

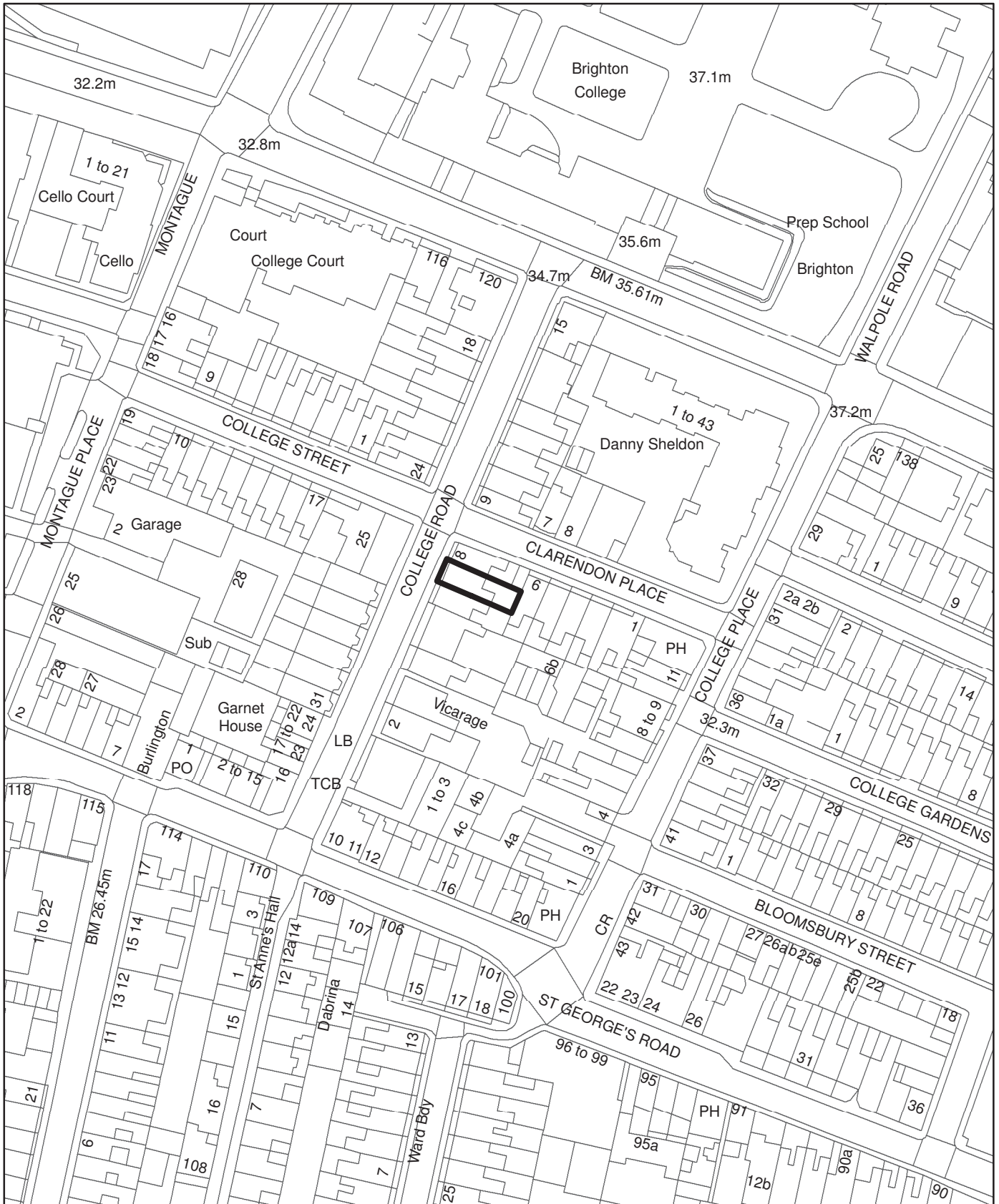
ITEM I

7 College Road, Brighton

BH2013/02591
Removal or variation of condition

30 OCTOBER 2013

BH2013/02591 7 College Road, Brighton



**Brighton & Hove
City Council**



Scale : 1:1,250

<u>No:</u>	BH2013/02591	<u>Ward:</u>	QUEEN'S PARK
<u>App Type:</u>	Removal or Variation of Condition		
<u>Address:</u>	7 College Road Brighton		
<u>Proposal:</u>	Application for removal of condition 4 of application BH2006/03056 (Conversion of dwelling into two 1 bed flats and one 2 bed flat) which states that no development shall take place until details of arrangements to ensure the development shall remain genuinely car free at all times have been agreed in writing by the Local Planning Authority.		
<u>Officer:</u>	Kathryn Boggiano, tel: 292138	<u>Valid Date:</u>	30/07/2013
<u>Con Area:</u>	East Cliff	<u>Expiry Date:</u>	24 September 2013
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>			
<u>Applicant:</u>	Dr Jasmin Islam, Flat 3, 7 College road, Brighton, BN2 1JA		

1 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 11 and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in section 11.

2 SITE LOCATION & DESCRIPTION

- 2.1 The site comprises a large three storey terraced building plus basement. The basement does not form part of the application site as it had already been converted into a one bed self contained flat prior to the original planning application BH2006/03056 being submitted. In accordance with the approved plans, the ground, first and second floors have been converted into three self contained units.
- 2.2 The surrounding area is predominantly residential and the majority of the dwellings within the street are three and four storeys and have been converted into flats. The site is within the East Cliff Conservation Area and within Controlled Parking (CPZ) Zone H.

3 RELEVANT HISTORY

BH2006/03056: Conversion of dwelling into two one bed flats and one two bed flat. Approved 15 December 2006.

4 THE APPLICATION

- 4.1 Planning permission is sought for the removal of condition 4 of BH2006/03056 which stated that:

“No development shall take place until details of arrangements to ensure the development shall remain genuinely car free at all times have been agreed in writing by the Local Planning Authority. The agreed measures shall be implemented before any of the units are first occupied unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure that two of the units remain genuinely car free in the long term and to prevent an increase to on-street car parking stress, in accordance with Brighton & Hove Local Plan policies TR1, TR7, TR19, HO7 and HO9.”

5 PUBLICITY & CONSULTATIONS

External

- 5.1 An objection has been received from **Councillors Stephanie Powell and Ben Duncan** and is attached to this report as an appendix.

Internal:

- 5.2 **Sustainable Transport:** Recommended approval as the Highway Authority would not recommend refusal of this application.
- 5.3 The proposals are to remove condition 4 of planning permission BH2006/03056 which requires that two of the three units shall remain genuinely car free.
- 5.4 The original application (BH2006/03056) was to convert the existing single residential dwelling into two 1 bed flats and one 2 bed flat. The existing single residential unit at lower ground floor level was retained and unaffected by these proposals. Condition 4 was included on planning permission BH2006/03056 which excluded 2 of the 3 newly proposed residential units from applying for CPZ permits. Therefore only 2 of the 4 residential units within this address could effectively apply for CPZ permits.
- 5.5 The applicant states that they were not aware that the development was car free as the developer did not inform future tenants of the car free nature of the development, as they are required to do so. The applicant also states that they have been in receipt of CPZ permits for the last 6 years.
- 5.6 Given the length of time since the original permission being granted and the length of time the residents have received CPZ permits it cannot be deemed that by refusing this current application and making the residents ineligible for parking permits successfully mitigates the impact of the development as approved; as the residents have been parking on-street within the vicinity of the site within the last 6 years. The impact the original application has had has dissolved into the local area and would not cause a significant highway impact which would warrant refusal of this application.

- 5.7 It should also be noted that there is currently not a waiting list in CPZ H and that car ownership levels are much lower than the average for Brighton, the South East of England and England as a whole. 59% of households in the Queens Park ward have no access to a car compared to 38% in Brighton as a whole, 19% in the South East of England and 26% in England.
- 5.8 Given the intervening years following the granting of the original permission and the mitigation of the impact of the development during that period, a refusal of this application would not be supportable.

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

TR1 Development and the demand for travel;

TR7 Car free housing;
TR14 Cycle access and parking;
TR19 Parking standards;
SU2 Efficiency of development in the use of energy, water and materials;
QD2 Design, key principles for development;
QD3 Design – efficient and effective use of sites;
HO7 Car free housing
HO9 Residential conversions and the retention of smaller dwellings;
HE6 Development within or affecting the setting of conservation areas.

Supplementary Planning Guidance

SPGBH4 Parking standards.

Brighton & Hove City Plan

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 on the local highway network including on-street parking stress.
- 8.2 Policy TR1 requires development to cater for the travel demand which it generates. Policy HO7 permits car free housing in locations with good access to public transport and local services where there are complimentary on street parking controls and where it can be demonstrated that the proposed development will remain genuinely car-free over the long term.
- 8.3 In 2006 an application (BH2006/03056) to convert the ground, first and second floors from a three storey maisonette to three self contained units was approved. The basement unit was unaffected by this application and it was already in use as a self contained unit. When the original application was approved a condition was imposed which required that details of arrangements to ensure that the development remained genuinely car free at all times to be submitted and agreed in writing prior to commencement of development. The reason accompanying the condition required that two out of the three units to be car free.
- 8.4 In order to discharge this condition, the applicant signed a Unilateral Undertaking which contained a commitment for the development to be car free and a financial contribution for the Traffic Regulation Order to be amended. The necessary TRO was amended, however, the TRO amendment required that all four flats, rather than just two flats, were in-eligible for a residents permit. In reality residents have been able to obtain permits from the Council from the time of the conversion until March 2013, at which time, the right to a permit for all four flats was removed.
- 8.5 The applicant has submitted a statement which states that the tenants and landlords of the units were unaware that their properties were car free until

March 2013, when they received a letter from the Council's Parking Team which stated that they were no longer eligible for a residents parking permit. The statement contains details of some of the residents' occupations which include doctors and carers and states that they are reliant on their cars for work, especially during evenings and night work when it is more difficult to rely on public transport. The applicant has also submitted information regarding the previous car ownership and it is stated that the previous residents of the three storey unit had two cars, however, the new residents of the three units have four cars which is an uplift of two cars. These figures do not include vehicles associated with the basement unit.

- 8.6 The Council's Highway Officers have commented that there is currently not a waiting list in CPZ Zone H and that car ownership levels are much lower in Queen's Park ward than the average for Brighton, the South East of England and England as a whole. 59% of households in the Queens Park ward have no access to a car compared to 38% in Brighton as a whole, 19% in the South East of England and 26% in England.
- 8.7 The Council's Highway Officers have also commented that given the length of time which has passed since the original permission was granted (7 years) and given the length of time the residents have been in receipt of CPZ permits (6 years), it cannot be deemed that the refusal of this current application and the requirement to make the residents ineligible for parking permits would successfully mitigate the impact of the development as approved. This is because the residents have been parking on-street within the vicinity of the site within the last 6 years. The impact the original application has had has dissolved into the local area and would not cause a significant highway impact which would warrant refusal of this application.
- 8.8 Circular 11/95 contains guidance on the use of conditions and states that they should meet the following tests:
- 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.
- 8.9 The Circular also states that in considering whether a particular condition is necessary, authorities should ask themselves whether planning permission would have to be refused if that condition were not to be imposed. If it would not be refused, then the condition needs special and precise justification.
- 8.10 In practice, there have been practical difficulties in specifying which units within a building are car free and which are not, and this had led to problems with the conditions meeting the 'enforceable' and 'precise' tests within the Circular. In addition, the additional vehicles generated by the development have been on the network for 6 years and are not considered to have an adverse impact on

the local highway network or parking stress in the immediate surrounding area. Therefore, the condition is no longer considered to be strictly necessary to mitigate the transport impacts of the conversion and therefore it is recommended to remove this condition. The TRO could be amended to reflect this in the next Consolidated Order.

9 CONCLUSION

9.10 It is considered that the additional vehicles which have been generated as a result of the original conversion (approved under BH2006/03056), have not and would not continue to cause a detrimental impact on the local highway network and on street parking levels. Therefore it is considered that the removal of the right to a resident's parking permit, would, in this case, fail to meet the tests of the Circular 11/95, as it would not be necessary in order to make the development acceptable. Therefore it is recommended to approve the removal of condition 4 of BH2006/03056.

10 EQUALITIES

None identified.

11 PLANNING CONDITIONS

11.1 Conditions:

1. The refuse and recycling storage facilities, as shown on approved plan 427/01 submitted 08 September 2006, shall be retained for use all times.
Reason: To ensure the provision of satisfactory facilities for the storage of refuse and to comply with policy QD27 of the Brighton & Hove Local Plan.
2. The cycle parking facilities as shown on the approved plans, as shown on approved plan 427/01 submitted 08 September 2006, shall 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.

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 to grant Planning Permission has been taken:

- (i) having regard to the policies and proposals in the National Planning Policy Framework and the Development Plan, 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:-
It is considered that the additional vehicles which have been generated as a result of the original conversion (approved under BH2006/03056), have not and would not continue to cause a detrimental impact on the local highway network and on street parking levels. Therefore it is recommended to approve the removal of condition 4 of BH2006/03056.
3. This decision is based drawing numbers 427/01 and 427/02 received on 8 September 2006.

23rd August 2013

Dear Kathryn,

This is an urgent objection to the application for 7 College Road.

Conditions were placed on this development in 2007 by the Local Planning Authority, to ensure that this converted dwelling remain 'car free'. This was placed in order to discourage care use, and to ensure that the stress on parking doesn't increase as a result of converting units.

We would therefore request as ward Councillors, that this application is heard at Full Planning Committee, for the reasons I have outlined above.

Regards,

Councillor Stephanie Powell & Councillor Ben Duncan
Green Party Councillors for Queen's Park Ward
Brighton & Hove City Council