

<u>No:</u>	BH2016/01766	<u>Ward:</u>	St. Peter's And North Laine Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	76-79 And 80 Buckingham Road Brighton		
<u>Proposal:</u>	Conversion of nos 76-79 Buckingham Road to provide four residential dwellings (C3). Demolition of no 80 Buckingham Road and the erection of a five storey building to provide 20 residential units (C3) and a community use unit (D1). Associated car parking, cycle parking, landscaping and servicing provision.		
<u>Officer:</u>	Gareth Giles, tel: 293334	<u>Valid Date:</u>	07.06.2016
<u>Con Area:</u>	WEST HILL	<u>Expiry Date:</u>	06.09.2016
<u>Listed Building Grade:</u>		<u>EOT:</u>	
<u>Agent:</u>	RPS CgMs 140 London Wall London EC2Y 5DN		
<u>Applicant:</u>	Buckingham Developments (Brighton) Ltd C/o RPS CgMs 140 London Wall London EC2Y 5DN		

1. PURPOSE OF REPORT

- 1.1 To consider a material change to the planning application previously considered by Planning Committee in October 2016 following the submission of financial viability evidence by the applicant: that the affordable housing provision is proposed to be secured either on site or by a financial contribution in lieu of on-site provision.

2. RECOMMENDATION

- 2.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in Appendix 1 as modified by this report and resolves to be **MINDED TO GRANT** planning permission subject to a s106 agreement on the following terms and the following Conditions and Informatives:

Section 106 Agreement Heads of Terms

- Affordable Housing either on-site or as a commuted sum of £860,000;
- Education contribution of £62,387.80;
- Open Space contribution of £67,928;
- The production of an Employment and Training Strategy;
- Local Employment Scheme contribution of £7,400;
- Sustainable Transport contribution of £14,000.

Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.
Reason: For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
Block Plan Proposed	BD-MAKE-XX-00-P-A-2000	1	28 September 2016
Block Plan Proposed	BD-MAKE-XX-00-P-A-1000/1	1	13 June 2016
Floor Plans Proposed	BD-MAKE-XX-01-P--A-2011	3	17 May 2016
Floor Plans Proposed	BD-MAKE-XX-02-P--A-2012	3	17 May 2016
Floor Plans Proposed	BD-MAKE-XX-03-P--A-2013	4	17 May 2016
Floor Plans Proposed	BD-MAKE-XX-04-P--A-2010	3	17 May 2016
Floor Plans Proposed	BD-MAKE-XX-LG-P--A-2008	4	17 May 2016
Floor Plans Proposed	BD-MAKE-XX-LG-P--A-2009	3	17 May 2016
Elevations Proposed	BD-MAKE-XX-XX-E--A-2103	3	17 May 2016
Elevations Proposed	BD-MAKE-XX-XX-E--A-2105	0	17 May 2016
Sections Proposed	BD-MAKE-XX-ZZ-S--A-2201	3	17 May 2016
Other	BD-MAKE-XX-ZZ-SRS--A-0100	2	17 May 2016
Arboricultural Report	395-01		17 May 2016
Elevations Proposed	BD-MAKE-XX-XX-E--A-2100	4	16 August 2016
Elevations Proposed	BD-MAKE-XX-XX-E--A-2101	4	19 August 2016
Elevations Proposed	BD-MAKE-XX-XX-E--A-2102	4	19 August 2016
Elevations Proposed	BD-MAKE-XX-04-P-A-2014	5	28 September 2016
Roof Plan Proposed	BD-MAKE-XX-RP-P-A-2016	4	28 September 2016
Elevations Proposed	BD-MAKE-XX-XX-E-A-2104	4	28 September 2016
Sections Proposed	BD-MAKE-XX-ZZ-S-A-2200	4	28 September 2016

- 2** 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.
- 3** No cables, wires, aerials, pipework (except rainwater downpipes shown on the approved plans) meter boxes, ventilation grilles or flues shall be fixed to or penetrate any external elevation, other than those shown on the approved drawings, without the prior consent in writing of the Local Planning Authority.

Reason: To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan and CP15 of the City Plan Part One.

- 4 The community use and communal garden hereby permitted shall not be operated or open to the public outside the following hours; 0800-2200 daily. No variation to the above hours shall be permitted without the prior written approval of the Local Planning Authority.

Reason: to protect the amenity of nearby and adjacent occupiers in accordance with Policy QD27 of the Brighton and Hove Local Plan.

- 5 No equipment or machinery (excluding the MVHR ventilation units) shall be operated at the site outside the following hours 7am-11pm. No variation to the above hours shall be permitted without the prior written approval of the Local Planning Authority. 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. In addition, there should be no significant low frequency tones present.

Reason: to protect the amenity of nearby and adjacent occupiers in accordance with Policy QD27 of the Brighton and Hove Local Plan.

- 6 No development above ground floor slab level shall commence 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: As this matter is fundamental to the acceptable delivery of the permission 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 policy SU3 of the Brighton & Hove Local Plan.

- 7 The development hereby permitted shall not commence until such time as a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit.

Reason: This pre-commencement condition is imposed in order to allow the Traffic Regulation Order to be amended in a timely manner prior to first occupation to ensure that the development does not result in overspill parking and to comply with policies TR7 & QD27 of the Brighton & Hove Local Plan and CP9 of the City Plan Part One.

- 8 No development above ground floor slab level shall take place until a scheme setting out highway works to implement the:

- Removal of the existing recessed ambulance bay that will become redundant due to this development on Buckingham Street and reinstatement of the footway and kerb edge;
- Relocation of the communal bins adjacent to the Buckingham Street ambulance bay;
- Removal of the existing ambulance and doctors' bays on Buckingham Road that will become redundant due to this development; and
- Replacement of any existing pavers/ tactile paving/ dropped kerbs that have been damaged around the site due to this development has been submitted to and approved in writing by the local planning authority. No part of the building hereby approved shall be occupied until the approved highway works have been carried out in accordance with the approved scheme.

Reason: To ensure that suitable footway provision is provided to and from the development and to comply with policies TR7 of the Brighton & Hove Local Plan and CP9 of the City Plan Part One.

9 No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority, which will provide the following information:

- a) The phases of the Proposed Development including the forecasted completion date(s);
- b) A commitment to apply to the Council for prior consent under the Control of Pollution Act 1974 and not to commence development until such consent has been obtained;
- c) A scheme of how the contractors will liaise with local residents to ensure that residents are kept aware of site progress and how complaints will be dealt with reviewed and recorded (including details of any Considerate Contractor or similar scheme);
- d) A scheme of how the contractors will minimise complaints from neighbours regarding issues such as noise and dust management vibration site traffic and deliveries to and from the site;
- e) A plan showing construction traffic routes.
- f) A prior working agreement through section 61 of the Control of Pollution Act 1974 will be required. The City Council will set hours, and conditions necessary for the build to protect local residents. This has regard to best practicable means as defined in section 72 of the Control of Pollution Act 1974 and the British Standard 5228:2009, Parts 1 and 2.

Once the CEMP is approved the developer shall implement the commitments set out in the CEMP during the construction period.

Reason: As this matter is fundamental to the protection of amenity, highway safety and managing waste throughout development works and to comply with policies QD27, SU9, SU10 and TR7 of the Brighton & Hove Local Plan, policy CP8 of the City Plan Part One, and WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013 and Supplementary Planning Document 03 Construction and Demolition Waste.

- 10** Ground investigation to identify and remedy potential land contamination is required, as recommended in the submitted Land Quality Study (April 2016). This should be carried out after demolition and before the construction phase and if any 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, a method statement to identify, risk assess and address the unidentified contaminants.
Reason: As this matter is fundamental to the acceptable delivery of the permission to safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan.
- 11** No development above ground floor slab level shall take place until full details of all new windows and their reveals, cills and central meeting rails including 1:20 scale elevational drawings and sections have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out and completed fully in accordance with the approved details and shall be retained as such thereafter.
Reason: To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan and CP15 of the City Plan Part One.
- 12** No development above ground floor slab level shall take place until full details of the roof eaves and integrated balconies to the new building at number 80; and the railings to the front of numbers 76-79; including detailed, scaled elevational drawings and sections have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out and completed fully in accordance with the approved details and shall be retained as such thereafter.
Reason: To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan and CP15 of the City Plan Part One.
- 13** No development above ground floor slab level of any part of the development hereby permitted shall take place until samples of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):
- a) Samples of all brick, stone, tiling and painted render (being a good quality traditional wet-render with smooth finish paint)
 - b) Samples of all cladding to be used, including details of their treatment to protect against weathering
 - c) Samples of all hard surfacing materials
 - d) Samples of the proposed window, door and balcony treatments
 - e) Samples of all other materials to be used externally

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 HE6 of the Brighton & Hove Local Plan and CP15 of the City Plan Part One.

- 14** No development above ground floor slab level of any part of the development hereby permitted shall take place until details of the proposed sound insulation scheme to be implemented between the development and the adjoining premises and/or between the residential accommodation and any residential or non-residential uses have been submitted to and approved by the Local Planning Authority. The Building Regulations Part E assessment is to take account of the electrical substation and the internal noise environment generally. The Party Walls/Floors between the ground floor units and the first floor residential units should be designed to achieve a sound insulation value of 5dB better than Approved Document E performance standard, for airborne and structural sound insulation for floors of purpose built dwelling-houses and flats. Details should include airborne and/or impact sound insulation. The developer shall certify to the local planning authority that the noise mitigation measures agreed have been installed. The approved scheme is to be completed prior to occupation of the development and shall be permanently maintained thereafter.
Reason: to protect the amenity of nearby and adjacent occupiers in accordance with Policy QD27 of the Brighton and Hove Local Plan.
- 15** The arrangements for refuse and recycling facilities shall be implemented in accordance with the details hereby approved prior to first occupation of the development and shall thereafter be retained for use at 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.
- 16** Prior to first occupation of the development hereby permitted a scheme to enhance the nature conservation interest of the site shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall accord with the standards described in Annex 6 of SPD 11 and shall be implemented in full prior to the first occupation of the development hereby approved.
Reason: To increase the biodiversity of the site, to mitigate any impact from the development hereby approved and to comply with Policy CP10 of the City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
- 17** None of the new build residential units hereby approved shall be occupied until each residential unit built has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).
Reason: To ensure that the development is sustainable and makes efficient use of energy to comply with policy CP8 of the City Plan Part One.
- 18** Prior to first occupation of the development hereby permitted, details of secure cycle parking facilities and their access for the occupants of, and visitors to, the development shall 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 first occupation of the development 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.

- 19** None of the new build residential units hereby approved shall be occupied until each residential unit built has achieved a water efficiency standard using not more than 110 litres per person per day maximum indoor water consumption.

Reason: To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the City Plan Part One.

- 20** At least two of the new build units hereby approved shall be completed in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings) prior to first occupation and shall be retained as such thereafter. All other new build dwellings hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.

Reason: To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.

- 21** Prior to first occupation of the residential units, the use-class D1 community unit shown on the approved plans shall be made available for use and retained as such thereafter.

Reason: To ensure the satisfactory provision of space for community use on site and to ensure the development complies with policy HO20 of the Brighton & Hove Local Plan.

- 22** The development hereby permitted shall not be occupied until a scheme of Travel Plan measures to promote sustainable transport to and from the site has been submitted to and agreed in writing by the Local Planning Authority. The scheme should include but not be limited to the following measures:

- Details of pedestrian and cycle routes in the local area;
- Public transport timetable/maps;
- 2 years membership to City Car Club; and
- Bus 12 month season ticket for Brighton & Hove buses.

Reason: to promote sustainable modes and transport and mitigate the impact of the development on the surrounding road network and parking provision, in compliance with Brighton and Hove Local Plan Policy TR4.

- 23** Prior to first occupation of the development hereby permitted, details of the car parking provision, including disabled spaces, for the occupants of, and visitors to, the development shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented and made available for use for the parking of private motor vehicles and

motorcycles belonging to the occupants of and visitors to the development hereby approved prior to the first occupation of the development and shall thereafter be retained for use at all times.

Reason: To ensure the development provides for the needs of disabled occupants and visitors to the site and to comply with policy TR18 of the Brighton & Hove Local Plan, CP9 of City Plan Part One and SPD4 guidance.

- 24** Prior to first occupation of the development hereby permitted, double glazing shall be installed throughout the new and converted buildings providing a minimum laboratory tested sound insulation performance of Rw 31dB +Ctr 27dB to provide a comfortable noise environment within the buildings.

Reason: to protect the amenity of nearby and adjacent occupiers in accordance with Policy QD27 of the Brighton and Hove Local Plan.

- 25** Prior to first occupation of the development hereby permitted, the removal of asbestos containing materials is to be carried out in accordance with the report provided by Dorton Demolition and Excavation Ltd C5019 unless otherwise agreed in writing by the Local Planning Authority.

Reason: As this matter is fundamental to the acceptable delivery of the permission to safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan.

- 26** Prior to first occupation of the development hereby permitted, the maximum permissible noise level from the air source heat pumps must be adhered to and the following mitigation measures are to be employed as per Anderson Acoustic report revised August 2016 (2852_002R_3-0_RNM):

- In-duct intake and exhaust silencers fitted to air source pumps;
- Plant room, light well and car park reflecting walls and ceilings to be covered with absorptive material such as 12mm thick Sonaspray fc acoustic plaster;
- Strategic duct termination away from sensitive windows;
- Acoustic louvres to air source heat pump intakes.

Reason: to protect the amenity of nearby and adjacent occupiers in accordance with Policy QD27 of the Brighton and Hove Local Plan.

Informatives:

- 1.** In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One 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** The applicant is advised that they must enter into a Section 278 Agreement with the Highway Authority prior to any works commencing on the adopted highway,
- 3** The Highways Authority advises that the following details relating to cycle storage should be implemented to comply with best practice:

- Individual cycle stores for numbers 76-79 Buckingham Road;
- Relocation of the Sheffield type stands to near the Community Space;
- A security system e.g. key or fob for the basement bike store for residents of the flats and visitors to the community space

4 The commemorative E. Marshall plaque on the ramp adjoining 79 Buckingham Road shall be relocated to 80 Buckingham following completion of the new build construction at No. 80. The future location of the plaque should be agreed with the Council.

3. BACKGROUND INFORMATION

3.1 Planning Committee Members on 12th October 2016 were **Minded to Grant** planning permission for this proposal subject to a section 106 agreement and a number of conditions. The full committee report is attached at Appendix 1 for reference.

3.2 At the meeting, several conditions in the report were verbally updated by the case officer which are consolidated in this report.

3.3 The affordable housing provision considered at the meeting was of 40% (9 units) of the net 22 new units being affordable on-site. This complied with City Plan Part One Policy CP20 which requires the provision of 40% on-site affordable housing for sites of 15 or more net dwellings.

3.4 The Council's Affordable Housing Brief (2014) sets out a citywide objective to achieve a tenure mix of affordable housing of 55% social or affordable rented and 45% intermediate e.g. shared ownership. For the application scheme this would equate to 5 rented units and 4 intermediate units.

3.5 The policy wording of CP20 advises that the target of 40% may be applied flexibly where it is considered to be justified in light of various criteria including, among others: the costs relating to the development; in particular the financial viability of developing the site (using an approved viability model); the extent to which affordable housing would prejudice other planning objectives; and, the need to achieve a successful housing development.

4. REASONS FOR MATERIAL CHANGE TO PREVIOUS SCHEME

4.1 On 23rd November 2016 the applicant submitted financial viability evidence to the local planning authority advising that the only viable scheme for on-site affordable housing provision would be 9 Shared Ownership units (40% on-site total affordable units).

4.2 Officers commissioned the District Valuer Service (DVS) to review the applicant's viability evidence. The DVS report in April 2017 confirmed the initial findings of the applicant's evidence and concluded that two tenure mix options were possible:

- 9 Shared Ownership units (40% on-site total) as 4x2 bed and 2x1 bed flats

- 6 Affordable Rent units (27% on-site total) as 5x2 bed and 4x1 bed flats
- 4.3 Officers requested that the applicant liaise with the Council's panel of Registered Providers for affordable housing to confirm their willingness and ability to buy the proposed units.
- 4.4 The applicant engaged with the following partner Registered Providers:
- Affinity Sutton (now Latimer)
 - Guinness Partnership
 - Hyde Housing
 - Moat Homes
 - Southern Housing Group
- 4.5 Four of the Registered Providers responded saying the number of units was too small to currently consider and the fifth (Guinness) responded saying they would only consider Shared Ownership units if they could acquire the freehold.
- 4.6 The Council's Housing Strategy Team has independently confirmed the position of each Registered Provider.
- 4.7 It is therefore apparent that on-site affordable housing provision is not currently feasible given the lack of willingness from Registered Providers of affordable housing to take on the units. A fall-back position of financial contributions towards affordable housing in lieu of on-site provision (also known as a Commuted Sum) is therefore relevant although an option can be included in the section 106 agreement to provide on-site affordable housing should the position of the Registered Providers change in the future.

5. COMMUTED SUM

- 5.1 The Developer Contributions Technical Guidance (March 2017) as informed by a study conducted by the DVS recommends a Commuted Sum of £1,974,390 based on a generic development profile with the proposed number of dwellings in Value Area Zone 1.
- 5.2 Acknowledging the apparent viability constraints with this development, site-specific advice was sought from the DVS to confirm the potential level of financial contribution in lieu that could be secured from the proposed development. The DVS concluded that the scheme "*could viably provide a Payment in Lieu of Affordable Housing of £775,000, assessed with this payment being made in the first month of the project. If this payment was delayed until all the Market units were sold this could be increased to £860,000 and still be viable*".

6. PROPOSAL

- 6.1 The proposed development is therefore amended to take a flexible approach to securing affordable housing through either on-site provision or through a

financial contribution in lieu, in the event that the position of the Registered Providers change in the future.

- 6.2 The section 106 agreement will provide for two options to secure affordable housing: either on-site in a tenure mix in line with the viability evidence (9 Shared Ownership units or 6 Affordable Rented units) or through a financial contribution of £860,000 towards affordable housing in lieu.
- 6.3 All other material considerations remain the same as the previous scheme which were set out in the full committee report in October 2016 which is attached at Appendix 1 for reference.

7. COMMENT

- 7.1 Policy CP20 allows the affordable housing target of 40% to be applied flexibly particularly where viability constraints threaten the delivery of the development and the need to achieve a successful housing development.
- 7.2 The District Valuer Service is of the view that the site has some limited viability constraints to a level that would justify a different tenure mix to the Affordable Housing Brief with options for either 9 Shared Ownership units or 6 Affordable Rent units which the applicant was willing to provide.
- 7.3 However, the inability to secure a Registered Provider partner has led to the position where a Commuted Sum has to be considered as an option. It is considered that without the ability to provide a Commuted Sum in lieu of affordable housing on-site, the development may not be deliverable in accordance with the legal agreement if no Registered Provider is willing to buy on-site affordable housing units.
- 7.4 The Council's Housing Strategy Team have confirmed that recent funding and political uncertainties have created a more cautious climate in the industry and the Registered Providers are currently reluctant to purchase smaller numbers of units due to the risks involved. This includes the proposed development at Buckingham Road where 9 affordable units are proposed and the Council's panel of Registered Provider partners have all declined to take on the units.
- 7.5 Financial contributions in lieu are only considered where options for on-site provision have been exhausted. This is on the basis that the sums provided will be used to meet the affordable housing shortfall through other means. The Council does not have an alternative purchasing vehicle at present although various options are being explored. Further options for meeting the aims of the affordable housing policy will now be explored by the Housing Strategy Team in light of the current reluctance of Registered Providers to take on small numbers of units such as this.
- 7.6 Therefore, the Local Planning Authority, in liaison with the Housing Strategy Team, is satisfied that the provision of a financial contribution in lieu of affordable housing is an acceptable alternative to the scheme previously considered by Planning Committee and can be considered to comply with the development plan, in particular the criteria of Policy CP20 in deviating from the

40% on-site affordable housing target. The inclusion of two options to secure affordable housing in the section 106 agreement is therefore considered to be an appropriately flexible approach and allows for on-site provision to be secured should the position of the Registered Providers change in the future.