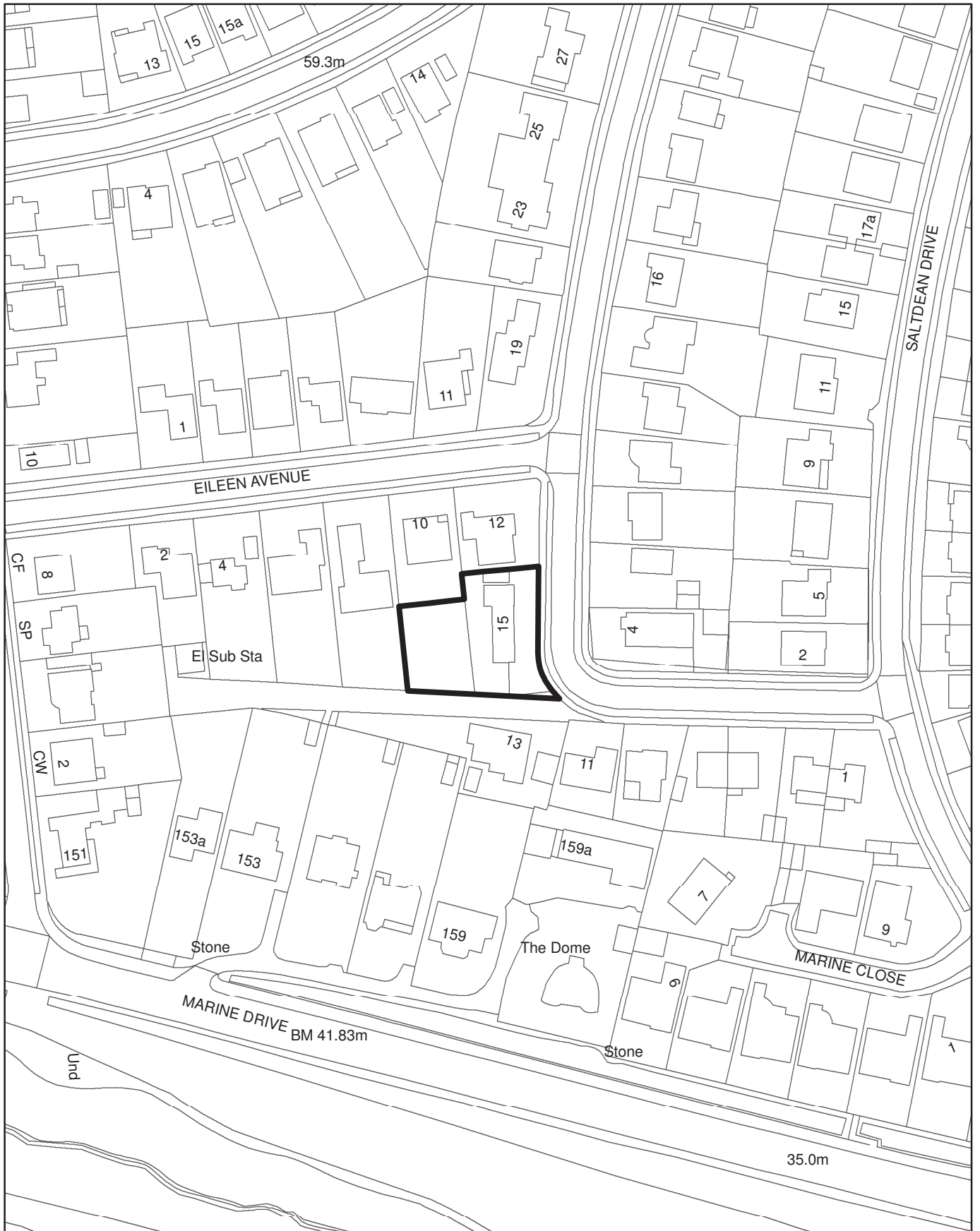
**PLANS LIST  
ITEM D**

**15 Lenham Avenue, Saltdean, Brighton**

**BH2013/01655  
Removal Or Variation Of Condition**

**07 AUGUST 2013**

# BH2013/01655 15 Lenham Avenue, Saltdean, Brighton



**Brighton & Hove  
City Council**



**Scale: 1:1,250**

<b><u>No:</u></b>	<b>BH2013/01655</b>	<b><u>Ward:</u></b>	<b>ROTTINGDEAN COASTAL</b>
<b><u>App Type:</u></b>	<b>Removal or Variation of Condition</b>		
<b><u>Address:</u></b>	<b>15 Lenham Avenue Saltdean Brighton</b>		
<b><u>Proposal:</u></b>	<b>Application for variation of condition 3 of application BH2012/00752 (Demolition of existing dwelling and erection of 2no detached dwellings.) to state that no extension, enlargement or other alteration of the dwelling houses excluding works covered by Class B of the Town and Country Planning (General Permitted Development) Order 1995, shall be carried out without planning permission obtained from the Local Planning Authority.</b>		
<b><u>Officer:</u></b>	<b>Sue Dubberley Tel 293817</b>	<b><u>Valid Date:</u></b>	<b>22/05/2013</b>
<b><u>Con Area:</u></b>	<b>N/A</b>	<b><u>Expiry Date:</u></b>	<b>17 July 2013</b>
<b><u>Listed Building Grade:</u></b>	<b>N/A</b>		
<b><u>Agent:</u></b>	<b>Garrick and Team, 36 Edburton Avenue, Brighton, BN1 6EJ</b>		
<b><u>Applicant:</u></b>	<b>Mrs Kathryn O’Connell, 10 Eileen Avenue, Saltdean, Brighton, BN2 8AD</b>		

**1 RECOMMENDATION**

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 and the policies and guidance in section 7 and resolves to **REFUSE** planning permission for the reason(s) set out in section 11.

**2 SITE LOCATION & DESCRIPTION**

- 2.1 The application relates to a detached bungalow located on the west side of Lenham Avenue. To the north of the site is another detached bungalow and to the south is a pedestrian access to the rear of properties in Eileen Avenue. The site is located in a residential suburb.

**3 RELEVANT HISTORY**

**BH2013/00671** variation of condition 3 of application BH2012/00752 (Demolition of existing dwelling and erection of 2no detached dwellings.) to state that no extension, enlargement or other alteration of the dwelling houses excluding works covered by Class B of the Town and Country Planning (General Permitted development) Order 1995, shall be carried out without planning permission obtained from the Local Planning Authority. Refused 03/05/2013. The application was refused on the following grounds: ‘The Local Planning Authority would wish to control any future development to the rear of the property on the basis that rear extensions could cause material harm to neighbouring amenity by way of overlooking.’

**BH2012/03148** Demolition of existing dwelling and erection of 2no detached dwellings. Refused 07/12/2012.

**BH2012/00752** Demolition of existing dwelling and erection of 2no detached dwellings. Approved 28/08/2012.

**90/1908/F:** Demolition of existing dwelling and erection of 2 detached 2 storey houses with integral garages. Approved 19/03/1991.

#### **4 THE APPLICATION**

- 4.1 Planning permission is sought for the variation of condition 3 of application BH2012/00752 (Demolition of existing dwelling and erection of 2no detached dwellings) to state that no extension, enlargement or other alteration of the dwelling houses excluding works covered by Class B of the Town and Country Planning (General Permitted Development) Order 1995, shall be carried out without planning permission obtained from the Local Planning Authority.
- 4.2 Condition 3 attached to BH2012/00752 removed permitted development rights from the proposed units. The application seems to vary the condition to remove Part B from the condition. Part B of the Town and Country Planning (General Permitted Development) order 1995 refers to rear alterations.

#### **5 PUBLICITY & CONSULTATIONS**

##### **5.1 External**

**Neighbours:** 4 letters of representation have been received from **157, 159a, Marine Drive, 8, 12 Eileen Avenue**, objecting to the application for the following reasons:

- Council should not agree to relaxation of terms and conditions of the original application. The site is already overdeveloped.
- The applicant should accept Council's constraints on the application.
- Any enlargement or extension including the addition or increase in window size will cause loss of privacy to adjoining properties and gardens.
- Fail to see how application differs from previous refusal.
- Overlooking, loss of privacy, and overshadowing

- 5.2 **12** standard letters of representation have been received from, **6 Eileen Avenue, 8 Royles Close, 16 Margaret Street, 5 Meadow Parade, 9 Ridge close, Portslade, flat 4, 72 Montpelier Road, Flat 3, 104 Highdown Road, 20 Northumberland Court, 62-64 Marine Parade, 7 Lakeview South Avenue, 13 Nevill House, 164-165 Marine Parade, flat 2, 42 St Aubyns, 93 Wordsworth Street** supporting the application for the following reasons:

- The area is not a conservation area; consider the restriction of clause 4 to be inappropriate in this instance.
- Many and varied architectural designs in the area. Do not consider that removing the condition will have a detrimental impact.
- Believe normal planning criteria is sufficient to ensure that suitable design is applied and over development does not take place.

##### **5.3 Internal:**

None

## **6 MATERIAL CONSIDERATIONS**

- 6.1 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.”
- 6.2 The development plan is:
- Brighton & Hove Local Plan 2005 (saved policies post 2007);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (Adopted February 2013);
  - East Sussex and Brighton & Hove Minerals Local Plan (November 1999); Saved policies 3,4,32 and 36 – all outside of Brighton & Hove;
  - East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only – site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.
- 6.3 The National Planning Policy Framework (NPPF) was published on 27 March 2012 and is a material consideration which applies with immediate effect.
- 6.4 Due weight should be given to relevant policies in the development plan according to their degree of consistency with the NPPF.
- 6.5 The Brighton & Hove City Plan Part One (submission document) is an emerging development plan. The NPPF advises that weight may be given to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies to the policies in the NPPF.
- 6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

## **7 RELEVANT POLICIES & GUIDANCE**

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove Local Plan:

QD14 Extensions and alterations

QD27 Protection of amenity

#### Brighton & Hove City Plan Part One (submission document)

SS1 Presumption in favour of Sustainable Development

## **8 CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations in the determination of this application relate to the impact of the proposed variation of condition 3 on neighbouring residential amenity.

- 8.2 The original condition states:  
*'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 for this reason would wish to control any future development to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.'
- 8.3 The applicant proposes the wording to be:  
*'No extension, enlargement or other alteration of the dwelling houses excluding works covered by Class B of the Town and Country Planning (General Permitted development) Order 1995, shall be carried out without planning permission obtained from the Local Planning Authority.'*
- 8.4 Class B refers to the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. The application therefore seeks to remove the restriction on roof extensions and alterations so that the dwellings would have permitted development rights in regard to roof alterations. In this case the condition was placed on the original approval for the two dwellings in order to protect the amenity of adjoining residential properties and there has been no material change that would now justify the removal of roof alterations from the condition.
- 8.5 An identical application (BH2013/00671) to vary condition 4 was refused earlier this year. The applicant has resubmitted the application and this time the application has received 12 letters of support.
- 8.6 It is also noted that an earlier application was refused last year under ref: BH2012/03148. The proposal was almost identical to the approved scheme for two traditional chalet bungalows. However the earlier proposal had four roof lights in the rear roof slope of each bungalow which were to be replaced with two large box dormers and one roof light located between the two dormers. Although the dormers were refused on design grounds and the dormers were shown with obscure glazing, variation of the condition would allow dormers to be erected without the need for planning permission and there would be no control over the glazing.
- 8.7 Given the proximity of neighbouring occupiers, it is considered that further development could cause detriment to the amenities of the occupiers of nearby properties and for this reason the variation of the condition which would allow roof alterations under permitted development rights is recommended for refusal.
- Other Considerations:**
- 8.8 The letters of support are noted however they all refer to design and the fact that the site is not located in a conservation area. The reason for the imposing of the condition was however to *protect the amenities* of the occupiers of nearby properties and not on design issues.

**9 CONCLUSION**

9.1 It is considered that further development could cause detriment to the amenities of the occupiers of nearby properties, including alterations and extension to the roof and therefore the Local Planning Authority would wish to control any future development to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

**10 EQUALITIES**

10.1 None identified.

**11 REASON FOR REFUSAL / INFORMATIVES**

11.1 Reasons for Refusal:

1. The Local Planning Authority would wish to control any future development to the roof of the property on the basis that roof extensions could cause material harm to neighbouring amenity by way of overlooking contrary to QD14 and QD27 of the Brighton & Hove Local Plan.

11.2 Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One (submission document) the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.

2. This decision is based on the drawings listed below:

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Proposed plan, elevations and site plan	1124-21	A	22 May 2013
Existing plans, elevations and site plan	1124-20	A	22 May 2013

