

Planning Committee

Date: **1 September 2021**

Time: **2.00pm**

Venue **Council Chamber, Hove Town Hall**

Members: **Councillors:** Littman (Chair), Ebel (Deputy Chair), Childs (Opposition Spokesperson), Barnett, Fishleigh, Janio, Moonan, Shanks, C Theobald and Yates

Conservation Advisory Group Representative

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AGENDA

21 PROCEDURAL BUSINESS

(a) Declaration of Substitutes: Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.

(b) Declarations of Interest or Lobbying

- (a) Disclosable pecuniary interests;
- (b) Any other interests required to be registered under the local code;
- (c) Any other general interest as a result of which a decision on the matter might reasonably be regarded as affecting you or a partner more than a majority of other people or businesses in the ward/s affected by the decision.

In each case, you need to declare

- (i) the item on the agenda the interest relates to;
- (ii) the nature of the interest; and
- (iii) whether it is a disclosable pecuniary interest or some other interest.

If unsure, Members should seek advice from the committee lawyer or administrator preferably before the meeting.

- (d) All Members present to declare any instances of lobbying they have encountered regarding items on the agenda.

(c) Exclusion of Press and Public: To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: Any item appearing in Part 2 of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.

A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.

22 MINUTES OF THE PREVIOUS MEETING

1 - 12

Minutes of the meeting held on 4 August 2021 (attached).

23 CHAIR'S COMMUNICATIONS

24 PUBLIC QUESTIONS

Written Questions: to receive any questions submitted by the due date of 12 noon on 26 August 2021.

25 TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS

In relation to easing of current Covid restrictions site visit arrangements would be re-introduced incrementally. It was noted that some Members had visited sites independently and that if requested socially distanced or virtual site visits could take place. Enhanced visuals continued to be provided at present in order to assist Members in their decision making.

26 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

Please note that the published order of the agenda may be changed; major applications will always be heard first; however, the order of the minor applications may be amended to allow those applications with registered speakers to be heard first.

MAJOR APPLICATIONS

A BH2021/01328 - Dolphin House, 2-6 Manchester Street, Brighton - Full Planning **13 - 28**

MINOR APPLICATIONS

B BH2021/01394 - 1 Withyham Avenue, Saltdean, Brighton - Full Planning **29 - 48**

C BH2021/02054 - Goldstone Retail Park, Newtown Road, Hove - Full Planning **49 - 70**

D BH2021/01276 - 9-10 St James's Street, Brighton - Full Planning **71 - 84**

E BH2021/01270 - 9-10 St James's Street, Brighton - Listed Building Consent **85 - 94**

F BH2021/01194 - 25 Preston Park Avenue, Brighton - Full Planning **95 - 112**

G BH2021/01800 - 3 Tumulus Road, Saltdean, Brighton - Householder Planning Consent **113 - 124**

H BH2021/01326 - 39 Dyke Road Avenue, Hove - Full Planning **125 - 142**

I	BH2021/02476 - Pavilion Theatre, 29 New Road, Brighton - Full Planning	143 - 152
J	BH2021/02477 - Pavilion Theatre, 29 New Road, Brighton - Listed Building Consent	153 - 162
K	BH2021/01030 - 138 Edward Street, Brighton - Full Planning	163 - 174

27 TO CONSIDER ANY FURTHER APPLICATIONS IT HAS BEEN DECIDED SHOULD BE THE SUBJECT OF SITE VISITS FOLLOWING CONSIDERATION AND DISCUSSION OF PLANNING APPLICATIONS

INFORMATION ITEMS

28 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE **175 - 178**

(copy attached).

29 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

None for this agenda.

30 APPEAL DECISIONS **179 - 180**

(copy attached).

Members are asked to note that plans for any planning application listed on the agenda are now available on the website at: <http://www.brighton-hove.gov.uk>

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The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fourth working day before the meeting.

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FURTHER INFORMATION

For further details and general enquiries about this meeting contact Penny Jennings, (01273 291065, email penny.jennings@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

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Therefore, by entering the meeting room and using the seats in the chamber you are deemed to be consenting to being filmed and to the possible use of those images and sound recordings for the purpose of web casting and/or Member training. If members of the public do not wish to have their image captured, they should sit in the public gallery area.

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- Do not stop to collect personal belongings;
- Once you are outside, please do not wait immediately next to the building, but move some distance away and await further instructions; and
- Do not re-enter the building until told that it is safe to do so.

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 4 AUGUST 2021

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors: Ebel (Deputy Chair), Childs (Opposition Spokesperson), Barnett, Hugh-Jones, Shanks, Yates

Co-opted Members: Jim Gowans (Conservation Advisory Group)

Officers in attendance: Nicola Hurley (Planning Manager), Luke Austin (Principal Planning Officer), Ben Daines (Principal Planning Officer), Tim Jeffries (Planning Team Leader), Andrew Renaut (Head of Transport, Policy and Strategy), Jack Summers (Planning Officer), Hilary Woodward (Senior Solicitor) and Shaun Hughes (Democratic Services Officer).

PART ONE

11 PROCEDURAL BUSINESS

Apologies were received from Councillors Fishleigh, Janio, Littman, Moonan and Theobald

a) Declarations of substitutes

11.1 Councillor Hugh-Jones substituted for Councillor Littman

b) Declarations of interests

11.2 Councillor Barnett stated they had submitted letters of representation on item H: B H2021/00795 - Benfield Valley Golf Course, Hangleton Lane, Hove and item J: BH2021/01017 - 20 St Helens Drive and K: BH2021/01272 - 78 Hangleton Valley Drive and would withdraw from the meeting when these items were discussed.

c) Exclusion of the press and public

11.3 In accordance with Section 100A of the Local Government Act 1972 ("the Act"), the Planning Committee considered whether the public should be excluded from the meeting during consideration of any item of business on the grounds that it is likely in view of the business to be transacted or the nature of the proceedings, that if members of the public were present during it, there would be disclosure to them of confidential information as defined in Section 100A (3) of the Act.

- 11.4 **RESOLVED:** That the public are not excluded from any item of business on the agenda.

12 MINUTES OF THE PREVIOUS MEETING

- 12.1 **RESOLVED:** That the Chair be authorised to sign the minutes of the meeting held on 7 July 2021 as a correct record.

13 CHAIR'S COMMUNICATIONS

- 13.1 The Deputy Chair taking the meeting requested that the meeting be as short as possible to ensure officers and councillors were not in the meeting longer than necessary as COVID-19 restrictions still apply in the council chamber. The Deputy Chair stated that the Chair would give communications at the next Planning Committee meeting.

14 PUBLIC QUESTIONS

- 14.1 There were none.

15 TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS

- 15.1 There were none.

16 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

A BH2016/02850 - 2 Montefiore Road, Hove - Full Planning

1. The case officer introduced the application to the committee.

Questions

2. Councillor Hugh-Jones was informed that the new trees would be birch trees as agreed by the Arboricultural officer. Any replacement trees would need to be agreed by the Arboricultural officer. The development would have an impact on the amenities of the neighbouring block of flats by way of loss of light to side windows, however these are not the main light source for the rooms affected. The overshadowing and loss of daylight are considered acceptable for the single dwelling to the rear of the block of flats. Loss of privacy is also deemed acceptable given the local context. The development will be 11.5m from Russell House.
3. Councillor Shanks was informed that the hospital did not attract CIL as hospitals, private or public, are not included in the charging schedule.
4. Councillor Childs was informed that the development will create an extra 19 additional jobs.

Vote

5. A vote was taken, and the committee voted unanimously that planning permission be granted.
6. **RESOLVED:** That the committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to be **MINDED TO GRANT** planning permission subject to a s106 agreement on the Heads of Terms set out in the report and the Conditions and Informatives as set out in the report, **SAVE THAT** should the s106 Planning Obligation not be completed on or before 27 October 2021 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 12 of the report.

B BH2021/01810 - Saltdean Lido, Saltdean Park Road, Saltdean - Full Planning

1. The Planning Manager introduced the application to the committee and highlighted the items on the late list.

Speakers

2. Ward Councillor Mears addressed the committee and stated that they supported the application, and this was an opportunity to bring the Lido back to life. It was considered that the site was a good mix of leisure and community use which shows that the city does not finish at the Marina and extends to Saltdean. The wheelchair access is welcomed as are the swimming lessons. Having visited the site, the councillor understands the application and supports both the planning application and the listed building consent.

Questions

3. Councillor Yates was informed by the case officer that the travel management schedule was not too onerous on the developer. There were 240 spaces in the car park approximately, some of which are shared. Any events at the venue will be covered by licensing arrangements and any knock-on effects are not deemed unacceptable.
4. Councillor Hugh-Jones was informed by the case officer that a cycle parking condition was attached to the application which required details. Additional bays could be used for disabled parking once the designated bays were full. Solar panels are not suitable for this listed building. Insulation will be inserted into the concrete of the proposed extensions with the addition of an air source heat pump. These were accepted under the previous planning permission in 2016. One tree will be affected which would prevent the erection of scaffolding and may undermine the building. The condition for landscaping will cover any trees to be planted at the site.
5. Councillor Shanks was informed that the Beach Access Team would be able to change in the main building.
6. Councillor Childs was informed by the applicant's agent that the plant room is to be located at the side of the building as this will allow more space inside the existing building and be easier to access. It was noted that any asbestos has been removed prior to any works.

Debate

7. Councillor Yates considered the Lido to be a fantastic community asset and was glad to see it coming back to full use. Transport was a concern with car parks being open to all and disabled users finding spaces full at times, and no electric car charging points. The councillor stated their support for the application.
8. Councillor Hugh-Jones considered the facility to be fantastic and felt the building could generate funds. Improvements to the disabled parking would be good.
9. Councillor Childs noted the Lido was easy to get to by bike and events would promote the venue which was an asset to the city. The councillor asked for free swimming lessons for the under 16 year olds. The councillor supported the application.
10. Councillor Hugh-Jones requested an extra condition to ensure the number of cycle parking bays and the number of disabled bays to align with the transport officer's comments.
11. The applicant's agent noted the cycle parking proposed was for 10 cycles and if this was successful more would be added. The agent was not sure that 40 could be achieved, however an additional 10 to 15 spaces would be possible. It was noted that there were no restrictions on car parking at the Lido at the moment and more disabled bays would be possible. A lift to access all levels and a hoist into the pool have been added.
12. Councillor Ebel was informed by the agent that increased parking would result in a loss of verging in the car park.
13. The case officer considered that the conditions requiring details for the parking spaces could help to achieve extra disabled spaces.
14. The Senior Solicitor noted an informative could be inserted giving the committee expectations as a condition would not automatically come back to committee.
15. Councillor Hugh-Jones stated the numbers for disabled parking were from the highways team and the committee should ask for 40 cycle and 23 disabled spaces.
16. The applicant's agent stated that the highways statement had been written by the applicant, not the BHCC highways officer. The figures were based on the venue being full all the time.
17. The Head of Transport stated their comments had been based on minimum levels and it would be difficult to confirm the actual number of spaces. A condition relating to car parking management would be the best way forward.
18. The Planning manager informed the committee that the applicant was to supply a parking management plan. The plan would look at what is achievable.
19. Councillor Yates was informed by the Planning Manager that the management plan for car parking would look at the uses of the spaces and cycle parking has not been agreed. Condition 30 would supply the number of parking spaces.

- 20. Councillor Yates proposed the change to include a car park management plan and cycle spaces for different types of cycle which was seconded by Councillor Childs.
- 21. A vote was taken, and the committee voted unanimously that there was to be a condition for a car-park management plan.
- 22. A vote was taken, and the committee voted unanimously that there was to be an informative stating the expectation of the Committee was that 40 cycle spaces would be provided.
- 23. A vote was taken, and the committee voted 5 for 1 that there be an informative that the expectation of the Committee was that 23 disabled parking spaces would be provided.
- 24. A vote was taken, and the committee voted unanimously that condition 30 would be amended to require spaces for a variety of types of cycle.

Vote

- 25. A vote was taken, and the committee voted unanimously that planning permission be granted.
- 26. **RESOLVED:** That the committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives in the report and the change to condition 30 and a condition requiring a car park management plan (i.e., if not cond.30) and the additional informatives.

C BH2021/01811 - Saltdean Lido, Saltdean Park Road, Saltdean - Listed Building Consent

- 1. For clarification the planning application and the listed building consent application were considered at the same time by the committee. The applications were taken together for the purposes of questions and debate. However, the items were voted on separately.

Vote

- 2. A vote was taken, and the committee voted unanimously that listed building consent be granted.
- 3. **RESOLVED:** That the committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** Listed Building Consent subject to the Conditions and Informatives in the report.

D BH2021/02074 - Nevill Court, Nevill Road, Hove - Full Planning

- 1. This application was not called for discussion and the officer recommendation was therefore taken as having been agreed unanimously.

2. **RESOLVED:** That the committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to be **MINDED TO GRANT** planning permission subject to a s106 agreement on the Heads of Terms set out in the report and the Conditions and Informatives as set out in the report **SAVE THAT** should the s106 Planning Obligation not be completed on or before the **4th November 2021** the Head of Planning is authorised to refuse planning permission for the reasons set out in section 12.1 of the report.

E BH2021/01735 - 1-3 Bedford Street, Brighton - Full Planning

1. This application was not called for discussion and the officer recommendation was therefore taken as having been agreed unanimously.
2. **RESOLVED:** That the committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives in the report.

F BH2021/00570 - 169 Portland Road, Hove - Full Planning

1. This application was not called for discussion and the officer recommendation was therefore taken as having been agreed unanimously.
2. **RESOLVED:** That the committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives in the report.

G BH2021/01985 - 98 Portland Road, Hove - Full Planning

1. The Planning Manager introduced the application to the committee.

Speakers

2. Ward Councillor Henry addressed the committee and stated that the application related to a local Hove business. The basement is 47sqm which is less than minimum standards and the council should not promote substandard housing. The basement was damp and has remained unrented since June 2020. The height of the ceiling is also considered too low for accommodation standards. The company making the application is a good news story for Hove in the Westbourne ward where locals are employed. The councillor wants to help local businesses and the development proposed could help the business grow.
3. The applicant, Michael Routledge, addressed the committee and stated that they considered the basement flat to be poor quality and empty since June 2020. The business had moved into the thriving area with 4 staff at the start which has grown to 7 and the business is looking to expand in the location where there are no other financial support companies. The basement will become a rest room for staff as the company expands to more than 7. The company want to stay in the area, and it would be a loss if the company had to move due to lack of space.

4. The Planning Manager confirmed that the basement area meets national space standards, however, the height does not meet standards.

Questions

5. Councillor Yates was informed that the basement would be renovated to a higher standard before staff or clients were to use the space.
6. Councillor Hugh-Jones was informed that the basement was owned by the applicant's mother-in-law and there had been no discussion regarding the damp. The previous renters moved out due to the damp and other issues.
7. Councillor Childs was informed by the applicant that the offices were at capacity now and without expansion the company would stand still or relocate. The applicant stated they wanted to stay at the site and have the ability to increase staff with 3 more and wanted a comfortable rest area.
8. Councillor Barnett was informed by the applicant that the basement could be a flat again, however this would require investment.
9. Councillor Shanks was informed by the case officer that if the basement were to be split into two units it would require planning permission, however, if two units were reunited into one unit, this would not require planning permission.

Debate

10. Councillor Yates stated they agreed with the officer recommendation to refuse as the accommodation was in a poor state. The councillor noted that the council has a team to support landlords to bring accommodation back to good standards. The councillor noted that office space is needed but not the city also needs housing. The councillor support the recommendation to refuse.
11. Councillor Hugh-Jones agreed the basement had been allowed to fall into disrepair and this was not good. The councillor supported the recommendation to refuse.

Vote

12. A vote was taken, and the committee voted by 3 to 2 and one abstention to refuse planning permission.
13. **RESOLVED:** That the committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **REFUSE** planning permission for the reasons set out in the report.

H BH2021/00795 - Benfield Valley Golf Course, Hangleton Lane, Hove - Full Planning

1. The Planning Manager introduced the application to the committee.

Speakers

2. Ward Councillor Barnett addressed the committee and stated that the chalk has been dumped at the site and there was currently an ongoing Environmental Health investigation which the applicant is appealing against. The chalk needs to be removed and it is noted that it is still there after 6 weeks. The councillor considered the chalk to be a blot on the landscape and the site should be kept in proper order. The council have told the owners to tidy up the area where the biodiversity has been destroyed when bushes and shrubs have been ripped out. The owners have been told to replace these and this has not been actioned. (Having addressed the committee Councillor Barnett withdrew from the meeting).
3. The applicant's agent, Martin Carpenter, addressed the committee and stated that the application would have been dealt with under delegated powers if Ward Councillor Lewry had not called the application into committee. It was noted that part of the site is in a Site of Nature Conservation Interest (SNCI) as part of the chalk downlands. The biodiversity has been enhanced by the tree clearance of infected elms. The proposals will be a good use of the chalk and help to screen the car park. The removal of the chalk would be unsustainable. The committee were asked to approve the application.

Questions

4. Councillor Shanks was informed by the agent that the car park was free and accessible to the public and was shut at night.
5. Councillor Hugh-Jones was informed by the agent that the car park had existed for many years and had changed shape over the last 20 years. The surface consists of chalk and plainings, which are offcuts from tarmac roads. The agent confirmed that there were no markings in the car park and the enforcement investigation was ongoing as the applicant was appealing the action. The councillor was informed by the agent that the chalk not used would be moved elsewhere.
6. The East Sussex County Ecologist noted that the dumped chalk had integrated with the trees, no trees had been lost but there may be some damage. It was proposed to replace three trees whilst the scrub vegetation will look after itself. Any chalk remaining after creating the bunds would be spread around the car park, which is not in the SNCI, which surrounds the car park. All chalk would be pulled back from the boundary with the SNCI.
7. Councillor Yates was informed by the County Ecologist that the existing geology of the site was chalk, and the proposals would form shallow bunds which would be seeded. The bunds would be good for the area and reptiles and keep the mosaic of the diversity in the area. The chalk would be a benefit to the area once the bunds are reduced in height and quantity.
8. The Senior Solicitor informed the committee that if planning permission were granted for the development being enforced against the Council would not have a case to carry forward in the planning enforcement appeal.
9. The agent stated that they would consider withdrawing the appeal if planning permission were to be granted.

Debate

10. Councillor Yates stated they were initially sceptical of the application. However, the environmental gains, the visual improvements to the area and car park are all good. The councillor did not want a precedent to be set. The councillor supported the application.
11. Councillor Shanks supported the application and considered the bunds to be a good idea, especially when well seeded and would be an improvement.
12. Councillor Hugh-Jones supported the application.
13. Councillor Ebel considered the proposals be an improvement and supported the application.

Vote

14. A vote was taken, and the committee voted unanimously that planning permission be granted. (Councillor Barnett was not present for the vote and took no part in the decision- making process).
15. **RESOLVED:** That the committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives in the report.

I BH2021/01914 - Flat 2, 236 New Church Road, Hove - Full Planning

1. This application was not called for discussion and the officer recommendation was therefore taken as having been agreed unanimously.
2. **RESOLVED:** That the committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives in the report.

J BH2021/01017 - 20 St Helens Drive, Hove - Householder Planning Application

1. The Planning Manager introduced the application to the committee and highlighted the matters on the late list.

Speakers

2. Ward Councillor Lewry addressed the committee and stated that the application had been a matter of great stress to the local community as there had been many applications on the site and this has been distressing for residents. An application submitted in 2020 was refused for the effect on the neighbours and surrounding area. Each of the following applications reduced or altered the proposals only a little. The local residents are upset with the proposals in this area of bungalows. The development is considered to depart from the style of the area. If granted the application would open the floodgates to more. The proposals would result in loss of views, overlooking and overshadowing. The committee were asked to refuse the application.

3. The applicant's agent, Courtney Darby, addressed the committee and stated that the applicants grew up in the area and have a strong relationship with it, with their parents still in the area for which the applicants have an emotional connection and where they plan to retire. The applicant has made many concessions to the planning officer by reducing the scheme, removing the porch, reducing the width of the development, removing the side extension, altering the roofscape and changed the fenestration. Different proposals could have been made under permitted development, but these would have been complicated, however, a certificate of lawfulness has been granted to the property, but the applicants want a better design. It is noted that other development in the area built under permitted development has not been good.

Vote

4. A vote was taken, and the committee voted unanimously that planning permission be granted. (Councillor Barnett was not present for the vote and took no part in the decision making process).
5. **RESOVLED:** That the committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives in the report.

K BH2021/01272 - 78 Hangleton Valley Drive, Hove - Full Planning

1. The Planning Manager introduced the application to the committee.

Speakers

2. Ward Councillor Lewry addressed the committee and stated that the bungalows in the area are built for downsizing, located as it is in a good neighbourhood which is well planned. Planning applications are chipping away the area and squeezing out retirees. A five- bed property in Hangleton will be too expensive and too big for the area. The development will be 4¹/₂ inches from the neighbour. The low level 1960s design of the area will be affected where most residents look after their properties.
3. The agent acting on behalf of the applicant, Sean Garrick, addressed the committee and stated that the quality of the support given by the local authority was fantastic and considered the service offered to be excellent with a great dialogue between the agent and the council. The agent stated they had listened and worked with the officers and made changes by reducing the roofscape etc. The site needed to work harder. There were no overlooking issues here. The applicants want to get on with neighbours and feel the proposals are good for all.

Vote

4. A vote was taken, and the committee voted unanimously that planning permission be granted. (Councillor Barnett was not present for the vote and took no part in the decision making process).

5. **RESOLVED:** That the committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives in the report.

L BH2021/00426 - The Mews House, Adelaide Mansions, Hove – Householder Planning Consent

1. This application was not called for discussion and the officer recommendation was therefore taken as having been agreed unanimously.
2. **RESOLVED:** That the committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives in the report.

M BH2021/00427 - The Mews House, Adelaide Mansions, Hove – Listed Building Consent

1. This application was not called for discussion and the officer recommendation was therefore taken as having been agreed unanimously.
2. **RESOLVED:** That the committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** Listed Building Consent subject to the Conditions and Informatives in the report.

N BH2021/01064 - 173 New Church Road, Hove - Householder Planning Application

1. This application was not called for discussion and the officer recommendation was therefore taken as having been agreed unanimously.
2. **RESOLVED:** That the committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives in the report.

17 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

- 17.1 The Committee noted the new appeals that had been lodged as set out in the planning agenda.

18 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

- 18.1 The Committee noted the information regarding informal hearings and public inquiries as set out in the planning agenda.

19 APPEAL DECISIONS

- 19.1 There were none for this agenda.

20 TO CONSIDER ANY FURTHER APPLICATIONS IT HAS BEEN DECIDED SHOULD BE THE SUBJECT OF SITE VISITS FOLLOWING CONSIDERATION AND DISCUSSION OF PLANNING APPLICATIONS

20.1 There were none.

The meeting concluded at 4.54pm

Signed

Chair

Dated this

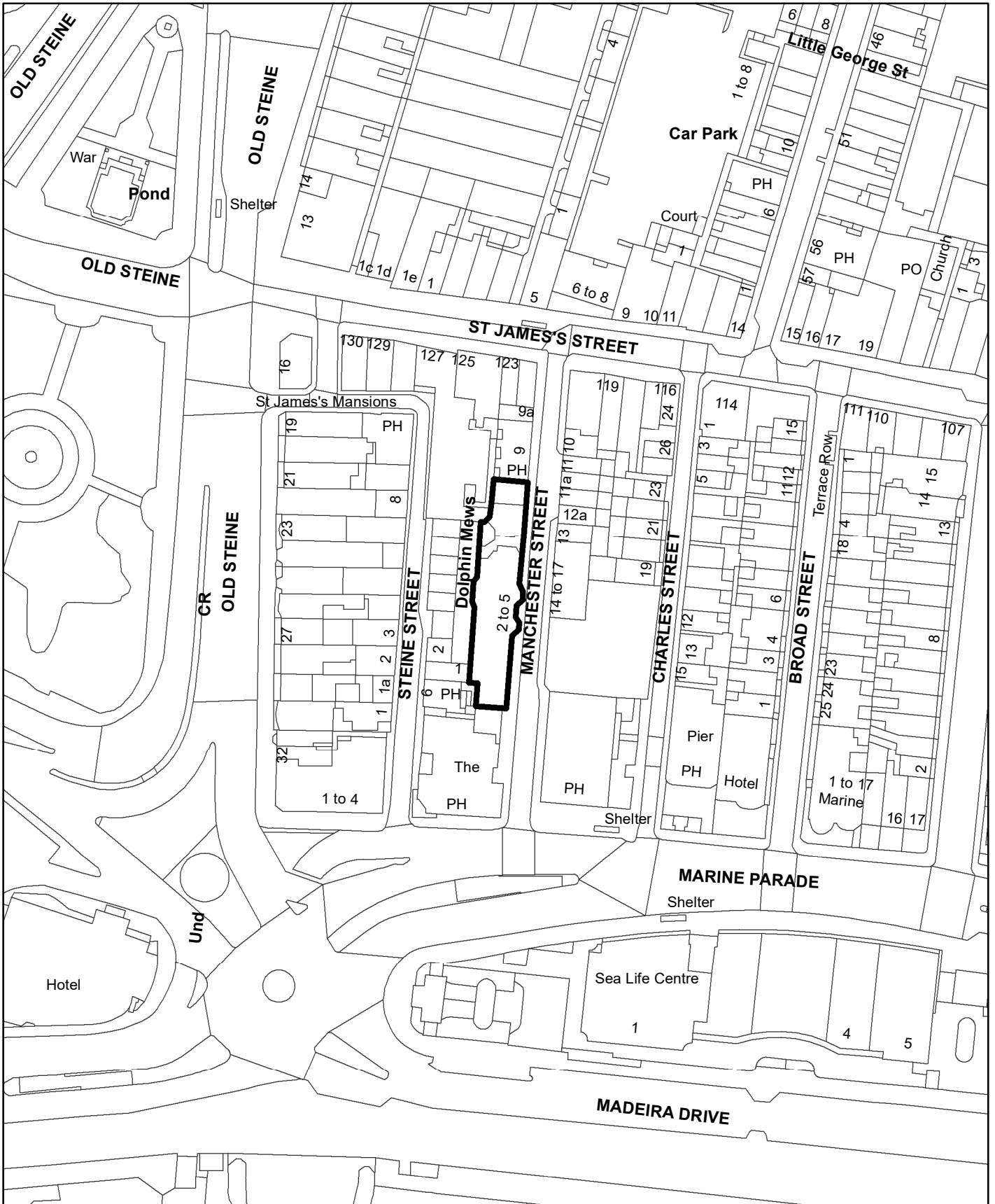
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ITEM A

**Dolphin House, 2-6 Manchester Street
BH2021/01328
Full Planning**

DATE OF COMMITTEE: 1st September 2021

BH2021 01328 - Dolphin House, 2-6 Manchester Street



N



Scale: 1:1,250

<u>No:</u>	BH2021/01328	<u>Ward:</u>	Queen's Park Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Dolphin House 2-6 Manchester Street Brighton BN2 1TF		
<u>Proposal:</u>	Change of use from language school to music school (F1).		
<u>Officer:</u>	Sonia Gillam, tel: 292265	<u>Valid Date:</u>	18.05.2021
<u>Con Area:</u>		<u>Expiry Date:</u>	17.08.2021
<u>Listed Building Grade:</u>		<u>EOT:</u>	
<u>Agent:</u>	Ken Parke Planning Consultants Anniversary House 23 Abbott Road Bournemouth BH9 1EU		
<u>Applicant:</u>	The BIMM Institute C/O Ken Parke Planning Consultants Anniversary House 23 Abbott Road Bournemouth BH9 1EU		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

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
Location Plan			12 April 2021
Block Plan	ZZ-01-01-SITE		12 April 2021
Proposed Drawing	00-10-01-GA	Rev B	10 May 2021
Proposed Drawing	01-10-01-GA	Rev C	10 May 2021
Proposed Drawing	02-10-01-GA	Rev D	10 May 2021
Proposed Drawing	03-10-01-GA	Rev C	10 May 2021
Proposed Drawing	04-10-01-GA	Rev A	10 May 2021
Report/Statement	Noise Impact Assessment		12 April 2021
Report/Statement	Noise Management and Mitigation		10 May 2021

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. The site shall only be used as a Music School (use class F1) and for no other purpose (including any other purpose in Class F of the Schedule of the Town

and Country Planning (Use Classes) Order 1987 ("the Order") (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification), no change of use shall occur without planning permission obtained from the Local Planning Authority.

Reason: The Local Planning Authority would wish to retain control over any subsequent change of use of these premises in the interests of safeguarding the amenities of the area and to comply with policies DM20 of the City Plan Part Two, CP9 of Brighton & Hove City Plan Part One, and QD27 of the Brighton & Hove Local Plan.

4. The music school (F1) use hereby permitted shall not be carried out except between the hours of 08:00 and 20:00 on Mondays to Fridays, and not at any time on Saturdays, Sundays, Bank or Public Holidays.

Reason: To safeguard the amenities of the locality and to comply with policies DM20 of the City Plan Part Two, SU10 and QD27 of the Brighton & Hove Local Plan.

5. The total number of students on site at any one time shall not exceed 200.

Reason: To safeguard the amenities of the occupiers of adjoining properties and to limit trip generation and the impact on the highway network in accordance with policies DM20 of the City Plan Part Two, CP9 of City Plan Part One, SU10 and QD27 of the Brighton & Hove Local Plan

6. No vehicular movements nor any loading or unloading of vehicles shall take place in relation to the use except between the hours 08:00 and 20:00 daily.

Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies DM20 of the City Plan Part Two, SU10 and QD27 of the Brighton & Hove Local Plan

7. Within three months of the date of first use as a Music School, a Travel Plan for the development shall be submitted to and approved in writing by the Local Planning Authority, setting out measures to minimise vehicular travel to/from the school. The Travel Plan shall thereafter be fully implemented in accordance with the approved details.

Reason: To ensure the promotion of safe, active and sustainable forms of travel and comply with policies TR4 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One.

8. Prior to the first use of the site as a Music School as permitted, noise mitigation measures shall be implemented in strict accordance with the acoustic design criteria, review and recommendations contained within the "Noise Impact Assessment", produced by Clarke Saunders Acoustics, Titled: Dolphin House, Brighton, Project Ref: AS12032, Report Ref: AS12032.210310.NIA. Specific reference shall be made to the details in the assessment regarding: "4.1 Control of Noise Transfer" and "4.2 Operational Use" found on pages 5, 6 & 7 of the assessment, and retained as such thereafter.

Reason: To safeguard the amenities of the locality and to comply with policies DM20 of the City Plan Part Two, SU10 and QD27 of the Brighton & Hove Local Plan.

9. The ground floor, first floor and second floor windows on the rear (western) elevation shall be obscured glazed prior to the approved use as a Music School commencing, and thereafter permanently retained as such.

Reason: To safeguard the privacy of the occupiers of the adjoining property and to comply with policies DM20 of the City Plan Part Two, and QD27 of the Brighton & Hove Local Plan.

10. Prior to the commencement of the music school use hereby permitted, a site management plan shall be submitted to and approved in writing by the Local Planning Authority. The management plan should include details for dealing with the arrival and departure of students for classes, activities within common areas, smoking areas, no access (except in emergencies) for students and staff to the rear courtyard area adjoining Dolphin Mews, sound limiters for audio equipment, parking areas and general measures to ensure that the amenity of the neighbouring occupiers is not compromised. The works shall be implemented in strict accordance with the agreed details and maintained as such thereafter.

Reason: To safeguard the amenities of the locality and to comply with policies DM20 of the City Plan Part Two, SU10 and QD27 of the Brighton & 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. A formal application for any new connection to the public sewer is required to be made by the applicant or developer to Southern Water. To make an application visit: southernwater.co.uk/developing and please read their New Connections Services Charging Arrangements documents which are available on their website via the following link: southernwater.co.uk/developing-building/connection-charging-arrangements
3. The applicant should contact the Highway Authority Travel Plan Officer for advice and information at their earliest convenience to avoid delay (transportdcapps@brightonhove.gov.uk). The Travel Plan should be written entirely through use of the Modeshift Stars online Travel Plan management system (www.modeshiftstars.org), and shall include such measures and commitments as are considered necessary to mitigate the expected travel impacts of the development. The plan should set out as a minimum the following:
For Businesses, Further and Higher Education, Colleges and Universities:
 - (i) The particulars of the development, including the different uses and their quantum, numbers of occupants, times of opening and surrounding transport networks.

- (ii) A series of sustainable transport objectives, aligned to local policy and objectives and the particular needs and circumstances of the development and its occupiers, as established in part through its Transport Report.
- (iii) A commitment to reduce carbon emissions associated with business and commuter/student travel.
- (iv) A baseline and targets for all modes of travel to site, with targets focussed on reductions in the level of car use and mode shift towards sustainable forms of travel. These should be derived directly from the assessment of the proposed development in the Transport Report. Targets should be specified for the year of operational opening and 1, 3 and 5 years after this.
- (v) A range of measures planned to achieve the shift to sustainable modes including but not limited to
 - a) Promote and enable the increased use walking, cycling, public transport,
 - b) Promote public transport, car sharing & car clubs (preferably electric) and Park & Stride as alternatives to polluting vehicle use;
 - c) Increase awareness of and improve road safety and personal security;
- (vi) Results and response to dialogue and consultation with adjacent/neighbouring tenants/businesses;
- (vii) A monitoring framework, which shall include a commitment to undertake an annual staff/student travel survey utilising Modeshift Stars Travel Plan monitoring software, for at least five years, or until such time as the targets identified in section (iv) above are met, to enable the Travel Plan to be reviewed and updated as appropriate.
- (viii) Following the annual staff/student/visitor survey, an annual review will be submitted to the Local Planning Authority within 3 months for review and approval to update on progress towards meeting targets;
- (ix) A commitment to achieve accreditation for Travel Plan activities via Modeshift Stars (or equivalent). Noting that a green accreditation will signal approval of the Travel Plan condition, and a minimum of a Silver award should be attained by the end of the monitoring period.
- (x) The name and contact details of a member of staff to act as Travel Plan Coordinator, and to become the individual contact for the Local Planning Authority relating to the Travel Plan;
- (xi) Details and example of a Travel Pack for staff/students which provides information such as walking & cycle maps, public transport information, and information on how to take up on travel plan measures to promote the use of sustainable travel.
- (xii) A set of Remedial measures will need to be set out with Travel Plans in case targets are missed. The remedial measures will often consist of providing additional measures/incentives to occupants and/or a requirement to reoffer existing incentives and assistance to a wider audience and/or for longer periods.

2. SITE LOCATION

- 2.1. The application relates to a four-storey terraced building located on the western side of Manchester Street. The property's existing, permitted use is as a

language school. However, the application states that the language school is currently only operating in a limited capacity, using part of the ground, second and third floors, with very limited teaching being undertaken given the COVID-19 pandemic and the number of foreign students able to attend. The first floor was previously sublet as offices, as the lawful use allows (as set out below); however it is understood that it has been vacant now for some time.

- 2.2. The site is within a mixed-use area, with several pubs and entertainment venues nearby. The shops and restaurants of St James's Street are situated to the north, the vibrant seafront area to the south. The site is within the East Cliff Conservation Area.

3. RELEVANT HISTORY

- 3.1. **BH2010/03232** Application for Approval of Details Reserved by Conditions 3, 7, 9 and 10 of application BH2010/00559. Approved 08.12.2010.
- 3.2. **BH2010/00559** Change of Use to language school (D1) and/or offices (B1). Approved 10.06.2010.

4. APPLICATION DESCRIPTION

- 4.1. The current application seeks permission to change the use of the site from a language school to a music school. The entire building would be in use as a music school, with ancillary cafe and office elements related to the primary use.
- 4.2. In planning terms, both uses fall within the same Use Class, namely F1(a): Provision of Education (previously use class D1).
- 4.3. However, planning permission is required for the change of use because of a condition restricting the use solely to that of a language school. Specifically, planning permission was granted for a change of use from offices to a language school and/or offices in 2010 (ref. BH2010/00559), with a condition stating the following:
"The proposed D1 use shall be for a language school only and for no other purpose including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to the Class in any statutory instrument revoking and re-enacting that Order with or without modification.
Reason: *The Local Planning Authority would wish to retain control over the use of the premises in order to protect the amenities of the area in accordance with policy QD27 in the Brighton & Hove Local Plan."*
- 4.4. For this reason, planning permission is required to use the site as a music school.

- 4.5. The proposed hours of use are 08:00 and 20:00 Monday to Friday. The maximum number of students on site at any one time would be 200 plus 20 teaching and administration staff. No external alterations are proposed.

5. REPRESENTATIONS

- 5.1. **Five (5)** letters have been received objecting to the proposed development for the following reasons:
- Noise nuisance
 - Litter
 - Opening hours
 - Traffic
 - Highway safety
 - Loss of privacy
 - Operating plan should be submitted
 - Soundproofing conditions should be attached to permission
 - Detrimental impact on property values
- 5.2. **Two (2)** letters have been received in support of the proposed development for the following reasons:
- Positive for young people pursuing music and arts
 - In character with locality and artistic slant of city
 - Student traffic may be lower and not seasonal as existing
- 5.3. Objections relating to a detrimental impact on property values are noted, however is not a material planning consideration.

6. CONSULTATIONS

- 6.1. **County Archaeologist:** No objection No archaeological recommendations to make in this instance.
- 6.2. **County Ecologist:** No objection The proposed development is unlikely to have any impacts on biodiversity and can be supported from an ecological perspective.
- 6.3. **Environmental Health:** No objection subject to conditions relating to hours of use and noise mitigation.
- 6.4. **Planning Policy:** No objection On the basis that amenity of adjacent occupiers is not compromised, the proposal would not raise any policy concerns.
- 6.5. **Southern Water :** No objection A formal application for any new connection to the public sewer to be made by the applicant or developer is required.

- 6.6. **Sussex Police:** No objection Provided the proposed measures contained within this application to reduce noise impact to the local community is robustly implemented
- 6.7. **Sustainable Drainage:** No objection
- 6.8. **Sustainable Transport:** No objection subject to Travel Plan condition and restricted use of the premises.

7. MATERIAL CONSIDERATIONS

- 7.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 7.2. The development plan is:
 - Brighton & Hove City Plan Part One (adopted March 2016)
 - Brighton & Hove Local Plan 2005 (retained policies March 2016);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
 - Shoreham Harbour JAAP (adopted October 2019).
- 7.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

8. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP3	Employment land
CP9	Sustainable transport
CP15	Heritage

Brighton and Hove Local Plan (retained policies March 2016):

TR7	Safe Development
TR14	Cycle access and parking
SU9	Pollution and nuisance control
SU10	Noise Nuisance
QD27	Protection of amenity
HO20	Retention of community facilities
HE3	Development affecting the setting of a listed building
HE6	Development within or affecting the setting of conservation areas

Brighton & Hove City Plan Part 2

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications. The weight given to the key CPP2 policies considered in determining this application is set out below where applicable.

DM9	Community Facilities
DM20	Protection of Amenity
DM26	Conservation Areas
DM29	The Setting of Heritage Assets
DM33	Safe, Sustainable and Active Travel
DM40	Protection of the Environment and Health - Pollution and Nuisance

Supplementary Planning Documents:

SPD14	Parking Standards
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9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the principle of the proposed development, impact on neighbouring residential properties and any transport/ highways implications.

Principle of Use:

- 9.2. The permitted use of the site is as a language school (former D1 use class) and/or offices (former B1 use class) as approved under BH2010/00559. The earlier permission is restricted by a condition to retain the D1 element of the approved scheme as a language school only and for no other use within the D1 use class, in order to protect neighbour amenity.
- 9.3. The applicant is proposing to operate the site as a music school, which would retain an educational use on the site plus ancillary uses including offices in connection with the music school (e.g. estates and facilities, exams and administration etc) and facilities such as a café.
- 9.4. Planning Policy HO20 of the Brighton and Hove Local Plan and emerging policy DM9 of the City Plan Part Two (which can be given significant weight) seek to retain appropriate community facilities. The resulting use of the facilities would remain as educational use (Class F1, as stipulated in the amended Use Classes Order (September 2020)). Therefore, there would be no loss of community facilities as a result of the application.
- 9.5. Policy CP3 of the Brighton & Hove City Plan states that sufficient employment sites and premises will be safeguarded in order to meet the needs of the city. It is understood that first floor was previously sublet as offices separate from the language school use, as allowed by permission BH2010/00559. However, this

floor has been vacant for some time. Prior to 2010 the site was entirely in office use.

- 9.6. The principle of the loss of offices was accepted under BH2010/00559 as it was considered that the scheme would bring an empty building back into use, to the benefit of the local economy. That planning permission allows the whole building to be used for education, offices or a combination of the two, and therefore accepted the principle of the loss of office use, if solely occupied as an education establishment. Given this fallback, the minimal loss of office use is considered acceptable.
- 9.7. The Council's Planning Policy Officer has no objections to the scheme.
- 9.8. There is, therefore, no objection in principle to the loss of offices by way of the entire premises being used for educational purposes.

Design and Appearance:

- 9.9. The site is within the East Cliff Conservation Area and opposite a listed building at 14-17 Manchester Street.
- 9.10. In considering whether to grant planning permission for development which affects a listed building or its setting, the Council has a statutory duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Moreover, when considering whether to grant planning permission for development in a conservation area the Council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
- 9.11. Case law has held that the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses, and the desirability of preserving or enhancing the character or appearance of a conservation should be given "considerable importance and weight".
- 9.12. No external alterations are proposed as part of this application. Given that the building is predominantly in use as a language school, as existing, it is considered that the change to a music school, with similar pupil numbers and hours of use retained, would have no significant impact on the historic character or appearance of the surrounding conservation area. The setting of the nearby listed building would be unchanged.

Impact on Amenity:

- 9.13. Policy QD27 of the Brighton & Hove Local Plan and emerging Policy DM20 of City Plan Part 2 (which can be given significant weight) state 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.
- 9.14. It is proposed that the site would be used for the teaching of music. It is therefore acknowledged that the use would need to be carefully managed, such that music

school can peacefully co-exist with the surrounding residents and businesses. It is stated in the application that the maximum number of students on site at any one time would be 200, with up to 20 staff. This is similar to the capacity of the existing language school, as the website for the Dolphin House EC language school refers to a capacity of 270 students.

- 9.15. A Noise Impact Assessment and Noise Management and Mitigation Plan have been submitted with the application. The documents note that there would be no noisy ensemble classes and many of the instruments (such as keyboards, guitars and electric drums) taught would be electronic, which would allow students to wear headphones, negating the need for continuous amplified music.
- 9.16. It is recognised, however, that amplified music and louder instruments would be played during some lessons. For this reason, the layout and internal construction of the site have been designed to mitigate against amplified noise transmission. The application states the following:
- A majority of the spaces in which amplified music would be played are situated away from party walls;
 - Rooms serving other purposes would often separate the 'noisy' spaces from the party walls, thereby acting as acoustic buffer zones;
 - The majority of 'noisy' spaces are situated on the Manchester Street façade, which experiences higher levels of ambient noise than the rear façade, thereby providing a greater level of sound masking.
- 9.17. Within the submitted Noise Impact Assessment it is stated (paragraph 2.2.14) that "that instrument-specific classes will be provided at Dolphin House, with ensemble classes, which could be expected to involve higher noise levels, provided at BIMM's existing Hove facility"
- 9.18. The Council's Environmental Health Officer (EHO) has been consulted in relation to potential noise impacting upon end users/ occupants and any nearby existing noise sensitive receptors. The EHO confirms that the submitted Noise Impact Assessment has made detailed reference to applicable standards and guidelines. The methodology used and calculations made are recognised techniques in predicting noise levels, the impact of them and any necessary mitigation.
- 9.19. Therefore, the EHO has no objection to the scheme, subject to the proposed measures relating to attenuation, construction and soundproofing detailed in the Noise Impact Assessment. The noise mitigation measures/ details can be secured by condition, as can hours of use (stated to be Monday to Friday 08:00 - 20:00). The existing hours of use are 08.00 and 20.00 on Mondays to Fridays and 10.00 and 16.00 on Saturdays, therefore there will actually be fewer hours of operation than is currently approved.
- 9.20. It is noted that the application confirms that the site operation involves security personnel situated at the entrance/exit, who will aid in dispersing students after lessons, so that pre-existing ambient noise levels are not unduly affected. This can be secured by an operating / management plan.

- 9.21. Overall, given the current planning use of the site and the proposed noise mitigation measures, it is not considered that the proposal would have a significantly greater impact on neighbouring properties, in accordance with policy QD27 of the Brighton & Hove Local Plan and emerging policy DM20 of City Plan Part 2

Sustainable Transport:

- 9.22. There is no car parking (including disabled) or cycle storage provision associated as part of the proposed development. However, it is noted that this is as existing for the language school and that the site is constrained. There are on-street disabled parking bays in the area, and blue badge holders can also park on double yellow lines up to 3 hours where not causing an obstruction. The Council's Highways Officer does not wish to object to lack of provision, given that the site is constrained, and in a central location close to transport and cycle hubs.
- 9.23. The proposed change of use from language school to music school is unlikely to increase overall trips to the site. It is noted that the type of trips to the site may differ from the existing language school and there may be the possibility of an increase in car journeys to the site, possibly from the need for repeat trips to drop-off and return to pick up the music students / clients; and the need to use the private car to transport some large or bulky musical instruments.
- 9.24. To manage and monitor these car trips, the Council's Highways Officer has requested that a Travel Plan is provided within 3 months of the music school opening, to assist in reducing car use; and promote alternative use of sustainable travel modes to the site. This can be secured by condition.
- 9.25. Due to the number of possible uses within the F1 use class, which can have varied and different travel patterns and greater trip generation, the Highways Officer has requested that the use of the premises is restricted to the purpose of a Music School. This is considered acceptable and can be secured by condition.

Conclusion:

- 9.26. The site would retain an educational establishment. The loss of office space has been previously accepted in principle and it is acknowledged that the existing planning permission does allow the whole building to be used for education purposes. There are no major changes proposed for the music school, to the floor area, staff/ student numbers and opening hours, when compared to the existing use as a language school. The Council's Planning Policy Officer supports the application, as does the Council's Environmental Health Officer, subject to the implementation of the proposed noise mitigation measures. The proposal is therefore considered acceptable and is recommended for approval.

10. EQUALITIES

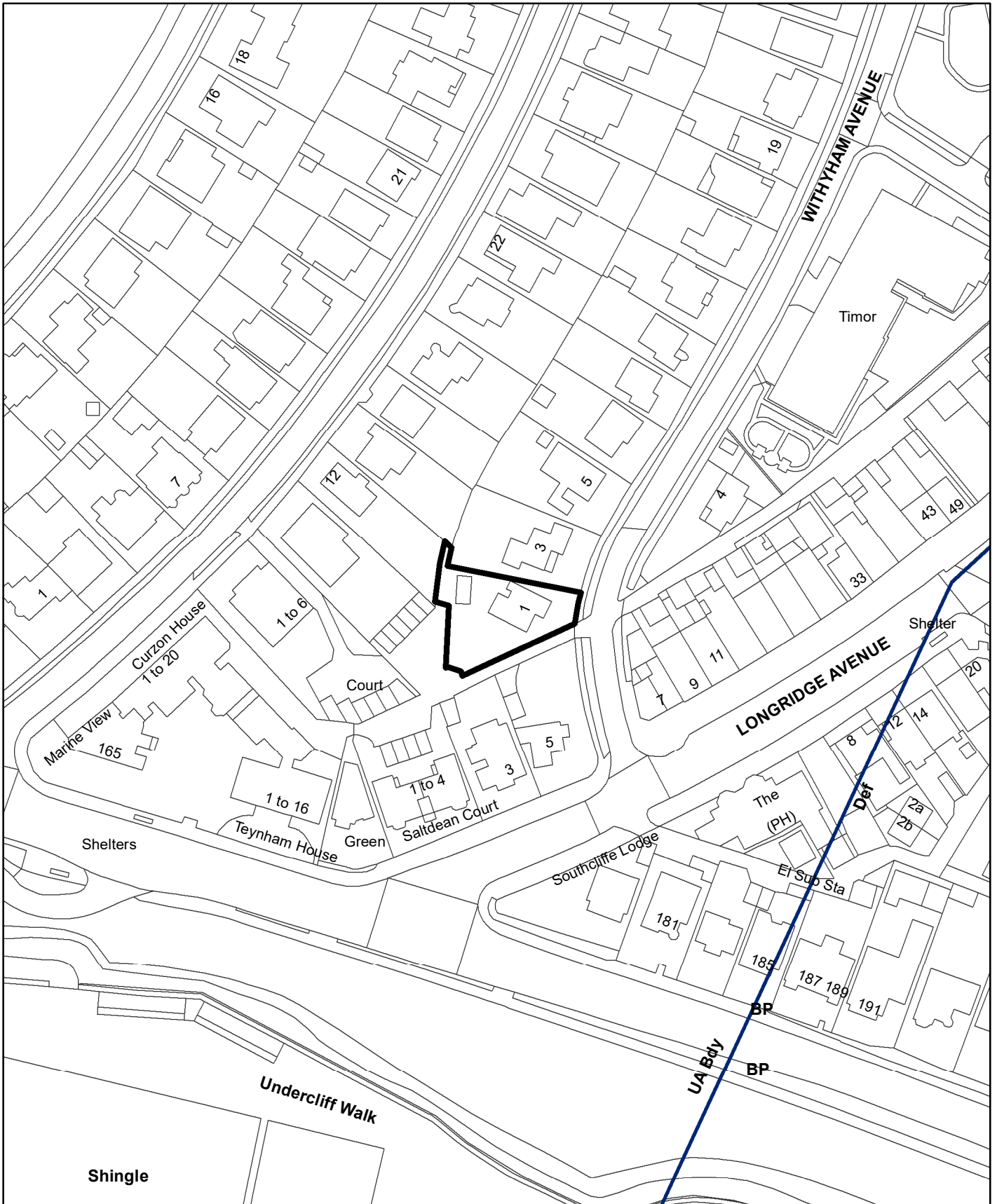
- 10.1. There is level access provided into the building. There is no lift, only stairs between floors however this as per the existing situation.

ITEM B

**1 Withyham Avenue
BH2021/01394
Full Planning**

DATE OF COMMITTEE: 1st September 2021

BH2021 01394 - 1 Withyham Avenue



N



Scale: 1:1,250

<u>No:</u>	BH2021/01394	<u>Ward:</u>	Rottingdean Coastal Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	1 Withyham Avenue Saltdean Brighton BN2 8LF		
<u>Proposal:</u>	Demolition of existing detached dwellinghouse and erection of part one, part two and part four-storey building comprising seven flats (C3) and undercroft parking area.		
<u>Officer:</u>	Sonia Gillam, tel: 292265	<u>Valid Date:</u>	23.04.2021
<u>Con Area:</u>		<u>Expiry Date:</u>	18.06.2021
<u>Listed Building Grade:</u>		<u>EOT:</u>	
<u>Agent:</u>	Lewis And Co Planning SE Ltd Lewis & Co Planning 2 Port Hall Road Brighton BN1 5PD		
<u>Applicant:</u>	John McDonnell C/o Lewis And Co Planning SE Ltd 2 Port Hall Road Brighton BN1 5PD		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to be **MINDED TO GRANT** planning permission subject to a s106 agreement and the following Conditions and Informatives:

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
Proposed Drawing	2020/0210	D	1 June 2021
Location and block plan	2020/0100	E	26 May 2021
Proposed Drawing	2020/0101	E	12 August 2021
Proposed Drawing	2020/0102	E	12 August 2021
Proposed Drawing	2020/0103	D	26 May 2021
Proposed Drawing	2020/0104	C	26 May 2021
Proposed Drawing	2020/0200	F	12 August 2021
Proposed Drawing	2020/0201	D	12 August 2021
Proposed Drawing	2020/0300	C	26 May 2021

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. The hard surface hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct

run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.

Reason: To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policies CP8 & CP11 of the Brighton & Hove City Plan Part One.

4. The vehicle parking area shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles and motorcycles belonging to the occupants of and visitors to the development hereby approved.
Reason: To ensure that adequate parking provision is retained and to comply with policy CP9 of the City Plan Part One.
5. The bathroom and stairwell windows in the northern elevation of the development hereby permitted 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 DM20 of the City Plan Part Two and QD14 and QD27 of the Brighton & Hove Local Plan.
6. The development hereby permitted shall not commence until full details of existing and proposed ground levels (referenced as Above Ordnance Datum) within the site and on land and buildings adjoining the site by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures, have been submitted to and approved by the Local Planning Authority. The development shall then be implemented in accordance with the approved level details.
Reason: As this matter is fundamental to the acceptable delivery of the permission to safeguard the amenities of nearby properties and to safeguard the character and appearance of the area, in addition to comply with policy QD27 of the Brighton and Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One
7. No development above ground floor slab level of any part of the development hereby permitted shall take place until samples/details 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/details of all brick, render and tiling (including details of the colour of render/paintwork to be used)
 - b) samples of all cladding to be used, including details of their treatment to protect against weathering
 - c) samples/details of all hard surfacing materials
 - d) samples/details of the proposed window, door and balcony treatments
 - e) samples/details of all other materials to be used externallyDevelopment shall be carried out in accordance with the approved details.
Reason: To ensure a satisfactory appearance to the development and to comply with policies QD14 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

8. No development above slab floor level shall take place until a scheme setting out highway works to implement the amended vehicle entrance on Withyam Avenue 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 safe pedestrian, cyclist and vehicular access into, out of and passed the site and road safety for all road users and to comply with policies TR7, TR11, TR12, TR15, SU3 and SU5 of the Brighton & Hove Local Plan and CP7, CP9, CP11 and CP18 of the City Plan Part One.
9. Prior to occupation of the development hereby permitted, a scheme for landscaping shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping shall be implemented in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. The scheme shall include the following:
- a. details of all hard and soft surfacing to include the type, position, design, dimensions and materials and any sustainable drainage system used;
 - b. a schedule detailing sizes and numbers/densities of all proposed green roofs/ trees/plants including food-bearing plants, and details of tree pit design, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period;
 - c. details of all boundary treatments to include type, position, design, dimensions and materials;
- 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.
Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD15 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.
10. The development hereby permitted shall not be occupied until details of privacy screens to the north western terraces on the first, second and third floors has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out and screens provided in full in accordance with the approved details prior to first occupation of the development and the privacy screens shall thereafter be retained at all times.
Reason: To safeguard the privacy of the occupiers of the adjoining property and to comply with policies policies DM20 of the City Plan Part Two, and QD14 and QD27 of the Brighton & Hove Local Plan.
11. The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities 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.

12. None of the 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 Brighton & Hove City Plan Part One.
13. None of the residential units hereby approved shall be occupied until each residential unit built has achieved as a minimum, a water efficiency standard of 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 Brighton & Hove City Plan Part One.
14. Prior to first occupation of the development hereby permitted 14 (fourteen) swift bricks/boxes shall be incorporated within the external walls of the development and shall be retained thereafter.
Reason: To enhance the biodiversity of the site and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
15. Prior to first occupation of the development hereby permitted a bee brick shall be incorporated within the external wall of the development and shall be retained thereafter.
Reason: To enhance the biodiversity of the site and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
16. 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, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.
17. The development hereby permitted shall not be occupied until details of the refuse and recycling collection for the site, 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 prior to the first occupation of the development and shall thereafter be retained for use at all times.
Reason: In the interests of highway safety and to comply with policies TR7 of the Brighton and Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One.
18. The development hereby permitted shall not be occupied until the lighting and warning signage to be introduced along the side access road, as shown on the approved plans, has been fully implemented and are operational. The measures

shall be implemented in strict accordance with the approved details prior to the first occupation of the development and shall thereafter be retained as such.

Reason: In the interests of highway safety and to comply with policies TR7 of the Brighton and Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One.

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 email: S278@brighton-hove.gov.uk
3. The applicant is advised that accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see Gov.uk website); two bodies currently operate in England: National Energy Services Ltd; and Northgate Public Services. The production of this information is a requirement under Part L1A 2013, paragraph 2.13.
4. The water efficiency standard is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.
5. Swift bricks/boxes can be placed on any elevation, but ideally under shade-casting eaves. They should be installed in groups of at least three, at a height above 5m height, and preferably with a 5m clearance between the host building and other buildings or obstructions. Where possible avoid siting them above windows or doors. Swift bricks should be used unless these are not practical due to the nature of construction, in which case alternative designs of suitable swift boxes should be provided in their place where appropriate.
6. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.

2. SITE LOCATION

- 2.1. The application relates to a triangular plot located on the western side of Withyham Avenue in Saltdean which currently contains a post-war detached dwellinghouse and garden. The property is finished in white-painted render with

a multi-form pitched roof. To the south is separate vehicular access from Withyham Avenue to a group of garages to the rear of the site.

- 2.2. Withyham Avenue is made up of a range of traditional dwellinghouses of one- and two-storeys on the western side. The eastern side of the street comprises a large two- to five-storey flatted development. To the south west of the site, beyond the garages, are Duncan Court and Rowanden Court, two and three storey blocks of flats respectively.

3. RELEVANT HISTORY

- 3.1. **PRE2020/00113** Demolition of house and erection of 8 flats plus associated parking, related to PRE2019/00232 - Changes from earlier proposal focused on revisions to design, housing mix, parking provision, landscaping and impact on neighbours.
- 3.2. **PRE2019/00232** Demolition of house and erection of 8 flats plus associated parking.

4. APPLICATION DESCRIPTION

- 4.1. The application seeks permission for the demolition of the existing detached dwellinghouse and the erection of a part one-, part two-, and part four-storey building comprising seven flats (use class C3), and undercroft parking area.
- 4.2. Amended plans have been received during the life of the application which have addressed the comments from the Council's Urban Design Officer regarding the scale and form of proposals. The amended plans have reconfigured the stair core at third floor level, enabling the lower parapet height to extend around the north-east corner of the proposed block, more sensitively addressing the scale of the adjacent dwelling to the north. The previously proposed inaccessible cycle parking provision has been relocated to beneath the undercroft.

5. REPRESENTATIONS

- 5.1. **Twelve (12)** letters have been received objecting to the proposed development. The main grounds for objection are as follows:
- Overdevelopment
 - Poor Design
 - Height
 - Density
 - Too close to boundary
 - Overshadowing/ loss of light
 - Overlooking/ loss of privacy
 - Noise
 - Parking issues

- Increased traffic / highway safety
 - Private / unadopted road
 - Loss of garden and impact on biodiversity
 - Trees felled
 - Impact on property values
 - Loss of view
- 5.2. **Two (2)** letters have been received commenting on the proposed development as follows:
- Restricted parking or one-way system should be introduced
 - Provision of swift boxes
- 5.3. Objections relating to loss of view and impact on property values are noted, however are not material planning considerations.

6. CONSULTATIONS

- 6.1. **Sustainable Transport:** No objection subject to condition relating to retention of car parking, cycle parking Implementation and S278 highways works.
- 6.2. **Urban Designer:** No objection Proposals are very well received, presenting efficient and contextually appropriate site layout, diverse planting, sensitive general scale and massing, high quality accommodation and high-quality appearance, positively addressing CPP1 Policy CP12: Urban Design.

7. MATERIAL CONSIDERATIONS

- 7.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 7.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016)
 - Brighton & Hove Local Plan 2005 (retained policies March 2016);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
 - Shoreham Harbour JAAP (adopted October 2019).
- 7.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

8. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP7	Infrastructure and developer contributions
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP12	Urban design
CP13	Public streets and spaces
CP14	Housing density
CP18	Healthy City
CP19	Housing mix
CP20	Affordable housing

Brighton and Hove Local Plan (retained policies March 2016):

TR7	Safe Development
TR14	Cycle access and parking
SU9	Pollution and nuisance control
SU10	Noise Nuisance
QD5	Design - street frontages
QD15	Landscape design
QD16	Trees and hedgerows
QD18	Species protection
QD27	Protection of amenity
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes

Brighton & Hove City Plan Part 2

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications. The weight given to the key CPP2 policies considered in determining this application is set out below where applicable.

DM1	Housing Quality, Choice and Mix
DM18	High quality design and places
DM20	Protection of Amenity
DM22	Landscape Design and Trees
DM33	Safe, Sustainable and Active Travel
DM40	Protection of the Environment and Health - Pollution and Nuisance
DM44	Energy Efficiency and Renewables

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD06	Trees & Development Sites
SPD11	Nature Conservation & Development

SPD14	Parking Standards
SPD16	Sustainable Drainage
SPD17	Urban Design Framework

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations relating to the determination of this application are the principle of the proposed development, the impact upon the character and appearance of the area, impact on neighbouring residential amenity, the standard of accommodation proposed and highways implications.
- 9.2. Policy CP1 sets out the housing targets for the plan period with a provision target of 13,200 new homes for the city up to 2030. The council's most recent housing land supply position against this minimum target was published in the SHLAA Update 2020 and shows a five-year housing supply shortfall of 342 (equivalent to 4.7 years of housing supply).
- 9.3. However, on 24 March 2021 the City Plan Part One reached five years since adoption. National planning policy states that where strategic policies are more than five years old, local housing need calculated using the Government's standard method should be used in place of the local plan housing requirement. In addition, following an amendment to the standard method set out in national planning practice guidance, from 16 June 2021 onwards Brighton & Hove is required to apply an additional 35% uplift as one of the top 20 cities in the urban centres list.
- 9.4. The local housing need figure for Brighton & Hove using the standard method (including the 35% uplift) is 2,331 homes per year which gives a five-year housing supply shortfall of 6,604 (equivalent to 2.2 years of housing supply).
- 9.5. As the council is currently unable to demonstrate a five year housing land supply, increased weight should be given to housing delivery when considering the planning balance in the determination of planning applications, in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).

Planning Policy:

- 9.6. The provision of seven (net six) residential units would constitute a windfall development and would make a small but positive contribution to the city's identified housing need.
- 9.7. Policy CP19 of the City Plan Part 1 requires that proposals also have regard to housing mix considerations which have been informed by local assessments of housing demand and need. The mix of 3x one-bed flats, 2x two bed flats, and 2x three-bed flats would achieve a good mix of unit sizes which reflects the housing needs of the city.

- 9.8. As such the principle of the development is considered acceptable because it would deliver additional housing of a type which is in demand. However other issues, as set out below, also need to be considered.

Design and Appearance:

Built Form, Scale and Massing

- 9.9. Following amendments to the scheme, as set out above, the proposed scale and massing is considered to be acceptable. The height of the proposed development would be mitigated by the site topography so that the view from Withyham Avenue would present a three-storey building which would reflect the scale of the apartment block opposite, and would not be significantly taller than the existing building on site. In addition, the proposed flat roof form is reflected heavily in the prevailing context; thus, is considered to be acceptable. The building would be stepped back into the site so that the Withyham Avenue frontage would be in keeping with the rhythm of the streetscene.
- 9.10. The applicant has addressed previous concerns regarding the scale / massing against Withyham Avenue by reconfiguring the stair core at third floor level, enabling the lower parapet height to extend around the north-eastern corner of the proposed block, more sensitively addressing the scale of the adjacent dwelling. As such, proposed built form, scale and massing are considered to be high quality.

Appearance and Materiality

- 9.11. The general appearance and materiality of the proposal is supported, having responded positively to the prevailing identity and architectural character of the area. The elevations would be layered, textured and contemporarily detailed to add interest and reduce the appearance of bulk. The proposed light brick with speckles of black, plus matching mortar, is designed to fit in with the Art Deco style of the Saltdean area, albeit in a contemporary fashion.
- 9.12. The projecting canopy at top floor level facing Withyham Avenue would generate a semi-inset character to the proposed balconies which is considered to add interesting features to the streetscene, while the proposed planted roofs would soften and enliven the appearance.

Site Layout and Landscape

- 9.13. The amended proposed site layout is considered to be positive in terms of its impact on the wider area. The building line fronting Withyham Avenue would align well with the adjacent property to the north, generating a cohesive street frontage. The inclusion of a parking undercroft would reduce the visual impact of parked vehicles and generate opportunities for planted roof space to counter the necessary loss of planted areas at ground level.
- 9.14. The scheme includes small areas of diverse ground level planting. The Council's Arboriculture Officer has advised that no arboriculture comment is necessary in this instance. However, it is recommended that full and finalised details regarding landscaping and green roofs can be secured by condition

Standard of Accommodation:

- 9.15. Policies DM20 and QD27 seek to ensure a good standard of amenity for future occupiers of the proposed development and this requirement is one of the core planning principles of the NPPF.
- 9.16. Although not yet adopted, the Proposed Submission City Plan Part 2 policies indicates direction of travel and some policies have gained weight since consultation. CPP2 Policy DM1: Housing Quality, Choice & Mix sets out Nationally Described Space Standards (NDSS) for dwellings and this policy now carries significant weight as a material planning consideration.
- 9.17. The Gross Internal Area (GIA) of the proposed units would be as follows:

Ground Floor

One-bed flat: 51m² - 1x double bed (NDSS 50m²)

First Floor

Two-bed flat (south): 61m² - 1x double bed, 1x single bed (NDSS 61m²)

Two-bed flat (north): 64m² - 1x double bed, 1x single bed (NDSS 61m²)

One-bed flat: 58m² - 1x double bed (NDSS 50m²)

Second Floor

Three-bed flat: 86m² - 2x double bed, 1x single bed (NDSS 86m²)

One-bed flat: 58m² - 1x double bed (NDSS 50m²)

Third Floor

Three-bed flat: 86m² - 2x double bed, 1x single bed (NDSS 86m²)

- 9.18. The proposals present a high quality of accommodation. All proposed dwelling units would meet or exceed NDSS, and all proposed units would have private external amenity space in the form of balconies or terraces, complying with policy HO5 and emerging policy DM1 of City Plan Part 2. Internal layouts appear efficient, providing sufficient circulation space once typically furnished, and all dwelling units would achieve at least dual aspect (of some form) providing sufficient levels of outlook, sunlight and daylight to the proposed accommodation, positively addressing CPP1 Policy CP8 with regard to passive design for reduced energy reliance and improved wellbeing.
- 9.19. There would be dedicated space for refuse and recycling at ground floor level which is considered appropriate.
- 9.20. The scheme is therefore considered acceptable in terms of the standard of living accommodation to be provided.

Impact on Amenity:

- 9.21. Policies DM20 of the City Plan Part Two (which can be significant weight) and QD27 of the Brighton & Hove Local Plan state that planning permission for development including change of use will be granted where it would not cause unacceptable loss of amenity to the proposed, existing and / or adjacent users, residents, occupiers or where it is not liable to be detrimental to human health.

Sunlight/ Daylight

- 9.22. A daylight/ sunlight assessment report has been submitted with the application. The results demonstrate that there would be no noticeable impact on the daylight received by the windows of Rowanden Court and Duncan Court, the two blocks of flats to the rear.
- 9.23. The side windows of 3 Withyham Avenue, directly to the north, would be noticeably impacted upon, however these are all secondary windows to the spaces they serve, with the main windows on front and rear elevations. Therefore, the impact of the reduced daylight to the windows would be less significant as the spaces receive daylight from other, unobstructed windows.
- 9.24. The sunlight assessment has shown there would be no noticeable reduction in the amount of sunlight to any of the windows assessed. The overshadowing study to the adjacent gardens has shown that whilst there would be an increase in overshadowing, the gardens would still receive high levels of direct sunlight with the proposed development, meeting BRE impact guidance.

Overlooking and loss of privacy

- 9.25. It is noted that there is an existing raised terrace to the rear of the site property, on the southern side, which give views towards neighbouring gardens. Various balconies / terraces are proposed to the development and it is acknowledged that this may lead to some increased overlooking towards adjacent properties. However, given the distances to the nearest properties to the rear in Chichester Drive East (35 - 50 metres) and to the south (25 metres), it is not considered that this would be harmful enough to warrant refusal of the application.
- 9.26. The views from the front roof terrace towards no. 3 Withyham Avenue to the north would be oblique and would not lead to loss of privacy to habitable rooms. However, it is recommended that the rear roof terrace and balconies have appropriate screening to the north western corner to prevent harmful overlooking of the rear windows and garden of no. 3, secured by condition. To the east in Withyham Avenue is the rear of no. 7 Longridge Avenue; however this is a commercial unit and therefore not as sensitive in terms of overlooking issues.
- 9.27. There would be seven windows facing directly north toward no. 3 Withyham Avenue. Three of these would serve landings and three would serve bathrooms. As such, these side facing windows would be obscure-glazed to avoid any overlooking, which would be secured by condition. There is an oriel window proposed to a bedroom at first floor level. However, given the distance to the neighbouring property, that the southern side windows to no. 3 are all secondary, and the fact that the single first floor side window is small and appears to serve a bathroom, the proposed oriel window is not considered to be significantly harmful to this property.

Sustainable Transport:

Trip Generation

- 9.28. It is considered that the increase in trips associated with an additional six dwellings would not amount to a severe impact on the capacity of the surrounding highway network, or a detrimental impact on road safety.

Parking

- 9.29. The applicant is proposing 20 cycle parking spaces (10 Sheffield stands) in a communal area within the basement level. The proposed design, layout and amount are acceptable for this size and type of development. The proposed storage area would have level access from the side road and an additional access point from a pathway alongside the northern elevation to the development.
- 9.30. Six vehicle parking bays are proposed for the proposed seven dwellings, less than one car parking space per dwelling in this outer area location. However, when considering the likely car parking associated with this development, the applicant has demonstrated that available census data suggests that average car ownership in this area is just above one per dwelling. The site is located in a non-restricted area of the city so additional parking needs would be met by existing on-street parking. This proposed provision may be slightly below the amount needed; however the Highways Officer agrees that this is unlikely to result in a severe impact on the highway, if overspill parking in the street does occur. The overall layout of the parking bays is therefore acceptable.

Site Access

- 9.31. The proposed pedestrian entrance on Withyham Avenue has multiple steps and therefore would not be accessible for all. Given this, it is likely that the proposed vehicle access via the existing side road may be used by pedestrians who cannot manage the steps. Additionally, as set out above, there appear to be two routes to the cycle store within the basement: one a level entrance via the side access road, along with a proposed track on the front stepped entrance. The applicant has agreed measures that include a scheme of lighting and warning signs to be introduced along the side access road, which is narrow and dark at present, to mitigate and reduce the risk of collision between pedestrian, cyclists and motorists. There is deemed acceptable by the Council's Highways Officer.
- 9.32. It is proposed that there would be a widened entrance point to the existing side access road to allow vehicles easier access. This is welcomed in relation to the increase in dwelling density. However, the Highways Officer has recommended that, in addition to the amendments proposed, a table be introduced at the bell mouth to reduce speeds of motorists and to ensure a continuous and level footway is retained. For these amendments on the adopted public highway the applicant must gain permission and enter into a S78 agreement with the Highway Authority.
- 9.33. It is noted that there are further amendments to the access road proposed; this road is not adopted public highway and the applicant would need permission for these works from the landowner.
- 9.34. It is acknowledged that there is some concern with regard to driver visibility of cars emerging from the adjacent garages when residents are leaving the proposed car park entrance. As mentioned above, the applicant is proposing a scheme of signage and lighting to be introduced along the access path which would reduce the risk to an acceptable level.

Servicing / Refuse and Recycling

- 9.35. The applicant is proposing private refuse and recycling collection for the site, with vehicles of an appropriate size to be used. This is to alleviate concern that the narrow side access road may not be able to accommodate large servicing vehicles /refuse trucks. It is agreed that refuse and recycling shall not take place on the highway. This is considered acceptable.
- 9.36. The Council's Highways Officer has been consulted on the application and overall has no objections to the scheme.

Sustainability:

- 9.37. Policy CP8 sets out residential energy and water efficiency standards required by new development; to achieve 19% above Part L Building Regulations requirements 2013 for energy efficiency, and to meet the optional standard for water consumption of 110 litres/ person/day. These measures can be secured by condition.

Other Considerations:

- 9.38. Conditions to secure appropriate provision of bee and swift boxes are recommended, to improve ecology outcomes on the site in accordance with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

10. COMMUNITY INFRASTRUCTURE LEVY

- 10.1. Under the Regulations of the Community Infrastructure Levy (CIL) 2010 (as amended), Brighton & Hove City Council adopted its CIL on 23 July 2020 and began charging on all CIL liable planning applications on and from the 5 October 2020. The exact amount will be confirmed in the CIL liability notice which will be issued as soon as it practicable after the issuing of planning permission.

Developer Contributions

- 10.2. Affordable housing: £159,000 commuted sum as per policy CP20 of the City Plan Part One which seeks 20% affordable housing as an equivalent financial contribution on sites of between 5 and 9 (net) dwellings.
- 10.3. **In the event that the draft S106 agreement has not been signed by all parties within 12 weeks of the date of the permission**, the Head of Planning is authorised to refuse the application for the following reasons:
1. The proposed development fails provide a financial contribution towards the provision of affordable housing with regard to the requirements of Policies CP1, CP19 and CP20 of the Brighton and Hove City Plan Part 1.

11. EQUALITIES

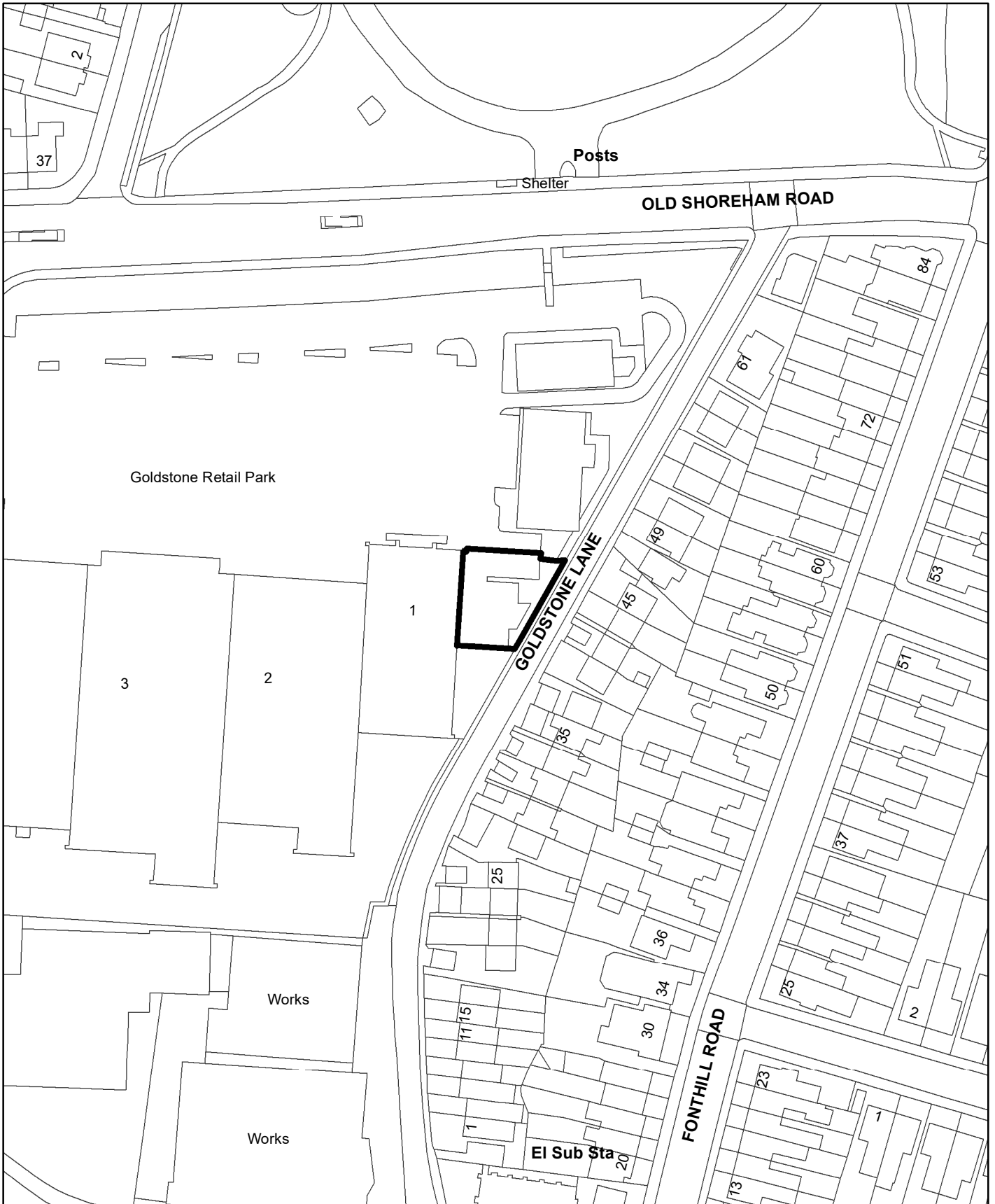
- 11.1. The requirement to meet Lifetime Homes has now been superseded by the accessibility and wheelchair housing standards within the national Optional Technical Standards. Step-free access to the (new-build) dwellings appears to be achievable. A lift is proposed to the upper floors.
- 11.2. The vehicle side access road is likely to be used by residents and visitors who may not be able to manage the alternative stepped access on site, located on Withyham Avenue. Shared use of the vehicle access by residents and other users is likely to increase the risk of collision. Appropriate measures are being proposed to reduce the risk to collision of those who prefer or need to access the site on the step-free side access road.

ITEM C

**Goldstone Retail Park
BH2021/02054
Full Planning**

DATE OF COMMITTEE: 1st September 2021

BH2021 02054 - Goldstone Retail Park



N



Scale: 1:1,250

<u>No:</u>	BH2021/02054	<u>Ward:</u>	Hove Park
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Goldstone Retail Park Newtown Road Hove BN3 7PN		
<u>Proposal:</u>	Erection of new single storey coffee shop building (Class E) with associated works to site layout including external seating area, bicycle storage and alterations to parking.		
<u>Officer:</u>	Russell Brown, tel: 293817	<u>Valid Date:</u>	11.06.2021
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	08.08.2021
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	
<u>Agent:</u>	Tim Price Savills (UK) Limited 33 Margaret Street London W1G 0JD		
<u>Applicant:</u>	TOF Corporate Trustee Ltd As Trustee Of The Oxford Funds C/O Savills (UK) Limited		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to GRANT planning permission subject to the following Conditions and Informatives:

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
Location plan	208100	P00	1 June 2021
Block plan	208150	P01	12 August 2021
Proposed Drawing	208150	P00	1 June 2021
Proposed Drawing	208151	P01	12 August 2021
Proposed Drawing	208250	P00	1 June 2021
Proposed Drawing	208350	P00	1 June 2021

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 alcohol shall be sold or supplied in the coffee shop hereby permitted except to persons who are consuming products made on the premises and who are seated at tables.

Reason: To prevent noise, nuisance, disturbance and public disorder, to protect the amenities of the occupants of residential accommodation within the vicinity

and to comply with Policies QD27 and SR12 of the Brighton & Hove Local Plan and DM20 of the emerging Brighton & Hove City Plan Part Two.

4. No development above ground floor slab level of any part of the development hereby permitted shall take place until details 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:
 - a) photos and product specification documents of the brick, cladding and roof covering;
 - b) details of the timber louvres' treatment to protect against weathering (if proposed);
 - c) photos and product specification documents of the proposed glazing and doors; and
 - d) 1:20 elevations annotated with the materials for the gates and fencing enclosing the plant and bin store.

Development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and to comply with Policies CP20 of the Brighton & Hove City Plan Part One and DM18 of the emerging Brighton & Hove City Plan Part Two.

5. Prior to any external lighting being installed, full details, including levels of luminance, hours of use / operation and details of maintenance, shall be submitted to and approved in writing by the Local Planning Authority. The predicted illuminance levels shall be tested by a competent person to ensure that the illuminance levels are achieved. Where these levels have not been met, a report shall demonstrate what measures have been taken to reduce the levels. The external lighting shall be installed, operated and maintained in accordance with the approved details and thereafter retained.

Reason: To safeguard the amenities of the occupiers of residential accommodation within the vicinity, those accessing the site and to comply with Policies QD25 and QD27 of the Brighton & Hove Local Plan and DM40 of the emerging Brighton & Hove City Plan Part Two.

6. No development above ground floor slab level shall take place until details of the plant machinery, accompanied by a Noise Impact Assessment, including, where necessary, mitigation measures for sound/vibration, has been submitted to and approved in writing by the Local Planning Authority. Noise associated with plant 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 the existing LA90 background noise level. The Rating Level and existing background noise levels are to be determined as per the guidance provided in BS 4142:2014 (or as subsequently amended).

The measures shall be implemented in strict accordance with the approved details prior to the first occupation of the development and shall thereafter be retained as such.

No plant machinery shall be used at the premises except between the hours of 06:00 to 22:00 Monday to Sundays, including Bank and Public Holidays.

Reason: To safeguard the amenities of the occupiers of residential accommodation within the vicinity and to comply with Policies SU10 and QD27 of the Brighton & Hove Local Plan and DM20 and DM40 of the emerging Brighton & Hove City Plan Part Two.

7. No servicing (i.e. deliveries to or from the premises) shall occur except between the hours of 06:00 and 21:00 Monday to Saturday and 08:00-18:00 on Sunday.

Reason: To safeguard the amenities of the occupiers of neighbouring properties and to comply with Policies SU10 and QD27 of the Brighton & Hove Local Plan and DM20 and DM40 of the emerging Brighton & Hove City Plan Part Two.

8. No customers shall be on the premises outside the hours of 06:00 to 22:00 Monday to Sundays, including Bank and Public Holidays.

Reason: To safeguard the amenities of the occupiers of residential accommodation within the vicinity, reduce traffic on the local highways and to comply with Policies TR7, SU10 and QD27 of the Brighton & Hove Local Plan and DM20, DM33 and DM40 of the emerging Brighton & Hove City Plan Part Two.

9. The development hereby permitted shall not be occupied until details of secure cycle parking facilities for coffee shop staff have been submitted to and approved in writing by the Local Planning Authority. The cycle parking for customers shown on drawing no. 208151 Rev P01 shall be installed and made available for use prior to the first occupation of the development, as shall the cycle parking facilities for staff. Both the approved facilities shall thereafter be retained for the duration of the development hereby approved.

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 Policies TR14 of the Brighton & Hove Local Plan and DM33 of the emerging Brighton & Hove City Plan Part Two, and SPD14.

10. 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 Policies QD27 of the Brighton & Hove Local Plan, CP8 of the Brighton & Hove City Plan Part One, WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan and DM20 of the emerging Brighton & Hove City Plan Part Two.

11. Three swift boxes shall be incorporated within the external walls of the development hereby approved and shall be retained thereafter.

Reason: To enhance the biodiversity of the site and to comply with Policy CP10 of the Brighton & Hove City Plan Part One, DM22 of the emerging Brighton & Hove City Plan Part Two and SPD11.

12. Prior to the first occupation of the development hereby permitted, a scheme for landscaping shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping shall be implemented in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. The scheme shall include the following:

- a. details of all hard and soft surfacing to include type, position and materials and any sustainable drainage system used; and
- b. a schedule detailing location, species, sizes and numbers of all mitigatory tree planting proposed, to include food-bearing plants, and including details of tree pit design, use of guards or other protective measures.

The hard surfacing shall be made of porous and / or permeable materials or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the site.

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.

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with Policies QD15 and QD16 of the Brighton & Hove Local Plan, CP12 and CP13 of the Brighton & Hove City Plan Part One, DM22 of the emerging Brighton & Hove City Plan Part Two and SPD06, SPD11 and SPD16.

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 the details of external lighting required by Condition 5 should comply with the recommendations of the Institution of Lighting Engineers (ILE) 'Guidance Notes for the Reduction of Light Pollution (2011)' for Zone E or similar guidance recognised by the Council. A certificate of compliance signed by a competent person (such as a member of the Institution of Lighting Engineers) should be submitted with the details. Please contact the Council's Pollution Team for further details. Their address is Environmental Health & Licensing, Bartholomew House, Bartholomew Square, Brighton, BN1 1JP (telephone 01273 294490 email: ehlpollution@brighton-hove.gov.uk website: www.brighton-hove.gov.uk).
3. In order to be in line with Policy TR14 Cycle Access and Parking of the Brighton & Hove Local Plan 2005 cycle parking must be secure, convenient, accessible, well-lit, well-signed, near the main entrance, by a footpath/hardstanding/driveway and wherever practical, sheltered. It should also be noted that the Highway Authority would not usually support vertical hanging racks as they are difficult for many people to use and therefore not considered to be policy and Equality Act 2010 compliant. Also, the Highway Authority supports the use of covered, illuminated, secure 'Sheffield' type

stands spaced in line with the guidance contained within the Manual for Streets section 8.2.22, but will consider other proprietary forms of covered, illuminated, secure cycle storage including the Police approved Secure By Design cycle stores, "bunkers" and two-tier systems where appropriate.

4. Swift boxes can be placed on any elevation, but ideally under shade-casting eaves. They should be installed in groups of at least three, at a height above 5m height, and preferably with a 5m clearance between the host building and other buildings or obstructions. Where possible avoid siting them above windows or doors.

2. SITE LOCATION

- 2.1. The application relates to a site within Goldstone Retail Park on Newtown Road, to the east of Unit 1 (occupied by TK Maxx) and south of Unit 1A (occupied by Nandos). Lidl has recently occupied Unit 3, beyond DFS to the west, which was previously in use by Toys R Us.
- 2.2. There are five units over ground and mezzanine-floor levels within the retail park, and also two other buildings of single storey in height containing retail/café uses (Use Class E) on the western edge of the retail park, adjacent to Goldstone Lane. To the north of the large 284-space car park associated with the buildings is the Old Shoreham Road (A270) and beyond that, the locally listed Hove Park.
- 2.3. The application site is currently occupied by 10 parking spaces.
- 2.4. The site is not within a conservation area, nor is it a listed building or in the vicinity of one. The site is also outside a Controlled Parking Zone (CPZ), but CPZ T runs along Goldstone Lane to the west. However, it is within Source Protection Zone 1 and an Archaeological Notification Area.

3. RELEVANT HISTORY

- 3.1. There is no planning history for this specific site, but the following applications are relevant:
- 3.2. **BH2021/00282:** Variation of Condition 13 of application BH2020/00549 (External alterations to front and rear elevations including installation of new plant. Alterations to part of customer car park to provide trolley storage, covered cycle parking and car parking for disabled and parents. Use of Unit 3 for retail (A1)) to change the servicing hours to 07:00-21:00 Monday to Saturday and 08:00-18:00 on Sunday. Granted 9 April 2021
- 3.3. **BH2020/00549:** External alterations to front and rear elevations including installation of new plant. Alterations to part of customer car park to provide trolley storage, covered cycle parking and car parking for disabled and parents. Use of Unit 3 for retail (A1). Granted 8 September 2020

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for the erection of a new, single storey coffee shop building (Use Class E(b)) with associated works to the site layout including an external seating area, bicycle storage and alterations to parking.
- 4.2. Changes have been made during the course of the application to the proposed opening hours, servicing hours and cycle parking.

5. REPRESENTATIONS

- 5.1. **Nine (9) objections** were received, **five (5)** of which are from properties directly affected, raising the following concerns:
- No need for another coffee shop and effect on similar local businesses.
 - The retail park is overcrowded and overdeveloped.
 - Lack of parking, more traffic congestion and more different to manoeuvre.
 - Noise, odours and pollution
 - Location of bins
 - Generation of more litter
 - Opening and delivery hours are too early and too late; 24/7 is excessive.
 - The trees and bushes along the eastern wall need to stay maintain privacy and protect from noise.
- 5.2. **Councillors Allcock and O’Quinn** have objected to the application. Copies of the correspondence are attached to the report.

6. CONSULTATIONS

- 6.1. **County Archaeology:** No significant archaeological remains are likely to be affected by these proposals; no further recommendations
- 6.2. **Designing Out Crime Officer:** Support subject to their observations, recommendations and concerns being satisfactorily addressed
- 6.3. **Environmental Health:** No comment received
- 6.4. **Transport (verbal):** Seek updated parking survey and amendments to cycle parking

7. MATERIAL CONSIDERATIONS

- 7.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan,

and all other material planning considerations identified in the "Considerations and Assessment" section of the report.

7.2. The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016);
- Brighton & Hove Local Plan 2005 (retained policies March 2016);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
- Shoreham Joint Area Action Plan (October 2019)

7.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

8. RELEVANT POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

DA6 Hove Station Area

SS1 Presumption in Favour of Sustainable Development

CP2 Sustainable economic development

CP4 Retail provision

CP9 Sustainable transport

CP10 Biodiversity

CP12 Urban design

Brighton & Hove Local Plan (retained policies March 2016)

TR7 Safe Development

TR14 Cycle access and parking

SU9 Pollution and nuisance control

SU10 Noise nuisance

QD15 Landscape design

QD25 External lighting

QD27 Protection of amenity

SR12 Large Use Class A3 (food and drink) venues and Use Class A4 (pubs and clubs)

HE12 Scheduled ancient monuments and other important archaeological sites

Brighton & Hove City Plan Part 2:

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications. The weight given to the relevant CPP2 policies considered in determining this application is set out in the Considerations and Assessment section below where applicable.

- DM18 High quality design and places
- DM20 Protection of Amenity
- DM22 Landscape Design and Trees
- DM31 Archaeological Interest
- DM33 Safe, Sustainable and Active Travel
- DM35 Travel Plans and Transport Assessments
- DM40 Protection of the Environment and Health – Pollution and Nuisance

Supplementary Planning Documents

- SPD11 Nature Conservation and Development
- SPD14 Parking Standards
- SPD16 Sustainable Drainage
- SPD17 Urban Design Framework

Other Documents

East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan - Policy WMP3d and WMP3e

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the principle of development, the design of the proposal, landscaping and biodiversity, its impact on neighbouring amenity and on highways as well as sustainability.

Officers undertook a site visit in relation to the present application following the protocols put in place due to COVID and therefore it is considered that the context of the development and the planning considerations relating to this are well understood.

Principle of development:

- 9.2. In accordance with NPPF paragraph 87, City Plan Part One Policy CP4 requires that applications for new edge- and out-of-centre retail development includes a Retail Impact Assessment where more than 1,000 sqm (net) of new retail floorspace is to be provided. The proposed retail development would result in the creation of 617.2m² of gross internal floorspace. Therefore, local planning policies do not require an impact assessment to be carried out for this development.
- 9.3. The proposal would provide small- and medium-sized employment floorspace in a non-B Class (industrial/storage/distribution) use, which is important to the local economy, as recognised by Policy CP2. Specifically, the proposal would result in the creation of nine full time equivalent (FTE) employees.
- 9.4. Policy SR12 supports new cafés with a total resultant public floorspace in excess of 150m² provided they meet a number of criteria. In this case, the proposal would not meet the first criterion, being within 400m of another A3 establishment (now falling under Class E(b)); Nandos. However, exceptions can be allowed, provided that any customer floorspace in excess of 150m² is

for service to seated customers only, in the manner of a restaurant or café. It is considered that this would be the case as the 167.2m² includes staff areas.

- 9.5. It is also acknowledged that this policy is designed to restrict large pubs and bars focusing on serving alcohol, whereas this would be a coffee shop. It is recognised that the proposal is for a coffee shop and an E class use, not for a specific business, and therefore the proposal has to be assessed on that basis. Therefore, as suggested by Policy SR12, a condition would be added to ensure that no alcohol could be sold or supplied except to persons who are consuming products made on the premises and who are seated at tables. This would also somewhat allay Sussex Police's concerns about the potential for anti-social behaviour, crime and disorder in the immediate surrounds.
- 9.6. The proposed closing time of 22:00 Monday to Saturday would help to retain a healthy level of activity in the evening as well as the daytime, it being open from 06:00 Monday to Sunday. As such, the principle of development is considered acceptable.

Design:

- 9.7. The proposed building is single storey and approximately 5.3m in height. It would sit slightly to the west of the centre of the plot, some 2m away from Unit 1 at 11m wide. It would occupy much of the depth of the plot at 17.7m deep, with plot coverage of some 39% (approximately 187m² of the total of 500m²). It would be subordinate to the large 1.5-storey high warehouse units and would be a similar height to the Nandos building, which is considered acceptable in terms of scale and massing.
- 9.8. The building line would be slightly set back from the warehouse units, thereby further ensuring subordination, and it would be well set off the boundaries, allowing for the provision of a plant and bin store to the rear and customer seating plus cycle parking to the east side.
- 9.9. The proposed materials would mainly be dark grey aluminium cladding to the external walls with feature panels of red cladding adjacent to the aluminium framed glazing to the front and side (east-facing) elevations and a timber or metal framed canopy. The parapet capping at roof level would be light grey, there would be a few courses of blue / grey brick at damp proof coursing level and a dark grey service door to the rear. The boundary treatment to enclose the plant and bin store would be 2.6m high fencing. In principle these materials are considered acceptable and complementary to the existing modern material palette of the retail park, although the use of metal louvres to the canopy would be more durable and longer-lasting than timber. It is recommended that further details are secured by condition.
- 9.10. The Designing Out Crime Officer's concerns largely relate to opening hours, the impact of which will be discussed later on in this report. The provision of glazing has the potential to provide good surveillance from staff over the seating area and from customers to the cycle parking. Comments about vandal-resistant 'dusk 'til dawn' lighting and boundary treatment to the bin and plant store are noted and it is considered reasonable to recommend that

conditions are added for the safety of staff and users and to prevent an increase in the fear of crime.

- 9.11. As such, the proposal would be of a good standard of design and would comply with City Plan Part One Policy CP12, emerging Policy DM18 of City Plan Part Two and paragraph 130 of the NPPF that requires developments to add to the overall quality of the area through being visually attractive as a result of good architecture and layout, to be sympathetic to local character and the surrounding built environment, to optimise the potential of the site to accommodate an appropriate amount of development and to create places that are safe where crime and disorder do not undermine the quality of life or community cohesion and resilience.

Impact on Neighbouring Amenity:

- 9.12. Paragraph 130 of the NPPF outlines that planning decisions should ensure that developments create places that promote health and well-being, with a high standard of amenity for existing and future users.
- 9.13. The closest existing residential properties are 35-47 Goldstone Lane, which are to the east and south east of the site. The main impact would be noise pollution. Given that a coffee shop operation predominantly involves the warming up of food rather than cooking, it is considered that there would be limited odours emanating from the proposed building as a result of the activities occurring inside. To that end, it is also noted that no flues or similar have been proposed, and that odours would be experienced against the background of the Nando's restaurant immediately adjacent.
- 9.14. A Noise Report has not been submitted to address the impact on residential amenity. No details of the plant have been provided and therefore it is considered appropriate to recommend a condition securing details, including a noise report, prior to commencement of the development. The other main source of noise and general disturbance would be the deliveries. Following negotiations, these would be 06:00-21:00 Monday to Saturday and 08:00-18:00 on Sunday. They are one hour earlier on Monday to Saturday than those recently approved at Lidl (ref. BH2021/00282), but it is noted that these would be undertaken by a 18 tonne rigid vehicle usually once every fortnight for non-perishable goods and 3.5 tonne van on every day but Sunday. These vehicles are much smaller than the articulated lorries used by Lidl and are similar to those which serve Nandos and Burger King. These hours are therefore considered acceptable. The servicing and delivery hours are recommended to be conditioned.
- 9.15. In terms of refuse collections, these would be undertaken by a waste truck typically once each week plus the collection of recycling twice per week. It is considered that this would not cause any more disruption than that already experienced by residential occupiers from refuse collections in the retail park.
- 9.16. The opening hours were initially proposed to be 24 hours, seven days a week. Following negotiations, these were considered to be excessive given the applicant's own admission that the proposed coffee shop is not a destination

in its own right, the proximity of residential properties and those of the other premises in the retail park. The earliest any of the businesses open is 08:00 and the latest any of them close is 23:00. As such, the opening hours of 06:00-22:00 Monday-Sunday, including Bank and Public Holidays, now proposed are not considered anti-social and are considered appropriate for the proposed use, thereby addressing a number of concerns mentioned in the objections. The opening hours are recommended to be conditioned.

- 9.17. As such, the overall impact on neighbouring amenity would, on balance, be considered acceptable, subject to the conditions outlined above, and compliant with Local Plan Policies SU9, SU10 and QD27 and emerging CPP2 Policy DM20 which can be given significant weight.

Transport:

- 9.18. The site is considered to be in a sustainable location given it is a 10 minute walk or four minutes' cycle from Hove train station and 4-6 minutes' walk to bus stops on Old Shoreham Road served by five routes. As such, it is suitable for further development in transport terms. This public transport capacity is therefore sufficient to handle the anticipated increase in trip generation, which is not considered to be significant in any case.
- 9.19. This application proposes the loss of 10 car parking spaces through the development of this part of the car park. The provision of six car parking spaces through the relocation of clothes and shoe recycling bins as well as some communal bins is also included in this application, but has already taken place and is not considered to be intrinsically linked to the proposed development. This therefore takes the car park capacity down to 274. Although a maximum of eight car parking spaces could be proposed, none are proposed, which is in line with SPD14.
- 9.20. It is therefore important to assess the car parking capacity post-development, particularly given a number of the objections refer to the difficulty in finding a space and the resulting traffic congestion on Newtown Road in particular.
- 9.21. The applicant has provided evidence submitted in support of an appeal (subsequently allowed) for the erection of a Class A1/A3 pod unit and works to a car park, including additional car parking at a retail park in Bromley. This includes previously conducted 'Peak Exit Surveys' at Crown Point Shopping Park in Denton and Teeside Shopping Park in Middlesborough, which were also in relation to two similar existing pod units operated by Costa. These demonstrated that 100% of the 177 visitors to the former visited other retail units within the park and 98% of the 55 visitors to the latter did the same. This is considered to support the applicant's argument that the vast majority of trips to the proposed coffee shop would be cross-visitation and therefore it would not be a destination in its own right. Any independent or dedicated trip is most likely to occur at 'off peak' times, such as early in the morning.
- 9.22. As such, there would be limited demand for additional car parking spaces to be provided as part of the proposed development and the submitted Transport Statement (TS) shows that there would be spare capacity of 23 spaces even

at the two peak hours on Saturday and Sunday. The maximum occupancy in the weekday is 174 vehicles which means capacity of 100 spaces, if not more. TS's use of the baseline data submitted to support the Lidl application (ref. BH2020/00549) is supported.

- 9.23. A cycle store with an unspecified number of spaces for staff and 10 spaces in the form of 5 Sheffield stands for customers have been provided, which is more than the three spaces (rounded up) required by SPD14. The 'long stay' spaces for staff appear to be secure and covered, but further details are recommended to be secured via a pre-occupation condition and the number of spaces that should be provided within the store is one per five members of staff. The Sheffield stands are convenient and easy to use given that the existing retaining wall to the north of the stands would be removed.
- 9.24. As previously stated, refuse collections would typically be once a week with the collection of recycling twice per week. Prior to collection, these can be store in the store to the rear of the building, which is considered acceptable. This arrangement is recommended to be secured in perpetuity by condition.
- 9.25. As with the refuse and recycling collections, the deliveries and servicing of the proposed building would also be undertaken from the front. Delivery vehicles would use the Newtown Road customer access junction and navigating through the car park, which is acceptable.
- 9.26. The provision of a Framework Travel Plan is not considered necessary given the scale of the proposed development.
- 9.27. As such, the transport impact of the proposed development would be acceptable, subject to the imposition of appropriate conditions.

Biodiversity and Landscaping:

- 9.28. The Council has adopted the practice of securing minor design alterations to schemes with the aim of encouraging the biodiversity of a site, particularly with regards to protected species such as bees. A condition requiring three swift boxes is recommended to be added given that bee bricks would not be suitable for a metal clad building with bricks below the damp-proof course as they need to be at least 1 metre above ground level. This would improve ecology outcomes on the site in accordance with the Policy CP10 of the Brighton & Hove City Plan Part One and SPD11 Nature Conservation and Development.
- 9.29. The proposed paving leading from the sides of the building around to the rear would encroach closer to the trees than the existing car parking spaces. None of the trees on site are the subject of a Tree Preservation Order (TPO) and these two do not have roots visible above ground that would compromise the laying of paving nearby. However, if these end up needing to be removed to facilitate the proposed development, then the recommended condition for a landscaping scheme must give details of mitigatory tree planting, including for the tree proposed to be removed and the three saplings not marked on the plan in the area of soft planting if removed (although it may be possible to

replant these). Details of the soft planting and paving to ensure the latter is permeable and / or porous can also be provided in the landscaping scheme.

Archaeology:

- 9.30. Whilst this site is situated within an Archaeological Notification Area, as noted by the County Archaeologist, it is not considered that any significant archaeological remains are likely to be affected by this proposal.

10. CONCLUSIONS

- 10.1. The proposals would provide 617.2m² of employment floorspace employing nine FTE jobs, a biodiversity net gain, and it would generate some economic activity during construction work and from the spending in the local economy from the future customers; which are relatively significant benefits of the proposal. The LPA supports the well-designed building and the proposed use, which would not have a significantly adverse impact on neighbouring amenity and would be acceptable on transport grounds, subject to appropriate conditions. The proposal is therefore recommended for approval.

11. EQUALITIES

- 11.1. Access to the proposed building would appear to be level, subject to the thresholds being flat. The customer entrance would be 1.1m wide, facilitating access by wheelchair users. A button allowing the door to open automatically should be installed to facilitate this if the door is not movement sensitive.

Cllr. John Allcock
BH2021/02054 – Goldstone Retail Park

2nd July 2021:

This proposed development is in Hove Park ward. However, it abuts right on to the border with Goldsmid Ward. If the application is approved in its current form the new coffee shop will have an adverse impact on Goldsmid ward residents who live in Goldstone Lane. I am therefore raising an objection.

There is currently one fast food outlet (Burger King) that is open from 10:00 hrs until 23:00 hrs 7 days a week, and a restaurant (Nandos) located on the east side of the car park next to Goldstone Lane that is open from 11:30 hrs until 23:00 hrs 7 days a week. Both these outlets sell drinks. Therefore, there seems little justification for an additional large chain coffee shop. In addition, there are some independent coffee shops in the locality, which could be adversely affected by the proposed development.

Sound from the fast-food outlets (moving bins and customers coming and going) carries up to the houses in Goldstone Lane and can be disturbing for those who work shifts such as NHS staff and for those with children. Delivery trucks coming regularly in and out of the car park in early and late hours also add to the noise and disturbance for residents.

The fast-food outlets in the area have also led to a noticeable build-up of people hanging around the car park late at night with some allegations of anti-social behaviour

I am objecting to the application as I have significant concerns about the 24/7 operating times, which seem unreasonable and unjustifiable given the above, and will undermine the right to quiet enjoyment of local residents.

**Cllr. Jackie O'Quinn
BH2021/02054 – Goldstone Retail Park**

2nd July 2021:

There are already two outlets which provide food and drink at the Hove Retail Park and neither of them stays open 24/7 - the proposed opening times being applied for regarding the Costa Coffee outlet. 24/7 opening times will change the whole nature of the retail park which has previously had strict hours for opening applied to both retail and hospitality outlets. 24/7 hours will open the area up to cars, motorbikes and pedestrians late at night and in the early hours of the morning, and the resulting noise will disturb the local residents who live in Goldstone Lane, adjacent to the retail Park. I particularly object to the proposed outside seating area as this will become a major source of noise for local residents late at night and in the early hours of the morning.

I have noticed that already there are young people hanging around in the car park outside Lidl later into the evening and often being quite noisy, but at least they tend to disperse when Lidl closes at 10pm. There have been various anti-social behaviour incidents in Hove Park recently, the worst one being when the Hove Park Café was set on fire several weeks ago. Thus, it is not helpful to have a food and drink outlet open 24/7 which will encourage people into the area late at night, especially if they have been drinking alcohol elsewhere. It would mitigate the impact of the café if 10pm were the closing time, in line with Lid, and if the outside seating area was removed from the application or made non-accessible from 7pm onwards.

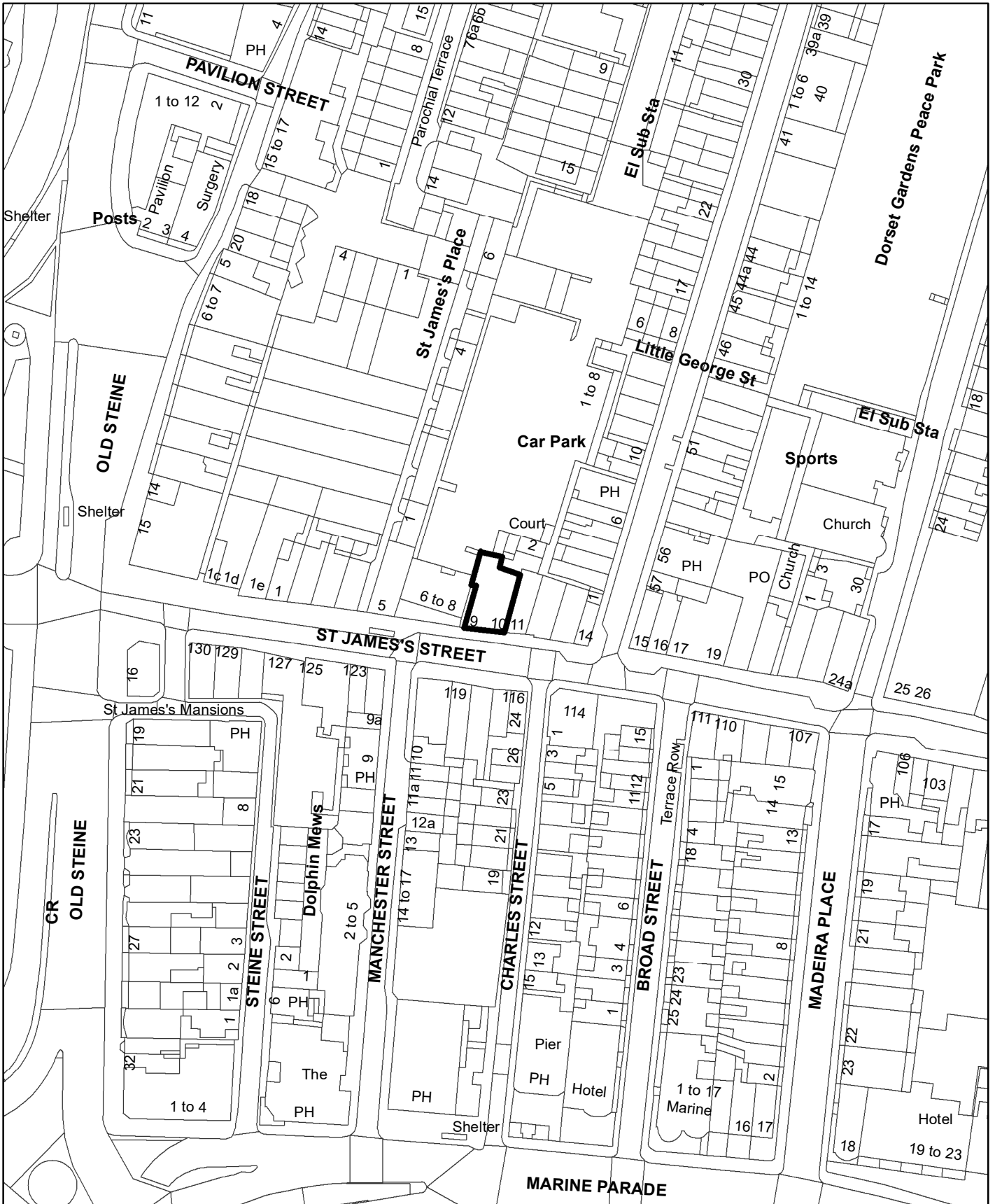
I would ask that this application is looked at very carefully and either refused or the relevant measures taken to ensure an absolute minimum of disturbance to local residents, both in Goldstone Lane (Goldsmid Ward) and to residents who live around Hove Park.

ITEM D

**9-10 St James's Street
BH2021/01276
Full Planning**

DATE OF COMMITTEE: 1st September 2021

BH2021 01276 - 9-10 St James's Street



N



Scale: 1:1,250

<u>No:</u>	BH2021/01276	<u>Ward:</u>	Queen's Park Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	9 - 10 St James's Street Brighton BN2 1RE		
<u>Proposal:</u>	Change of use of ground floor from betting shop (Sui Generis) to adult gaming centre (Sui Generis) and associated shopfront alterations.		
<u>Officer:</u>	Joanne Doyle, tel: 292198	<u>Valid Date:</u>	08.04.2021
<u>Con Area:</u>	East Cliff	<u>Expiry Date:</u>	03.06.2021
<u>Listed Building Grade:</u>	<u>EOT:</u>		
<u>Agent:</u>	Planning Potential Ltd. Magdalen House 148 Tooley Street London SE1 2TU		
<u>Applicant:</u>	Merkur Slots UK Ltd C/o Planning Potential Ltd. Magdalen House 148 Tooley Street London SE1 2TU		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

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	-	-	8 April 2021
Proposed Drawing	SJS/BGN/04	B	8 April 2021
Location Plan	SJS/BGN/05	A	8 April 2021
Proposed Drawing	SJS/BGN/08	-	8 April 2021
Report/Statement	NOISE IMPACT ASSESSMENT	-	8 April 2021

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. All activities and operations associated with the adult gaming centre shall take place only between the hours of 07:00am and 00.00 on any day, including Bank or Public Holidays.

Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

4. No customers shall remain on the premises outside the hours of 07.00am to 00.00 daily and no activity within the site shall take place between the hours of 00.00 and 07.00am daily.
Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
5. The use hereby permitted shall not be open to customers except between the hours of 07:00am and 00.00 on Mondays to Sundays, including Bank or Public Holidays.
Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
6. Prior to the occupation of the building for the use hereby permitted, noise mitigation measures shall be implemented in strict accordance with the acoustic design criteria, review and recommendations contained within "Noise Assessment" produced by Archo Consulting, Reference: PR2001_42_FINAL and Dated: 30/03/2021, specifically the remediation measures recommended in Table 1 on pages 5 and 6 of the assessment.
Reason: To safeguard the amenities of the existing properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
7. Amplified music or other entertainment noise from within the premises shall not be audible from outside the proposed premises at any time.
Reason: To safeguard the amenities of the locality and to comply with policy QD27 of the Brighton & 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 should be aware that whilst the requisite planning permission may be granted, this does not preclude the department from carrying out an investigation under the Environmental Protection Act 1990, should any complaints be received.
3. The applicant requests Hours of Opening - 07.00 - 23.59 Monday to Sundays including Bank Holidays. If they wish to serve alcohol for consumption either on or off the premises and/or serve food after 23.00hrs, in accordance with the provisions of the Licensing Act 2003, the operators would have to apply for a premises licence.

The applicant should contact Brighton & Hove City Council's Licensing team for further information:

Environmental Health & Licensing, Bartholomew House, Bartholomew Square, Brighton BN1 1JP. Telephone: 01273 294429, email: ehl.safety@brighton-hove.gov.uk, website: www.brighton-hove.gov.uk/licensing

2. SITE LOCATION

- 2.1. This application relates to a ground floor commercial unit, located on the northern side of St James's Street. The upper floors are in residential use, accessed from a separate door adjacent to the shopfront. To the south of the unit is a supermarket, while to the north is a commercial unit at ground floor with residential above.
- 2.2. The application site lies within the 'primary frontage' of the St James's Street District Centre, as identified in the Local Plan and City Plan Part 1.
- 2.3. The site is located within the East Cliff Conservation Area. Number 9 St James's Street is a Grade II listed building.

3. RELEVANT HISTORY

- 3.1. BH2021/01278- Display of 2no externally illuminated fascia signs and 1no externally illuminated hanging sign. Under Consideration.
- 3.2. BH2021/01270- Internal alterations to ground floor including new shop fit-out to replace existing, repainting of external shopfront & installation of signage. Under Consideration.
- 3.3. BH2013/01203- Installation of 3no air conditioning condenser units, 2no satellite dishes and associated timber screen to flat roof to rear elevation. Approved 18.09.2013.
- 3.4. BH2013/01202- Installation of 3no air conditioning condenser units, 2no satellite dishes and associated timber screen to flat roof to rear elevation. Approved 18.09.2013.
- 3.5. BH2013/00985- Display of non-illuminated fascia sign to No 9 St James's Street. Approved 08.07.2013.
- 3.6. BH2013/00984- Installation of new shopfront to No 10 St James's Street. Approved 08.07.2013.
- 3.7. BH2013/00983- Display of 2no non-illuminated fascia signs and 1no externally illuminated projecting sign. Approved 08.07.2013.
- 3.8. BH2013/00764- Internal alterations to layout to facilitate change of use from dental surgery (D1) to licensed betting office (A2) at ground floor level. Approved 29.05.2013.
- 3.9. BH2013/00763- Change of use from dental surgery (D1) to licensed betting office (A2) at ground floor level. Approved 29.05.2013.

- 3.10. BH2012/01365- Internal and external alterations incorporating shop fitting works, alterations to existing shopfront and replacement and upgrading of existing air conditioning units and extraction ducting. Approved 06.08.2012.
- 3.11. BH2012/01364- Display of 2no externally illuminated fascia signs. Approved 13.07.2012.
- 3.12. BH2012/01363- Internal and external alterations incorporating shop fitting works, alterations to existing shopfront, replacement and upgrading of existing air conditioning units and extraction ducting and display of 2no externally illuminated fascia signs. Approved 06.08.2012.
- 3.13. BH2012/00980- Change of use from dental surgery (D1) to retail (A1) and associated alterations. Approved 06.08.2012.

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for the change of use of the ground floor from a betting shop (Sui Generis - within no use class) to an adult gaming [slots, bingo etc.] centre (Sui Generis), and associated shopfront alterations.
- 4.2. The application information notes that the unit is currently empty and was formally occupied by William Hill bookmakers and has been vacant since their departure in September 2019.

5. REPRESENTATIONS

- 5.1. Eight (8) letters of representation have been received objecting to the proposal for the following reasons:
- Impacts on vulnerable people of the area
 - Encouraging gambling
 - The street needs to be improved not damaged
 - Enough issues with anti-social behaviour and addictions
 - The proposal will add to the issues within the area
 - No need for another gaming centre with similar establishments in the area
 - Not a positive attribute to the community
 - Should encourage other initiatives
 - Detrimental to property value within a conservation area and local community
 - Site should be used for new ventures
- 5.2. **Ward Councillor Childs** has objected to the proposal.

6. CONSULTATIONS

- 6.1. **Heritage:** No objection Scheme is satisfactory.

- 6.2. **Environmental Health:** No objection Satisfied that the detail in the Noise Assessment is sufficient subject to condition.
- 6.3. **Sustainable Transport:** Verbal No objection as trips unlikely to increase.
- 6.4. **Sussex Police:** Comment The premises should be conditional with regards to opening hours and design implementation.

7. MATERIAL CONSIDERATIONS

- 7.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 7.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016)
 - Brighton & Hove Local Plan 2005 (retained policies March 2016);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
 - Shoreham Harbour JAAP (adopted October 2019).
- 7.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

8. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP3	Employment Use
CP4	Retail Provision
CP9	Sustainable Transport
CP12	Urban design
CP15	Heritage
CP18	Healthy City
SU9	Pollution and nuisance control
SU10	Noise nuisance
QD27	Protection of amenity

Brighton and Hove Local Plan (retained policies March 2016):

TR7	Safe development
TR14	Cycle access and parking

SU10	Noise nuisance
QD14	Extensions and alterations
QD27	Protection of amenity
QD10	Shopfronts
SR5	Town and district shopping centres
SR10	Amusement arcades/ centres
HE1	Listed buildings
HE3	Development affecting the setting of a listed building
HE 6	Development within or affecting the setting of conservation areas

Brighton & Hove City Plan Part Two (CPP2) (emerging)

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications. The weight given to the key CPP2 policies considered in determining this application is set out below where applicable.

DM12	Changes of Use within Regional, Town, District and Local Shopping Centres
DM20	Protection of Amenity
DM21	Extensions and alterations
DM23	Shop Fronts
DM26	Conservation Areas
DM27	Listed Buildings
DM29	The Setting of Heritage Assets
DM33	Safe, Sustainable and Active Travel
DM40	Protection of the Environment and Health - Pollution and Nuisance

Supplementary Planning Documents:

SPD09	Architectural Features
SPD12	Design Guide for Extensions and Alterations
SPD14	Parking Standards

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the principle of development, the impacts of the proposal on the listed building and the character and appearance of the conservation area, impact on amenity and highways issues.

Principle of Development:

- 9.2. The proposed use of the premise is from betting shop (Sui Generis) to adult gaming centre (Sui Generis).
- 9.3. The intention is for the unit to function as an adult gaming centre (AGC). A planning brochure has been submitted (Merkur Slots Planning Brochure) which shows that the premise would be fitted out with slot machines, bingo machines

and tablets. The application states that the AGC would offer a range of low stake gaming and electronic bingo.

- 9.4. The application lies within the primary frontage of the St James Street District Centre therefore policy SR5 of the Local Plan applies. The policy states that changes of use away from A1 will be permitted provided that certain criteria are met;
- a. a clear predominance of Class A1 uses would be maintained;
 - b. as a result of the proposal there would not be a significant break in the shopping frontage of more than 15 metres;
 - c. it would have a positive effect on the shopping environment of the area by encouraging combined trips and attracting pedestrian activity to the centre;
 - d. the development would not be materially detrimental to the amenities of occupiers of nearby properties or the general character of the area;
- 9.5. The previous use as a betting shop (Sui Generis) is not a retail/convenience unit which policy SR5 seeks to protect, and there would be no change to the number of Class A1 (as was - now Class E) uses in the frontage. There is therefore no conflict with either criteria (a) or (b). It is not considered that the use would have a negative effect on the shopping environment of St James's Street, or certainly not to a greater degree than the existing use, and it may encourage linked trips to other units in the centre. There are considered to be no increase in impact on amenity as a result of the use, subject to recommended conditions, in compliance with criteria (c) and (d).
- 9.6. The proposal is therefore in compliance with policy SR5 of the Local Plan.
- 9.7. The scheme proposes to provide commercial use at ground floor level with no loss of employment floorspace, in accordance with City Plan Part 1 Policy CP3.
- 9.8. Policy SR10 of the Local Plan relates to amusement arcades/centres, seeking to ensure that these centres are located in certain areas and particularly outside the prime frontage of shopping centres. The focus of this policy regards maintaining the vitality of the shopping centres. The policy lends itself to the provision of large amusement arcades typically found within tourist/seafront locations. Given the aims and supporting text of policy SR10, the proposal for an adult gaming centre, considered more akin to a high street casino, is not considered to fall within the description of an "amusement arcade" for the purposes of policy SR10 and therefore the policy is not considered to apply to this application.
- Design and Appearance:
- 9.9. CPP1 Policy CP12 expects all new development to raise the standard of architecture and design in the city, establish a strong sense of place by respecting the character of existing neighbourhoods and achieve excellence in sustainable building design and construction.
- 9.10. Policy CP15 of the Brighton & Hove City Plan Part One states how the Council will ensure that the city's built heritage guides local distinctiveness for new development in historic areas and heritage settings. Policy HE1 of the Local Plan

explains how proposals involving the alteration or extensions of a listed building will only be permitted where the proposal would not have any adverse effect on the architectural and historic character or appearance of the interior or exterior of the building or its setting. Policy HE6 of the Local Plan requires proposals within or affecting the setting of a conservation area to preserve or enhance the character or appearance of the area.

- 9.11. When considering whether to grant planning permission for development in a conservation area the council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
- 9.12. Case law has held that the desirability of preserving a listed building or its setting or the character or appearance of a conservation area must be given "considerable importance and weight".
- 9.13. Part of the site, namely number 9 St James's Street, is a Grade II Listed Building. It is listed as a terraced house (now with ground floor shop front) of c1825, probably designed by Amon Wilds and Charles Augustin Busby, who were responsible for much speculative development in Brighton and Hove in the regency period. Number 10 is much plainer and has a Victorian canted bay; it forms a largely uniform terrace of numbers 10-14. The two properties have been combined at ground floor level and share a late 20th or early 21st century timber shopfront in pseudo traditional style with heavy corbel brackets to the fascia and a recessed entrance. The ground floor interior is of little or no significance due to past alterations.
- 9.14. The proposal seeks consent for the repair and redecoration of the shopfront and the repainting of the shopfront to facilitate the change of use. The works would involve repairing the existing doors, shopfront frames and fanlight frames and repairing of the existing stallrisers and pilasters.
- 9.15. The Heritage Officer has no objection to the proposed works as the repair and redecoration of the shop front is welcomed and with the proposed black finish appropriate and the internal alterations to the modern shop unit are considered to have a neutral impact on the significance of the listed building.
- 9.16. An associated Listed Building Consent application for these works is recommended for approval. A separate application has been submitted for advertisement consent for the proposed signage and is under consideration.
- 9.17. The proposed alterations would preserve the appearance and character of the listed building, the East Cliff conservation area and wider street scene, in accordance with policies HE1, HE3 and HE6 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton & Hove City Plan Part One and policies DM26, DM27 and DM29 of CPP2 (of which can be given significant weight).

Impact on Amenity:

- 9.18. Policy QD27 of the Brighton & Hove Local Plan, and emerging Policy DM20 of City Plan Part 2 (which can be given significant weight) state 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.

- 9.19. Policy SU10 of the Local Plan and emerging Policy DM40 of City Plan Part 2 (which can be given significant weight) require proposals for new development to minimise the impact of noise on the occupiers of neighbouring properties and the surrounding environment. Where necessary, planning conditions will be imposed in order to specify and secure acceptable noise limits, hours of operation and attenuation measures.
- 9.20. The adjacent units are in commercial use at ground floor level with Morrison's supermarket to the south and a cafe use to the north at ground floor with residential above. The upper floors of the application site are in residential use.
- 9.21. An adult gaming centre has the potential to introduce an increase in noise and disturbance compared to the existing use as a betting shop given a potentially more intensive use of the property. However, the unit is sited with the St James's Street District Centre containing many other commercial uses.
- 9.22. Environmental Health Officers have raised no objection to the proposal. In support of this application, Noise Assessment has been submitted, concluding that with appropriate mitigation, the impact on the closest residential units would be acceptable:
- 9.23. "The assessment showed that the separating elements will attenuate noise levels sufficiently to comply with the criteria of NR20 and also the criteria stipulated within BS8233:2014 for internal habitable rooms in the closest residential unit. This is conditional upon rectification of all defects identified in Table 1. Once all defects identified in Table 1 have been rectified the site will be suitable for 24-hour operation. This is also true based on the site assessment of patron behaviour during the most noise sensitive period of the night (1am to 3am) detailed in Section 4.4."
- 9.24. The assessment has assessed requirements for sound insulation based on a worst case scenario and the detail within the assessment is sufficient. A condition has been attached so that the measures outlined within the Noise Assessment are implemented in accordance with the submitted details.
- 9.25. The proposed opening hours of the premise are between 07.00am and 00.00 which is considered acceptable for the type of use and location and consistent with the opening hours of the premises within the immediate area. A condition is also therefore recommended regarding hours of operation.
- 9.26. Subject to the imposition of these conditions it is considered that the proposal would be acceptable in terms of there being no significant or adverse impacts or loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health, and would thereby accord with Policy QD27 and DM20 of CPP2 which can be given significant weight. The council would also retain the authority to investigate

under the Environmental Protection Act 1990 should any noise complaints be received post implementation of any consent and conditions.

Sustainable Transport:

- 9.27. The proposal is unlikely to result in a significant increase in trips due to the change of use and there would not be a severe impact on the surrounding highway.
- 9.28. No cycle parking is proposed however it is recognised that site constraints limit the opportunities for providing it in this case and therefore no scheme for cycle parking is recommended by condition.

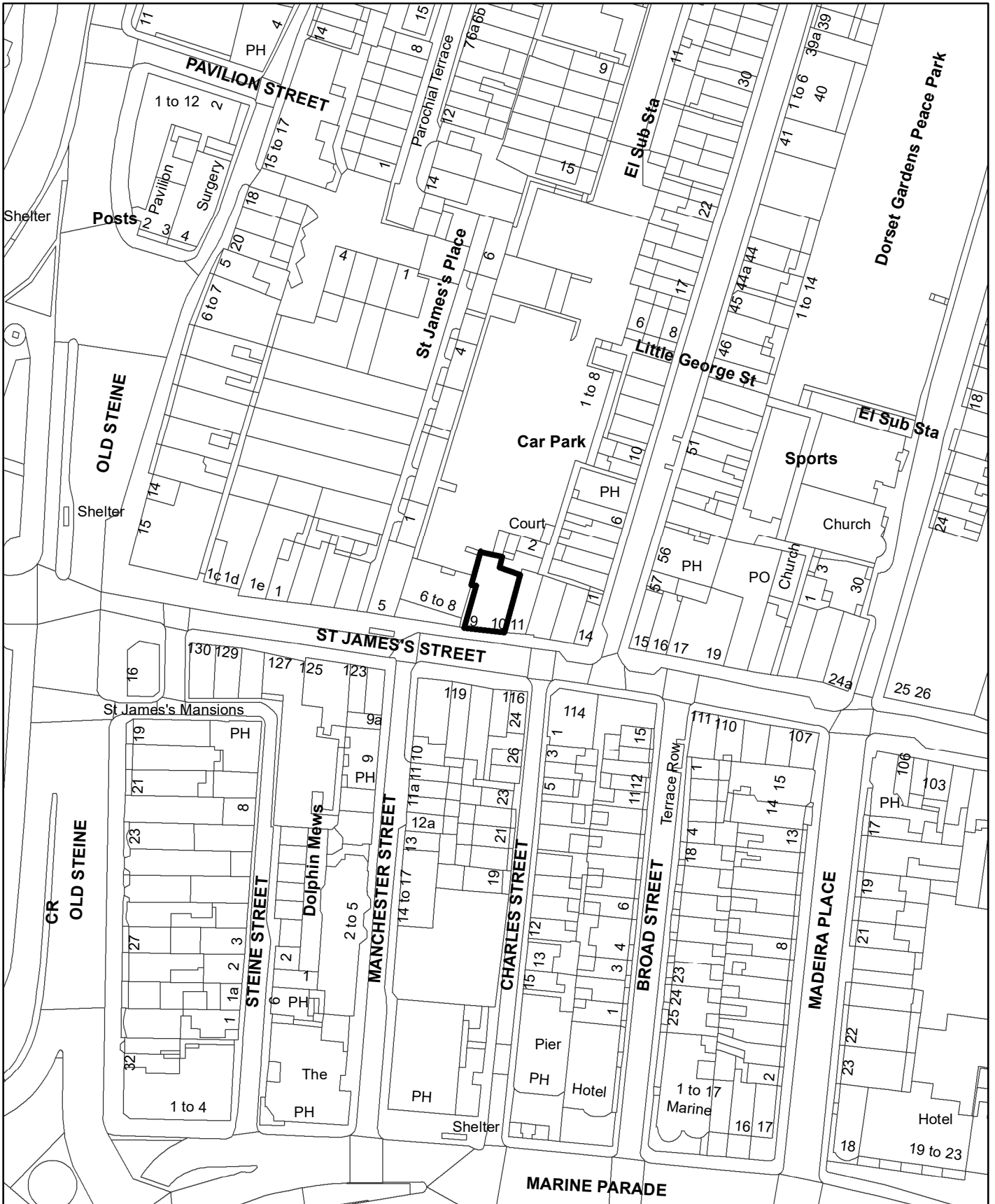
10. EQUALITIES
None identified

ITEM E

**9-10 St James's Street
BH2021/01270
Listed Building Consent**

DATE OF COMMITTEE: 1st September 2021

BH2021 01270 - 9-10 St James's Street



N



Scale: 1:1,250

<u>No:</u>	BH2021/01270	<u>Ward:</u>	Queen's Park Ward
<u>App Type:</u>	Listed Building Consent		
<u>Address:</u>	9 - 10 St James's Street Brighton BN2 1RE		
<u>Proposal:</u>	Internal alterations to ground floor including new shop fit-out to replace existing, repainting of external shopfront & installation of signage.		
<u>Officer:</u>	Joanne Doyle, tel: 292198	<u>Valid Date:</u>	08.04.2021
<u>Con Area:</u>	East Cliff	<u>Expiry Date:</u>	03.06.2021
<u>Listed Building Grade:</u>		<u>EOT:</u>	
<u>Agent:</u>	Planning Potential Ltd. Magdalen House 148 Tooley Street London SE1 2TU		
<u>Applicant:</u>	Merkur Slots UK Ltd C/o Planning Potential Ltd. Magdalen House 148 Tooley Street London SE1 2TU		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** Listed Building Consent, subject to the following Conditions and Informatives:

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
Location Plan	-	-	8 April 2021
Proposed Drawing	SJS/BGN/05	A	8 April 2021
Proposed Drawing	SJS/BGN/07	A	8 April 2021

2. The works hereby permitted shall be commenced before the expiration of three years from the date of this consent.

Reason: To comply with Sections 18 (as amended) and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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. SITE LOCATION

- 2.1. This application for Listed Building Consent relates to a ground floor commercial unit, located on the northern side of St James's Street. The upper floors are in residential use, accessed from a separate door adjacent to the shopfront. To the south of the unit is a supermarket, while to the north is a commercial unit at ground floor with residential above.
- 2.2. The application site lies within the 'primary frontage' of the St James's Street District Centre, as identified in the Local Plan and City Plan Part 1.
- 2.3. The site is located within the East Cliff Conservation Area. Number 9 St James's Street is a Grade II listed building.

3. RELEVANT HISTORY

- 3.1. BH2021/01278- Display of 2no externally illuminated fascia signs and 1no externally illuminated hanging sign. Under Consideration.
- 3.2. BH2021/01276- Change of use of ground floor from betting shop (Sui Generis) to adult gaming centre (Sui Generis) and associated shopfront alterations. Under Consideration.
- 3.3. BH2013/01203- Installation of 3no air conditioning condenser units, 2no satellite dishes and associated timber screen to flat roof to rear elevation. Approved 18.09.2013.
- 3.4. BH2013/01202- Installation of 3no air conditioning condenser units, 2no satellite dishes and associated timber screen to flat roof to rear elevation. Approved 18.09.2013.
- 3.5. BH2013/00985- Display of non-illuminated fascia sign to No 9 St James's Street. Approved 08.07.2013.
- 3.6. BH2013/00984- Installation of new shopfront to No 10 St James's Street. Approved 08.07.2013.
- 3.7. BH2013/00983- Display of 2no non-illuminated fascia signs and 1no externally illuminated projecting sign. Approved 08.07.2013.
- 3.8. BH2013/00764- Internal alterations to layout to facilitate change of use from dental surgery (D1) to licensed betting office (A2) at ground floor level. Approved 29.05.2013.
- 3.9. BH2013/00763- Change of use from dental surgery (D1) to licensed betting office (A2) at ground floor level. Approved 29.05.2013.

- 3.10. BH2012/01365- Internal and external alterations incorporating shop fitting works, alterations to existing shopfront and replacement and upgrading of existing air conditioning units and extraction ducting. Approved 06.08.2012.
- 3.11. BH2012/01364- Display of 2no externally illuminated fascia signs. Approved 13.07.2012.
- 3.12. BH2012/01363- Internal and external alterations incorporating shop fitting works, alterations to existing shopfront, replacement and upgrading of existing air conditioning units and extraction ducting and display of 2no externally illuminated fascia signs. Approved 06.08.2012.
- 3.13. BH2012/00980- Change of use from dental surgery (D1) to retail (A1) and associated alterations. Approved 06.08.2012.

4. APPLICATION DESCRIPTION

- 4.1. Listed Building Consent is sought for internal alterations to the ground floor, including a new shop fit-out to replace the existing, the repainting of the external shopfront, and the installation of signage (also being considered under a separate application for advertising consent).
- 4.2. This application is solely for Listed Building Consent, and is accompanied by a separate application for full planning permission for the change of use of the site to an Adult Gaming Centre (ref. BH2021/01276), also being considered at this Committee meeting.

5. REPRESENTATIONS

None

6. CONSULTATIONS

- 6.1. **Heritage:** No objection
Scheme is satisfactory.

7. MATERIAL CONSIDERATIONS

- 7.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 7.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016);
 - Brighton & Hove Local Plan 2005 (retained policies March 2016);

- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
- Shoreham Harbour JAAP (adopted October 2019).

7.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

8. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development
CP15 Heritage

Brighton & Hove Local Plan (retained policies March 2016):

HE1 Listed Building Consent
HE4 Reinstatement of original features on Listed Buildings
HE6 Development within or affecting the setting of conservation areas

Brighton & Hove City Plan Part Two (Proposed Submission October 2020):

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications. The weight given to the relevant CPP2 policies considered in determining this application is set out in the Considerations and Assessment section below where applicable.

DM26 Conservation Areas
DM27 Listed Buildings
DM29 The Setting of Heritage Assets

Supplementary Planning Guidance:

SPGBH11 Listed Building Interiors

Supplementary Planning Documents:

SPD09 Architectural Features

9. CONSIDERATIONS & ASSESSMENT

9.1. In considering whether to grant planning permission which affects a listed building or its setting, the Council has a statutory duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

- 9.2. The internal alterations to the modern shop unit would have a neutral impact on the significance of the listed building. The repair and redecoration of the shop front is welcomed and the proposed black finish is appropriate. The proposed signage is well proportioned in relation to the shop front and fascia and the hanging sign is suitably sited on the non-listed building and away from the corbel.
- 9.3. The proposed works would therefore not harm the historic character or appearance of the Grade II listed building or wider conservation area, in accordance with policies HE1, HE4 & HE6 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One and policies DM26, DM27 and DM29 of CPP2 (of which can be given significant weight).

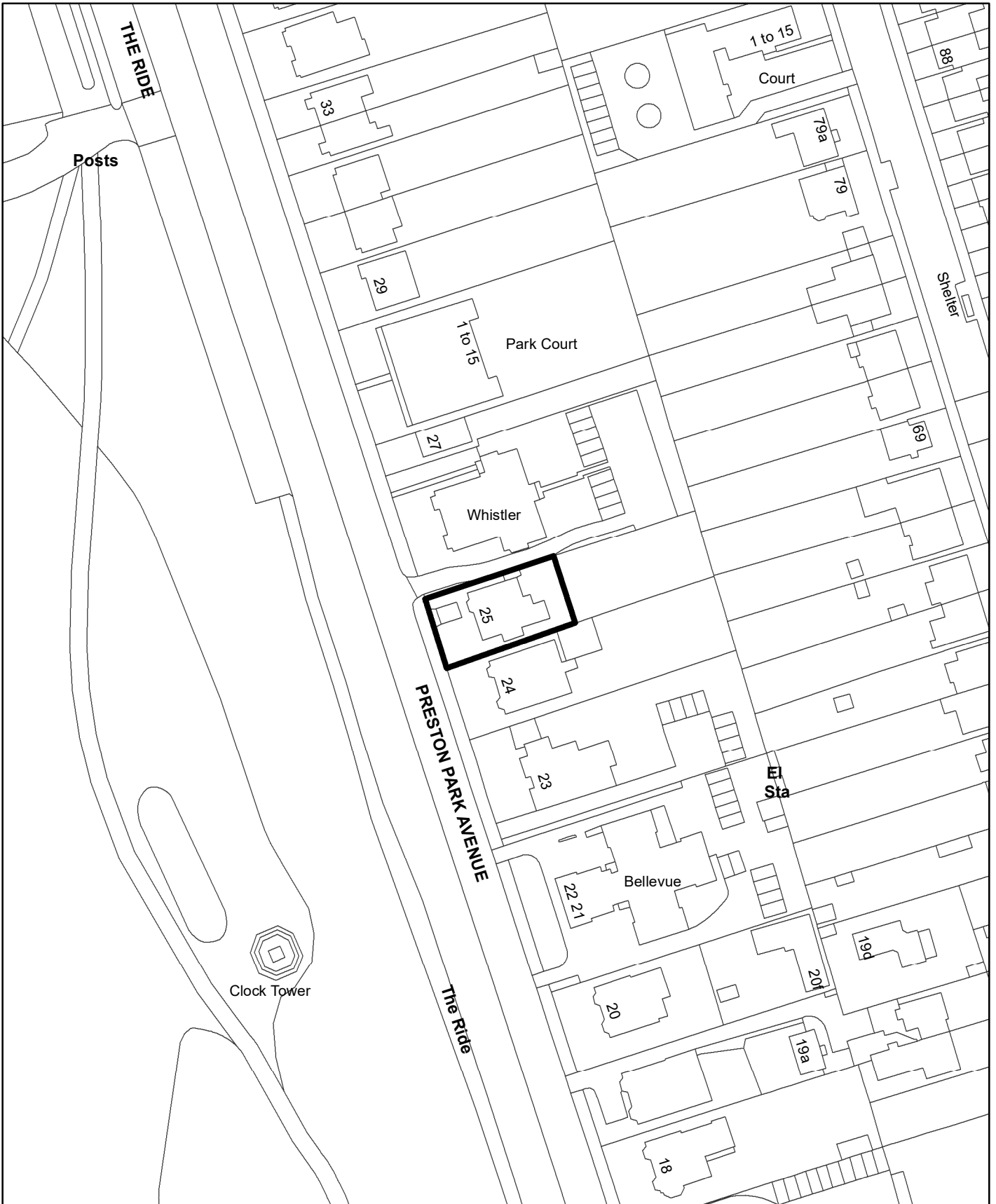
10. EQUALITIES
None identified

ITEM F

**25 Preston Park Avenue
BH2021/01194
Full Planning**

DATE OF COMMITTEE: 1st September 2021

BH2021 01194 - 25 Preston Park Avenue



N



Scale: 1:1,250

<u>No:</u>	BH2021/01194	<u>Ward:</u>	Preston Park Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	25 Preston Park Avenue Brighton BN1 6HL		
<u>Proposal:</u>	Demolition of existing garage and erection of a three storey rear extension, conversion of existing house including excavation of basement to provide 7no flats (C3) and associated alterations.		
<u>Officer:</u>	Joanne Doyle, tel: 292198	<u>Valid Date:</u>	04.05.2021
<u>Con Area:</u>		<u>Expiry Date:</u>	29.06.2021
<u>Listed Building Grade:</u>		<u>EOT:</u>	
<u>Agent:</u>	Mohsin Cooper Mohsin Cooper 7 Hove Manor Parade Hove Street Hove BN3 2DF		
<u>Applicant:</u>	Mr Damian Frizzell 85 Church Road Hove BN3 2BB		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

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
Location and block plan	A.001	-	31 March 2021
Proposed Drawing	D.001	-	31 March 2021
Proposed Drawing	D.002	-	31 March 2021
Proposed Drawing	D.003	-	31 March 2021
Proposed Drawing	D.004	-	31 March 2021
Report/Statement	Lighting Assessment	-	31 March 2021

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. The external finishes of the extensions to the existing building 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 QD14 and HE6 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton & Hove City Plan Part One.

4. Prior to occupation of the development hereby permitted, a scheme for landscaping shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping shall be implemented in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. The scheme shall include the following:
 - a. details of all hard and soft surfacing to include type, position, design, dimensions and materials and any sustainable drainage system used;
 - b. a schedule detailing sizes and numbers/densities of all proposed trees/plants, to include food-bearing plants, and including details of tree pit design, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period;
 - c. details of all boundary treatments to include type, position, design, dimensions and materials;

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.

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD15 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.

5. Prior to first occupation of the development hereby permitted, details of secure cycle parking facilities 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.

6. The extended crossover and access shall be constructed prior to the first occupation of the development hereby permitted.

Reason: In the interests of highway safety and to comply with policies TR7 of the Brighton & Hove Local Plan and CP9 of the City Plan Part One.

7. 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, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.

8. The scheme shall accord with the standards described in Annex 6 of SPD 11 and shall include a minimum of 1 swift brick/box and 1 bee brick. The approved

scheme shall be implemented in full prior to the first occupation of the development hereby approved and thereafter retained.

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 Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

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. Cycle channels must be provided as part of the scheme to any flights of steps along the path to the south side of the site.
3. The planning permission granted includes a vehicle crossover which requires alterations and amendments to areas of the public highway. All necessary costs including any necessary amendments to a Traffic Regulation Order (TRO), the appropriate license and application fees for the crossing and any costs associated with the movement of any existing street furniture will have to be funded by the applicant. Although these works are approved in principle by the Highway Authority, no permission is hereby granted to carry out these works until all necessary and appropriate design details have been submitted and agreed. The crossover is required by law to be constructed under licence from the Highway Authority. The applicant must contact the Council's Streetworks team (permit.admin@brighton-hove.gov.uk 01273 290729) prior to any works commencing on the public highway.

2. SITE LOCATION

- 2.1. This application relates to a three-storey detached property located on the eastern side of Preston Park Avenue. The site rises from street level to the rear boundary to the east, and the rear garden steps up considerably from the ground floor level of the property.
- 2.2. The property is located opposite (east of) Preston Park (Grade II listed), within the Preston Park Conservation Area. It is set between a modern, five-storey block of flats to the north (Whistler Court), and a three-storey property which has been heavily extended to the rear and at roof level. In the wider context, the site lies within an area of mixed character consisting of several modern blocks of flats and traditional buildings, many of which have also been converted into flats, with a number of properties in the street containing back-land residential developments.

3. RELEVANT HISTORY

- 3.1. BH2020/02934- Erection of 2no two storey dwellinghouses (C3) in rear garden with associated landscaping. Demolition of existing garage and erection of a three storey rear extension & conversion of existing house including excavation of basement to provide 7no flats (C3) and associated alterations. Refused 01.04.2021. The reasons for the refusal were as follows:
1. The proposal to provide two new dwellings on the site by virtue of the plot coverage and positioning would be harmful to the character and appearance of the Conservation Area and would not be subservient to the original house and the combination of the built form of the two new dwellings with the proposed courtyard areas to serve the flatted house would erode the sense of green space which is a positive contribution to the setting of the area. The proposed development is therefore considered to represent an overdevelopment of the site and would fail to respect the historic grain and development pattern of the area or retain the primacy of the original house, contrary to policies CP12 and CP15 of the Brighton and Hove City Plan Part One and HE6 of the Brighton and Hove Local Plan 2005.
 2. The submitted viability report has not been assessed by the DVS (District Valuer Service) as the applicant has refused to have the report evaluated and therefore the application has failed to demonstrate that the scheme is not viable enough to support an affordable housing contribution, contrary to policy CP20 of the Brighton and Hove City Plan Part One.
- 3.2. This application is the subject of an appeal to the Planning Inspectorate (APP/Q1445/W/21/3272911) which is ongoing at the time of writing.
- 3.3. BH2020/02679- Application for approval of details reserved by conditions 5 (samples of materials), 6 (ground levels), 9 (landscaping), 13 (nature conservation) and 16 (site waste management plan) of application BH2019/00993. Approved 16.11.2020.
- 3.4. BH2019/00993- Erection of 2no two storey dwellinghouses (C3) in rear garden with associated landscaping. Demolition of existing garage and erection of a three storey rear extension & conversion of existing house to provide 6no flats (C3) and associated alterations. Approved 07.11.2019.
- 3.5. BH2018/02536 - Demolition of existing garage and erection of a three storey rear extension. Conversion of existing house to provide 6no flats (C3). Erection of 2no two storey dwellinghouses (C3) in rear garden with associated landscaping. Approved with Section 106 agreement 06.02.2019

4. APPLICATION DESCRIPTION

- 4.1. The application proposes the demolition of the existing garage and erection of a three storey rear extension, conversion of existing house including excavation of basement to provide 7no. flats (C3) and associated alterations.
- 4.2. The main external works to the house include a dormer window and inset balcony to the front elevation and a single storey rear extension with terrace

above, balcony at second floor level, a hipped roof projection with an adjoining gable projection, two single hipped extensions to the rear elevation, and with changes to the fenestration pattern including the side elevations.

- 4.3. In considering the application, the extant permissions BH2018/02536 and BH2019/00993 must be taken into account, allowing the conversion of the house to provide 6no. flats, as well as the erection of two new dwellings in the rear garden.
- 4.4. The recently refused application BH2020/02934 is also of relevance, though subject to appeal. As noted above, this sought the subdivision of the dwelling into seven flats, involving external extensions and alterations to the building, in addition to the erection of two new dwellings within the rear garden requiring substantial excavation. As noted above, this application was refused due to the harm to the Conservation Area caused by the overdevelopment of the site with the two rear dwellings, and that the lack of affordable housing provision had not been justified through a viability report assessed by the District Valuer Service.

5. REPRESENTATIONS

- 5.1. Seven (7) letters of representation have been received objecting to the proposal for the following reasons:
 - Overdevelopment
 - Purely money-led
 - Overshadowing
 - Loss of privacy
 - Loss of light
 - Loss of views
 - Expensive housing for rich people
 - Impact on foundations
 - Decrease of wildlife in the garden
 - Out of keeping in the conservation area
 - Traffic and Parking issues
 - Bring destruction to wildlife and greenery, noise, pollution, traffic, stress to residents
 - Overwhelm local amenity
 - Destruction of a family house and large garden

6. CONSULTATIONS

- 6.1. **Heritage:** Objection 27.05.2021
This application is for 7 flats as opposed to the 6 approved and includes for excavation of the main house to create a much larger basement in order to increase the number of flats that the house would accommodate. No structural report has been submitted to clarify whether or not this basement could be formed without causing structural harm to the house. The creation of large lightwells to the side/rear of the house would be inappropriate to the traditional

form of the house and the pattern of development in this area. The additions and alterations to the rear elevation of the house, particularly the formation of a balcony at high level within the new extension's gable, would be inappropriate and harmful to the character of the house, its proportions and hierarchy of floors.

Further comment 28.06.2021

6.2. The submitted letter and drawing from the structural engineer are sufficient to address the previous heritage concerns in respect of the structural implications of enlarging the basement and forming the lightwells. The objection regarding the alterations to the rear of the house remains.

6.3. **Sustainable Transport:** No objection
No objection subject to recommended amendments and conditions.

6.4. **Southern Water:** No objection

7. MATERIAL CONSIDERATIONS

7.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report

7.2. The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016);
- Brighton & Hove Local Plan 2005 (retained policies March 2016);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
- Shoreham Harbour Joint Area Action Plan (JAAP) 2019.

7.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

8. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP2	Sustainable economic development
CP7	Infrastructure and developer contributions
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP11	Flood risk

CP12	Urban design
CP14	Housing density
CP15	Heritage
CP16	Open Space
CP18	Healthy city
CP19	Housing mix
CP20	Affordable housing

Brighton & Hove Local Plan (retained policies March 2016):

TR4	Travel plans
TR7	Safe Development
TR14	Cycle access and parking
SU9	Pollution and nuisance control
SU10	Noise Nuisance
QD15	Landscape design
QD16	Trees and hedgerows
QD18	Species protection
QD27	Protection of amenity
HO5	Provision of private amenity space in residential development
HO9	Residential conversions and the retention of smaller dwellings
HO13	Accessible housing and lifetime homes
HE6	Development within of affecting the setting of Conservation Areas

Brighton & Hove City Plan Part Two (CPP2) (emerging)

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications. The weight given to the key CPP2 policies considered in determining this application is set out below where applicable.

DM1	Housing Quality, Choice and Mix
DM3	Residential conversions and the retention of smaller dwellings
DM20	Protection of Amenity
DM21	Extensions and alterations
DM22	Landscape Design and Trees
DM26	Conservation Areas
DM33	Safe, Sustainable and Active Travel
DM40	Protection of the Environment and Health - Pollution and Nuisance

Supplementary Planning Documents:

SPD06	Trees & Development Sites
SPD09	Architectural Features
SPD11	Nature Conservation & Development
SPD12	Design Guide for Extensions and Alterations
SPD14	Parking Standards

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the principle of development on site, the affordable housing provision, the visual impact of the proposal on the site and surrounding conservation area, the impact on neighbouring amenity, the standard of accommodation provided for future occupiers, sustainability and sustainable transport impacts.
- 9.2. Policy CP1 sets out the housing targets for the plan period with a provision target of 13,200 new homes for the city up to 2030. The council's most recent housing land supply position against this minimum target was published in the SHLAA Update 2020 and shows a five-year housing supply shortfall of 342 (equivalent to 4.7 years of housing supply).
- 9.3. However, on 24 March 2021 the City Plan Part One reached five years since adoption. National planning policy states that where strategic policies are more than five years old, local housing need calculated using the Government's standard method should be used in place of the local plan housing requirement. In addition, following an amendment to the standard method set out in national planning practice guidance, from 16 June 2021 onwards Brighton & Hove is required to apply an additional 35% uplift as one of the top 20 cities in the urban centres list.
- 9.4. The local housing need figure for Brighton & Hove using the standard method (including the 35% uplift) is 2,331 homes per year which gives a five-year housing supply shortfall of 6,604 (equivalent to 2.2 years of housing supply).
- 9.5. As the council is currently unable to demonstrate a five year housing land supply, increased weight should be given to housing delivery when considering the planning balance in the determination of planning applications, in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).

Principle of Development:

- 9.6. The property as existing comprises a two storey plus attic dwelling house. The proposed development seeks to increase the number of residential units at the site from 1 unit to 5 units. The proposal includes the subdivision of the existing dwelling into seven flats. Local Plan Policy HO9 states that subdivisions of dwellings will be accepted, provided the following criteria are met:
 - a. the original floor area is greater than 115 sq m or the dwelling has more than 3 bedrooms as originally built;
 - b. at least one unit of accommodation is provided which is suitable for family occupation and has a minimum of two bedrooms;
 - c. the proposal is not detrimental to adjoining properties, including those within the same building, in terms of noise and nuisance and there is adequate provision for the storage of refuse;
 - d. secure, covered cycle parking is provided (if off-street cycle parking is not available and provision cannot be made on-street, then a contribution may be sought towards cycle parking nearby);

- e. the proposal will not result in an unacceptable level of on-street car parking; and
 - f. if the building is listed, the proposal preserves the character of the listed building.
 - g. if the building is in a conservation area, the proposal preserves or enhances the character of the conservation area.
- 9.7. The original floor area is greater than 115m² and has more than three bedrooms, as originally built. The proposal would result in the creation of 6no. 2-bed units and 1no. 1-bed units. The two bed units would be suitable for family occupation and with the ground floor units being particularly suited to family occupation with access to private outdoor amenity space.
- 9.8. The proposed conversion is not considered to have a significant impact on neighbouring amenity, as set out in detail below. Suitable refuse and recycling storage is proposed which could be secured by condition, and cycle parking is proposed which is in line with SPD14 guidance.
- 9.9. The proposal is not considered to result in unacceptable levels of on street parking, as set out in detail below.
- 9.10. Criterion (f) relates to properties which are listed and therefore is not relevant in the determination of this application. The proposed conversion is considered to preserve the character and appearance of the conservation area.
- 9.11. The principle of the subdivision is therefore considered acceptable, subject to the detailed assessment set out below.
- 9.12. City Plan Part One Policy CP19 outlines that to improve housing choice and ensure that an appropriate mix is achieved across the city. Paragraph 4.202 of the supporting text of the policy CP19 (Housing Mix) sets out that, 'the council gives a high priority to the importance of achieving a good housing mix and a choice of housing (in terms of types and sizes of accommodation) in order to meet the diverse accommodation needs of the local community'. The housing mix is proposed to be 6no two bed units and 1no one bed unit and whilst this does not achieve this identified mix the provision is acceptable. Two and three bed dwellings are in most demand within the city and the development aims provide for family accommodation. As such, the unit mix is considered acceptable and would meet the need in the city to provide more family housing, in accordance with policy CP19.
- 9.13. Accordingly, no in-principle objection is raised to the proposal, which is considered to be compliant with Local Plan policy HO9 and City Plan Part One Policy CP19.

Design and Appearance:

- 9.14. Policy CP12 of the Brighton & Hove City Plan Part One seeks to ensure that all new development raises the standard of architecture and design in the City. In tandem with this, Policy CP14 of the City Plan seeks to encourage a higher density of development than those typically found in the locality provided

developments will, amongst other things, respect, reinforce or repair the character of a neighbourhood and contribute positively to its sense of place.

- 9.15. When considering whether to grant planning permission for development in a conservation area the Council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
- 9.16. Case law has held that the desirability of preserving or enhancing the character or appearance of a conservation area must be given "considerable importance and weight".
- 9.17. The existing rear elevation includes a number of extensions including a hipped roof projection with an adjoining gable projection, two single hipped extensions and a single storey extension with a roof terrace above. At roof level the property also includes two dormer windows, one of which abuts the hipped roof projection. The accumulation of these extensions / alterations gives the rear elevation a somewhat disjointed appearance with a number of features that do not relate to one another.
- 9.18. The proposed rear works would involve the removal of the existing harmful extensions and the erection of a replacement rear extension which would span the majority of the width of the rear elevation, including a three storey gable which would match the height of the existing extension and would project to the same depth as the existing ground floor extension. The gable extension would also include an adjoining hipped roof section with a dormer window at second floor level. To the rear the works would also include a single storey projection with a roof terrace above and formation of balcony within the new gable. A central dormer is proposed on the front elevation which would match the style of the existing, but with a reduced width and a replacement rooflight. An inset balcony at second floor level is also proposed.
- 9.19. The main extensions/alterations proposed under this application are the same as the approved permissions BH2018/02536 and BH2019/00993, save for some minor fenestration changes and the addition of balconies at second floor level to the front and rear elevation. The alterations that have been approved under these previous applications include the balconies at first floor level to the front and rear elevation so these elements of the scheme has previously been accepted.
- 9.20. The additional bulk and height of the extensions proposed to the rear of the main house would be significant, and would add notable depth to the dwelling. Given the scale of the plot, the set-back of the adjacent block of flats, and the numerous additions to other properties within the vicinity, it is considered that extensions of this scale and form can be accommodated on site. Furthermore, the proposal would remove a number of older ad-hoc additions which would unify the rear elevation into a readable and rational extension with sympathetic detailing.
- 9.21. The Heritage Officer has raised concern with regards to the creation of large lightwells to the side/rear of the house and the alterations to the rear elevation of the house, particularly the formation of a balcony at high level within the new

extension's gable. However, the works to the rear elevation are very limited in their visibility and are not highly visible in other contexts within the wider conservation area and are therefore considered acceptable in this instance. There is no objection to the courtyard lightwells at basement level, which would not be large enough to result in harm to the setting of the site.

- 9.22. The application also includes excavation under the main house to create a much larger basement in order to increase the number of flats that the house would accommodate. A structural report has been submitted confirming that the enlarging of the basement and formation of the lightwells would not result in structural harm to the house.
- 9.23. On balance, it is considered that this proposal would preserve the appearance and character of the building, wider street scene and the Preston Park conservation area, in accordance with policies HE6 of the Brighton & Hove Local Plan, CP12 and CP15 of the Brighton & Hove City Plan Part One and policy DM26 of CPP2 (of which can be given significant weight).

Standard of Accommodation For Future Occupiers:

- 9.24. The proposed conversion of the main building would include a 2 bedroom flat at basement level, two 2 bedroom flats at ground floor level, two 2 bedroom flats at first floor level and a 1 bedroom flat and 2 bedroom flat at second floor level.
- 9.25. The Nationally Described Space Standards, although not yet formally adopted by the Council, do provide a useful guide against which to assess the overall unit size and bedroom sizes, particularly as they are referred to in emerging Policy DM1 of City Plan Part 2 (which can be given significant weight). All of the units would comply with the Standards. The units would also benefit from adequate levels of light and outlook. The two ground floor flats would have access to private amenity space and all of the upper floor flats would benefit from balconies and with the basement flat having access to courtyard areas.
- 9.26. There is concern that the proposed basement unit would not receive adequate light or outlook. However, the main living area and bedroom would both benefit from courtyard areas which would provide an acceptable amount of outlook given the nature of the accommodation at lower ground floor level and a submitted daylight report has concluded that adequate daylight levels would be achieved.
- 9.27. The units would provide for a suitable standard of accommodation and would meet the needs of future occupiers, in accordance with Local Plan Policies QD27 and H05 and DM20 and DM1 of CPP2 which can be given significant weight.

Impact on neighbouring Amenity:

- 9.28. Policy QD27 of the Brighton & Hove Local Plan and emerging policy DM21 of City Plan Part 2 (that can be given significant weight) state 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.

- 9.29. The properties most likely to be affected would be those directly adjacent including the flats within 24 Preston Park Avenue to the south and Whistler Court to the north. Given the level of separation of the works from properties to the rear, it is not considered that any significant harm would arise in this direction.
- 9.30. 24 Preston Park Avenue is a 3 storey property which has been subdivided into 12 flats in addition to two further ground floor flats, one of which is set within a rear single storey extension, known as The Cottage, 24B Preston Park Avenue.
- 9.31. Whilst the extensions to the existing building would be visible from a number of side facing windows, in addition to several rear facing windows in oblique views, the predominant outlook of the flats to the front and rear would be retained. The new side windows would retain a similar outlook to the existing windows and are therefore considered acceptable. Overlooking from rear windows would be to a degree in keeping with a residential area such as this.
- 9.32. Whistler Court to the north is a five storey block of flats which is set to the rear of the application building and affords a number of views over the application site and the building itself. A number of the flats have outlook to the south from living rooms and kitchens which look at / over the application site. As a result, the proposed extensions to the existing building would be visible and would result in some loss of outlook to the lower level flats. Given the level of separation, the existing arrangement in addition to the fact that the main outlook to the front, and over Preston Park would not be impacted, the resultant relationship is considered acceptable. The balconies are either inset or could have some privacy screening secured by condition and therefore it is not considered that any significant overlooking/ loss of privacy would occur.
- 9.33. The proposal is compliant with Policy QD27 of the BHP and policy DM20 of CPP2 (of which can be given significant weight) and it ensures that there would be no significant or adverse impacts or loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.

Ecology:

- 9.34. Policy CP10 of the City Plan Part One seeks to ensure that all new development proposals conserve existing biodiversity, protecting it from the negative indirect effects of development including noise and light pollution.
- 9.35. The applicant has submitted a Biodiversity checklist which confirms that the existing site does not show signs of any protected species being located on site and the proposal would not result in the loss of any mature trees. Overall, the proposal would not have any significant impacts on existing biodiversity on or off site.

Sustainability:

- 9.36. Refuse and recycling is being provided close to front of the site which appears to be adequate for the scale of development. Refuse and recycling provision has been secured via condition.

Sustainable Transport:

- 9.37. The sub-division of the existing dwelling would result in an uplift of trip generation.
- 9.38. The development would generate off-site transport impacts, the mitigation of which would be secured via Community Infrastructure Levy which funds identified highway schemes required in the local area.
- 9.39. Within the previous application the applicant submitted a parking survey which demonstrated that there is sufficient capacity in the immediate area (47% occupancy) to accommodate the parking demand that the proposed development is likely to create. The applicant is proposing two off-street parking spaces and census data indicates that car ownership in this area is 0.8 per household (six spaces). Notwithstanding this, it is not considered appropriate to impose the car-free condition requested by the LHA because parking in the local area, and limiting the issue of parking permits is already covered through the management of the Controlled Parking Zone.
- 9.40. The applicant is proposing 14 cycle parking spaces which is in line with SPD14 guidance. Whilst they would be accessed by steps which is not ideal it is acknowledged that the topology of the site may not lend itself to level access and this arrangement has been accepted in similar applications subject to cycle channels being proposed.
- 9.41. The spaces are proposed to be Sheffield Stands and further details are needed including how they would be covered and secure and with cycle channels which has been secured via condition.

Affordable Housing:

- 9.42. Policy CP20 of the City Plan Part One requires developments of between 5 and 9 (net) residential units to provide 20% affordable housing as an equivalent financial contribution. In this instance, based on the methodology set out in the Developer Contributions Technical Guidance Paper the representative provision of affordable housing for the provision of 6 units (net) would equate to 2 bedroom flat, which in Zone 2 results in a total contribution of £182,250.
- 9.43. However, the applicant has submitted a Statement of Viability to demonstrate that the development would not be viable enough to support an affordable housing contribution. This has been assessed by the District Valuer Service which has confirmed that the scheme would not be viable enough to support an affordable housing contribution.
- 9.44. In light of the conclusion from the DVS it is therefore considered that an affordable housing provision should not be secured in this instance.

Community Infrastructure Levy:

- 9.45. Under the Regulations of the Community Infrastructure Levy (CIL) 2010 (as amended), Brighton & Hove City Council adopted its CIL on 23 July 2020 and began charging on all CIL liable planning applications on and from the 5 October

2020. It is estimated that the amount of CIL liability for this application would be £24,526.35. The exact amount will be confirmed in the CIL liability notice which will be issued as soon as it practicable after the issuing of planning permission.

10. EQUALITIES

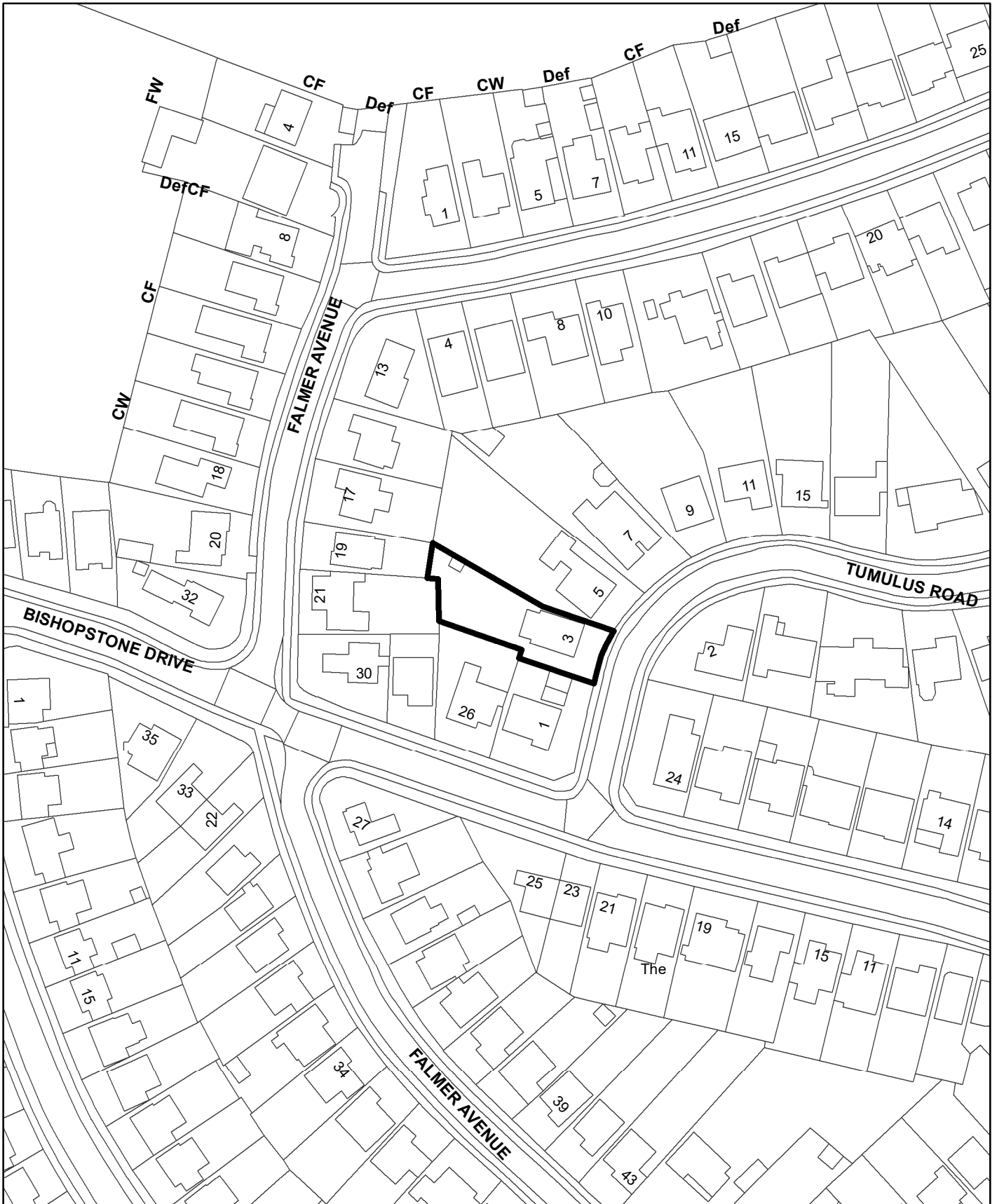
10.1. Access standards are not sought on conversions.

ITEM G

**3 Tumulus Road
BH2021/01800
Householder Planning Consent**

DATE OF COMMITTEE: 1st September 2021

BH2021 01800 - 3 Tumulus Road



N



Scale: 1:1,250

<u>No:</u>	BH2021/01800	<u>Ward:</u>	Rottingdean Coastal Ward
<u>App Type:</u>	Householder Planning Consent		
<u>Address:</u>	3 Tumulus Road Saltdean Brighton BN2 8FR		
<u>Proposal:</u>	Formation of additional storey incorporating rear Juliet balconies.		
<u>Officer:</u>	Steven Dover, tel:	<u>Valid Date:</u>	14.05.2021
<u>Con Area:</u>		<u>Expiry Date:</u>	09.07.2021
<u>Listed Building Grade:</u>		<u>EOT:</u>	
<u>Agent:</u>	Mohsin Cooper Limited	7 Hove Manor Parade	Hove Street Hove BN3 2DF
<u>Applicant:</u>	Ms Ashleigh Phare	3 Tumulus Road	Saltdean Brighton BN2 8FR

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

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
Proposed Drawing	0384-P04		20 July 2021
Proposed Drawing	0384-P01	A	20 July 2021
Proposed Drawing	0384-P02	A	20 July 2021
Proposed Drawing	0384-P03	B	20 July 2021
Location and block plan	0384-S01		14 May 2021

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. A bee brick shall be incorporated within the external wall of the development hereby approved and shall be retained thereafter.

Reason: To enhance the biodiversity of the site and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

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. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.

2. SITE LOCATION

- 2.1. The application relates to a detached two storey property, located on the western side of Tumulus Road. It is not within a conservation area and does not have any Article 4 directions in force which remove 'permitted development' rights, apart from the city-wide restriction on conversions of dwellings to C4 Houses in Multiple Occupation.
- 2.2. The area has an eclectic mix of styles and sizes of housing, comprising modest, single-storey bungalows, and two-storey houses. The land slopes significantly downwards from north to south in the area, so that to the north of the application site lies No.5 Tumulus Road, a two-storey, detached house on a significantly higher ground level. To the south are the rear gardens of No.1 Tumulus Road and 26 Goldstone Drive, both of which front Goldstone Drive and are located significantly lower than the application site. To the west (rear) are the rear gardens of two-and one storey detached properties which front onto Falmer Avenue.

3. RELEVANT HISTORY

- 3.1. PRE2021/00043 - Pre-application advice regarding householder development comprising new, second-floor extension to the existing detached two storey house, to create four bedrooms and bathroom and new roof. Issued 12.04.2021
- 3.2. The advice highlighted that the height and form of the extension would be key to its acceptability. Mitigating harm to the streetscene and host property would be key, while ensuring that the rhythm of dropping ridge lines is maintained. The impacts on neighbours, particularly at No.1 Tumulus Road, was a concern and side windows were unlikely to be acceptable in any elevated extension. Care was also needed to ensure the extended side elevations did not adversely affect the outlook of No.1 Tumulus Road.
- 3.3. The advice concluded: **The principle of the second-floor extension may be acceptable, subject to overall design and informed by the comments and suggestions in this pre application advice.**

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for the formation of an additional storey incorporating rear Juliet balconies.

- 4.2. The plans have been amended during the course of the application to lower the proposed roof, and to remove proposed south side facing dormers. This was done to meet officer concerns regarding adverse harm to southern neighbours from overlooking, and appearance of the host property in the streetscene.

5. REPRESENTATIONS

- 5.1. **Six** (6) unique letters objecting to the proposed development on the following grounds:

- Height
- Impact on property value
- Overshadowing
- Overdevelopment
- Would affect views
- Poor design
- Too close to boundary
- Retaining walls insufficient to take weight
- Traffic generation and parking

Note: these objection letters related to the original plans, which had a higher roof and side elevations, with side dormers facing south.

6. CONSULTATIONS

None

7. MATERIAL CONSIDERATIONS

- 7.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report

- 7.2. The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016)
- Brighton & Hove Local Plan 2005 (retained policies March 2016);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
- Shoreham Harbour Joint Area Action Plan (adopted October 2019);

- 7.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

8. RELEVANT POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP10	Biodiversity
CP12	Urban design

Brighton & Hove Local Plan (retained policies March 2016):

QD14	Extensions and alterations
QD27	Protection of Amenity
CP10	Biodiversity

Brighton & Hove City Plan Part Two

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications. The weight given to the relevant CPP2 policies considered in determining this application is set out in the Considerations and Assessment section below where applicable.

DM18	High quality design and places
DM20	Protection of Amenity
DM21	Extensions and alterations

Supplementary Planning Documents:

SPD12	Design Guide for Extensions and Alterations
SPD11	Nature Conservation & Development

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the impact of the proposed development on the appearance and character of the building and the wider area; and the impact on the amenities of adjacent occupiers.

Design and Appearance

- 9.2. The addition of the extra storey to the existing dwelling would increase its height and massing, but not footprint. The property currently comprises a rectangular footprint with two storeys fronting onto the highway. Due to a change in levels, it appears single storey when viewed from the rear. The existing roof form is a shallow dual pitch roof with gable ends at the front and rear.
- 9.3. The proposed additional floor would retain the gable roof form and the pitch. This is considered an acceptable design as it would cause the least disruption to the existing streetscene and host property. The proposed works would not extend the building any further towards the site boundaries or closer, therefore, to neighbouring properties.

- 9.4. The raising of the ridge height, together with the increase in the bulk of the roof, would increase the prominence of the building in the streetscene. The overall height would increase by approximately 1.8 metres, but would remain lower than the ridge height of No.5 Tumulus Road to the north, and would maintain the rhythm of decreasing roof heights from north to south. The eaves would be raised to be higher than No.5 Tumulus, but the differing property designs in the road means that there are already significant differences between eaves height and forms of neighbouring properties so this would not be overly incongruous.
- 9.5. The new elevations, matching the existing in overall design and materials, are considered acceptable. The area has no predominant design style and form, with an eclectic mix of one and two storey properties with varying forms of roof, facade material and colour. The new storey would have cladding as the finishing material, therefore bringing relief to the extended front and side elevation, breaking up what could otherwise be a large brick facade on the southern elevation facing No.1 Tumulus Road.
- 9.6. The amount of fenestration would increase substantially over the existing, with the provision of rear Juliet balconies and new front facing windows. The windows at the front would replicate the style of the existing and are located above the existing first floor windows. However they would not entirely align as the lower windows are installed unevenly in the front elevation, with differing forms. The proposed evenly-spaced design is considered preferable to aligning with the existing windows, despite not fully meeting SPD12 guidance.
- 9.7. The rear Juliet balconies would be evenly spaced in the rear elevation. The existing rear elevation has limited and unevenly spaced fenestration, so aligning the balconies with this would again be seen less favourably. The design of the rear Juliet balconies are considered appropriate, with little, if any impact on the appearance of the building from the public realm.
- 9.8. The proposed works would be constructed in brick with white painted render and areas of timber cladding. The new roof would be finished in concrete tiles, and the new fenestration would be uPVC, with a new rooflight low in profile. The materials are considered acceptable and would not appear incongruous as they would be matching existing on the host property. The surrounding area has a mixture of material finishes and styles with the use of brick, timber and render for elevations, of varying colours from white to black. The surrounding roof finishes are predominantly tiled, with brown, red and grey colours. The fenestration in the streetscene are varied with a white, brown and black uPVC of mixed styles. The proposed works materials and form would therefore complement the existing varied streetscene and cause no disruption.
- 9.9. The existing building has limited architectural merit so its retention as existing is not considered beneficial. The extended property would not appear incongruous or disruptive through design or form in the existing varied streetscene. The proposal is not considered to be out of keeping of development in the wider area.
- 9.10. Therefore, the proposed works are considered to be a suitable addition to the building that would not significantly harm its appearance or that of the wider area,

in accordance with policy QD14 of the Brighton & Hove Local Plan, CP12 of City Plan Part One, policies DM18 and DM21 of City Plan Part Two (the former can be given limited weight and the latter significant weight), and SPD12 guidance.

Impact on Amenity

- 9.11. Policy QD27 of the Brighton & Hove Local Plan and emerging Policy DM20 of City Plan Part 2 (which can be given significant weight) both state 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.
- 9.12. A recent site visit has been carried out by the case officer to fully assess the impact of the proposed works.
- 9.13. It is considered that although the scheme would increase the amount of fenestration, it would not lead to substantially increased overlooking or adverse harm to the privacy of neighbouring properties. The new, front-facing fenestration would only overlook front gardens and open space of nearby properties, limiting any adverse harm to private amenity. The new rooflight on the north elevation would provide only skyward views.
- 9.14. The rear Juliet balcony, although increasing the amount of glazing in this area substantially, are not considered to provide vantages and overlooking in excess of what would normally be expected and exists in relation to residential gardens in this area. As they would serve only bedrooms, and would have no external space, the level of overlooking is considered minimal. Views to the rear (west) would be screened by existing foliage, and the distance to the common boundary in excess of 20metres, with a further 16 metres to the rear elevation of No.21 Falmer Avenue (total 36 metres).
- 9.15. Views and overlooking to the south would be partially screened by the existing foliage, and would be oblique in relation to No.26 Bishopstone Drive. No increase in views or overlooking would occur to No.1 Tumulus Road.
- 9.16. Views to the north, towards No.5 Tumulus Road, would increase due to the elevated position of the windows, but would be mitigated and partially screened by existing foliage and the changes in land level, being higher to the north. No.5 already has an elevated window so a degree of mutual overlooking exists.
- 9.17. Considering the above, the degree of adverse harm to amenity through increased overlooking from the rear fenestration is considered limited and not significant enough to warrant refusal.
- 9.18. The raising of the roof height and new form would lead to a reduction in the view from the properties at No.1 Tumulus Road and No.26 Bishopstone Drive. However a right to and retention of a view is not a material consideration in the determination of planning applications.

- 9.19. The proposed works would have no overbearing or overshadowing effects to the properties to the rear (west) and front (east), due to the distances involved. The neighbouring property to the south, No.1 Tumulus Road, would see an increase in the bulk and massing to their northern boundary, from the raised roof and increased side elevation. However, there is 12 metres between the properties, so it is not considered the scheme would have an overbearing impact.
- 9.20. No.5, to the north, is not considered to suffer significantly from overbearing effects as the works take place on the side elevation of their property and it is set higher than No.3. Overshadowing effects from the works would appear to be limited, only affecting No.5 at midday, if at all.
- 9.21. Therefore, it is not considered that the proposed extension and works would cause any significant harm to amenity, in accordance with Policy QD27 of the Brighton & Hove Local Plan and Policy DM20 of CPP2 (which can be given significant weight).

Other Matters

- 9.22. A condition requiring a bee brick has been attached to improve ecology outcomes on the site in accordance with the Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
- 9.23. Objection letters have raised the ability of the existing walls to support the proposed structure. This is not a planning matter and would need to be assessed by the applicant's agents and contractors prior to commencement. The works would also fall within the remit of Building Control.

Conclusion:

- 9.24. The proposed development is considered acceptable in terms of its impact on streetscene and wider area, and would cause no significant harm to neighbouring amenity. Approval is therefore recommended.

10. EQUALITIES

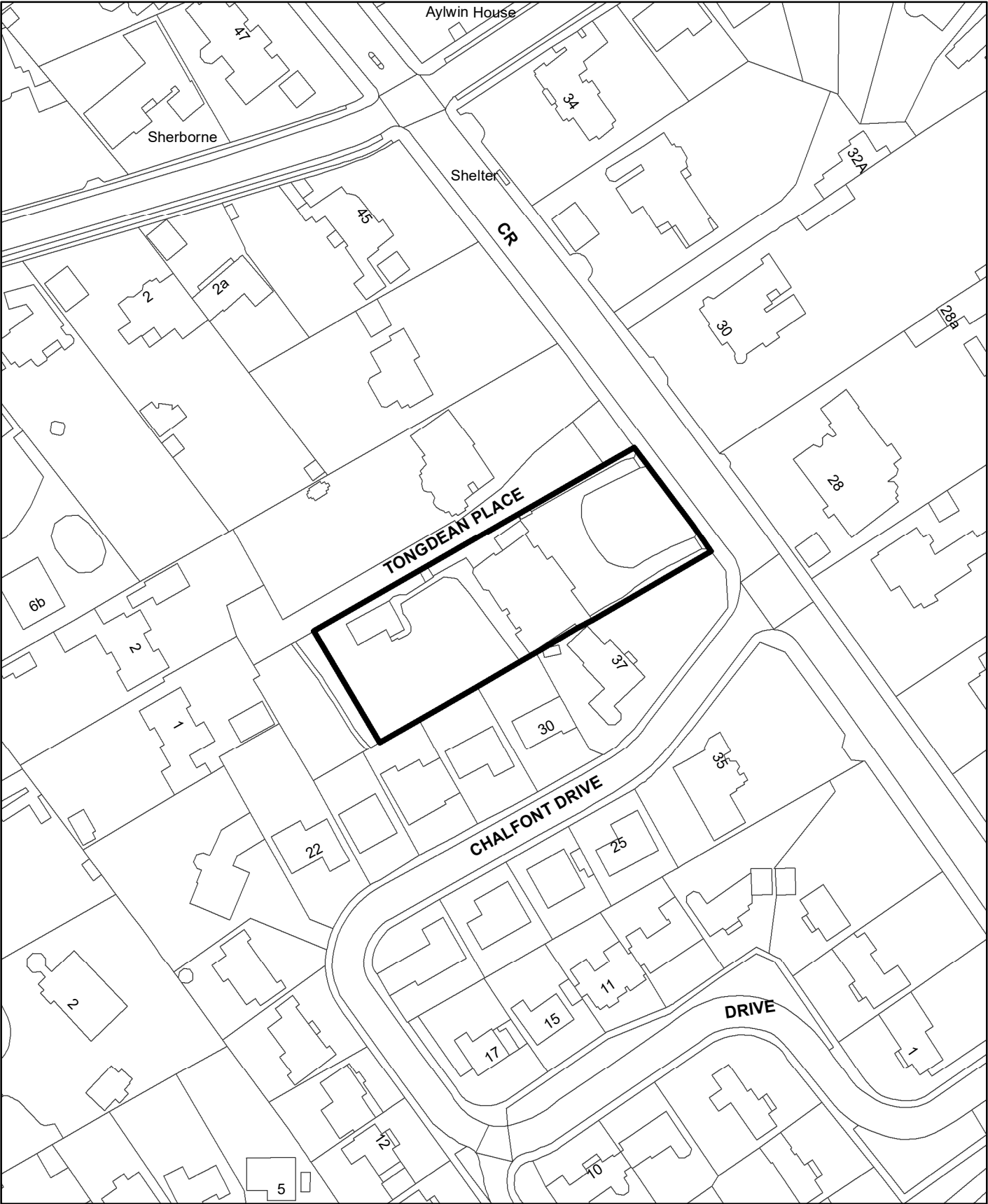
None identified

ITEM H

**39 Dyke Road Avenue
BH2021/01326
Full Planning**

DATE OF COMMITTEE: 1st September 2021

BH2021 01326 - 39 Dyke Road Avenue



N



Scale: 1:1,250

<u>No:</u>	BH2021/01326	<u>Ward:</u>	Hove Park Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	39 Dyke Road Avenue Hove BN3 6QA		
<u>Proposal:</u>	Erection of part one, part two storey rear extension with glazed link and associated works to provide an additional 10no. bedrooms to existing care home.		
<u>Officer:</u>	Helen Hobbs, tel: 290585	<u>Valid Date:</u>	12.04.2021
<u>Con Area:</u>	Tongdean	<u>Expiry Date:</u>	07.06.2021
<u>Listed Building Grade:</u>	<u>EOT:</u>		
<u>Agent:</u>	Dowsettmayhew Planning Mocatta House Trafalgar Place Brighton BN1 4DU		
<u>Applicant:</u>	Oaklands Care Hove Ltd C/O Dowsettmayhew Planning 63A Ship Street Brighton BN1 1AE		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

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
Proposed Drawing	C0601-109B		10 June 2021
Proposed Drawing	C0601-107C		10 June 2021
Location Plan	C0601- 100A		12 April 2021
Block Plan	C0601 - 107A		12 April 2021
Proposed Drawing	C0601 - 132A		12 April 2021
Proposed Drawing	C0601 - 108A		12 April 2021
Proposed Drawing	C0601 - 130A		12 April 2021
Proposed Drawing	C0601 - 131A		12 April 2021
Proposed Drawing	C0601 - 135A		12 April 2021
Proposed Drawing	C0601 - 136A		12 April 2021
Proposed Drawing	C0601 - 137A		12 April 2021
Proposed Drawing	C0601 - 140A		12 April 2021
Proposed Drawing	C0601- 145A		12 April 2021
Proposed Drawing	C0601- 146A		12 April 2021
Proposed Drawing	C0601- 147A		12 April 2021
Proposed Drawing	C0601- 148A		12 April 2021
Proposed Drawing	C0601- 149A		12 April 2021
Proposed Drawing	C0601- 150A		12 April 2021
Proposed Drawing	C0601- 155A		12 April 2021

Proposed Drawing	RCO373 / 01 01		12 April 2021
Proposed Drawing	RCO373 / 02 00		12 April 2021
Proposed Drawing	RCO373 / 03 00		12 April 2021

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 development above ground floor slab level of any part of the development hereby permitted shall take place until samples/details 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/details of all brick, render and tiling (including details of the colour of render/paintwork to be used)
 - b) samples/details of all hard surfacing materials
 - c) samples/details of the proposed window, door and balcony treatments
 - d) details 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 policies QD14 and HE6 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton & Hove City Plan Part One.

4. The landscaping scheme detailed on drawing no. RCO373/0101 and RCO373/0200 received on 12/04/2021 shall be carried out in the first planting and seeding season following the first occupation of the building/use hereby permitted or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become, in the opinion of the Local Planning Authority, seriously damaged or diseased, shall be replaced with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD15 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.

5. The development hereby permitted shall not be commenced (including demolition and all preparatory work) until the protection measures identified in the submitted Arboricultural Implications Assessment received on the 12/04/2021 are in place and retained throughout the construction process. The fences shall be erected in accordance with British Standard BS5837 (2012) Trees in relation to design, demolition and construction - Recommendations and shall be retained 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: As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to comply with policies QD16 of the Brighton & Hove

Local Plan and CP12 of the Brighton & Hove City Plan Part One and SPD06:Trees and Development Sites.

6. The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities 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 and SPD14: Parking Standards.
7. The development hereby permitted shall not be first occupied until details of dedicated disabled car parking provision for the occupants of, and visitors to, the development has been submitted to and approved in writing by the Local Planning Authority. The approved scheme 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 the development provides for the needs of disabled staff and visitors to the site and to comply with policy TR18 of the Brighton & Hove Local Plan and SPD14: Parking Standards.
8. Prior to first occupation of the development hereby permitted a bee brick shall be incorporated within the external wall of the development and shall be retained thereafter.
Reason: To enhance the biodiversity of the site and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
9. Prior to first occupation of the development hereby permitted 11 swift bricks/boxes shall be incorporated within the external walls of the development and shall be retained thereafter.
Reason: To enhance the biodiversity of the site and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
10. Within 6 months of first occupation of the development hereby permitted a BREEAM Building Research Establishment issued Post Construction Review Certificate confirming that the non-residential development built has achieved a minimum BREEAM New Construction rating of 'Very Good' shall be 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 CP8 of the Brighton & Hove City Plan Part One.

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. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.
3. Swift bricks/boxes can be placed on any elevation, but ideally under shade-casting eaves. They should be installed in groups of at least three, at a height above 5m height, and preferably with a 5m clearance between the host building and other buildings or obstructions. Where possible avoid siting them above windows or doors. Swift bricks should be used unless these are not practical due to the nature of construction, in which case alternative designs of suitable swift boxes should be provided in their place where appropriate.
4. The applicant is advised that details of the BREEAM assessment tools and a list of approved assessors can be obtained from the BREEAM websites (www.breeam.org).

2. SITE LOCATION

- 2.1. The application relates to a large two-storey detached property currently in use as a 20 bed care home for the elderly. The building is situated in the Tongdean Conservation Area and the plot is subject to a Tree Protection Order.

3. RELEVANT HISTORY

- 3.1. BH2019/03379 Erection of part one part two storey rear extension to facilitate three new blocks on existing care home. Refused 8 January 2020 for the following reason:
The proposed extension, due to its excessive scale and massing, would not be subservient to the existing building and would result in the overdevelopment of the site which would be inappropriate and fail to preserve or enhance the Tongdean Conservation Area which is characterised by large plots with trees. Furthermore, the public benefits of the proposed development do not outweigh the harm identified. The proposal is therefore contrary to policies QD14 and HE6 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.
- 3.2. BH2017/03152 Erection of part one part two storey rear extension to facilitate three new blocks on existing care home. Refused 02/08/2018. Appeal Dismissed. Refused for the following reasons:
 - 1) *The proposed extension would not be subservient to the existing building and would result in the overdevelopment of the site which would be inappropriate and fail to preserve or enhance the Tongdean Conservation Area which is characterised by large plots with trees, contrary to policies QD14 and HE6 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One. The benefits of the proposed development do not outweigh the harm caused.*

- 2) *The proposed extension would adversely impact on the two horse chestnut trees on the adjoining site to the north west, contrary to policies QD16 and HE6 of the Brighton & Hove Local Plan. The benefits of the proposed development do not outweigh the harm caused.*

4. PRE-APPLICATION ADVICE

4.1. PRE2020/00280 Response summary, following a complete re-design of the proposal after previous refusal and pre-application response:

- At the meeting the history of the site was discussed and it was acknowledged that the main concern of the previous schemes have related to the scale and design of the extension. This response therefore centres the design considerations of the development;
- The design approach is considered a significant improvement on previous schemes;
- The scale of the extension remains similar to previously refused schemes, although it is noted that some of the massing would be less visible from the public vantage points within the conservation area and its relationship with the main building has been significantly improved;
- The previous appeal decision for the 2017 remains a relevant consideration of any future application in which the Inspector dismissed the appeal due to the impact of the extension on the conservation area and the overdevelopment of the plot.

4.2. PRE2020/00032 Response Summary;

- The previously refused application established that the main concern of the proposal related to scale and design of the extension;
- The recent appeal decision gave limited weight to the additional bed spaces being created and any public benefit gained from the proposal, stating that it would not outweigh the harm to the conservation area.
- The current proposal is still considered overly large and poorly designed

5. APPLICATION DESCRIPTION

- 5.1. Erection of part-one, part two-storey rear extension with glazed link and associated works to provide an additional 10no. bedrooms to an existing care home.

6. REPRESENTATIONS

- 6.1. Five (5) letters have been received objecting to the proposed development for the following reasons:
- Loss of view
 - Noise disturbance
 - Overdevelopment
 - Design

- Commercial nature of the premises
- Impact on traffic
- Increase in parking
- Overlooking
- Overshadowing
- Overbearing
- Loss of privacy
- Overlooking
- Impact on wildlife and flora
- Impact on conservation area

7. CONSULTATIONS

7.1. **Arboriculture:** Comment

No objections to the proposal. Clarification required on two points;

- Ground protection - the proposed scaffold boards are acceptable, however these should be required to be lain over geotextile with a minimum of 100mm of compacted wood chip / bark
- Decompaction treatment needs clarification, ie terravent etc

7.2. With those confirmed and included within the submission there would be no arboricultural objection, the standard conditions would be sufficient.

7.3. **Brighton and Hove Archaeological Society** No objections

7.4. **County Archaeologist** No objections

7.5. **Heritage:** Comment: Summary: Design is greatly improved but some reservations regarding the scale and site coverage remain. The evolution of this scheme has resulted in undoubted improvements to the design of the proposed extension, however the degree to which the site coverage impacts the original generous provision of garden space for this property is still considered to result in harm to the character of the conservation area. This harm would be considered to be less than substantial, however it remains necessary for any public benefits resulting from this proposal to be balanced against this harm.

7.6. **Sustainable Transport:** Comment: Summary: The proposal would not have a severe impact on the transport network. Clarification needed regarding car parking and cycle storage. *[Note: applicant has now provided drawings of cycle storage, and has confirmed no additional car parking spaces are proposed.]*

7.7. No trip generation information has been submitted as part of this application. In the absence of this information we have undertaken our own trip rate assessment using TRICS. The extension of the care home could generate an additional 30 two-way daily vehicle movements with 3 two-way vehicle movements in the AM peak and 2 two-way vehicle movements in the PM peak. Therefore, we would not consider the development to have a severe impact on the highway and surrounding transport network in this instance.

- 7.8. **Southern Water: Comment:**
The applicant has not stated details of means of disposal of foul drainage from the site. Southern Water requires a formal application for any connection to the public foul sewer to be made by the applicant or developer.

8. MATERIAL CONSIDERATIONS

- 8.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 8.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016)
 - Brighton & Hove Local Plan 2005 (retained policies March 2016);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
 - Shoreham Harbour JAAP (adopted October 2019).
- 8.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

9. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP12	Urban design
CP15	Heritage

Brighton and Hove Local Plan (retained policies March 2016):

TR7	Safe Development
TR14	Cycle access and parking
QD5	Design - street frontages
QD14	Extensions and alterations
QD15	Landscape design
QD16	Trees and hedgerows
QD18	Species protection
QD27	Protection of amenity
HO20	Retention of community facilities

HE6 Development within or affecting the setting of conservation areas

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD06	Trees & Development Sites
SPD09	Architectural Features
SPD11	Nature Conservation & Development
SPD12	Design Guide for Extensions and Alterations
SPD14	Parking Standards

Brighton & Hove City Plan Part 2:

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications. The weight given to the relevant CPP2 policies considered in determining this application is set out in the Considerations and Assessment section below where applicable.

DM4	Housing and accommodation for older persons
DM18	High quality design and places
DM19	Maximising Development Potential
DM20	Protection of Amenity
DM21	Extensions and alterations
DM22	Landscape Design and Trees
DM26	Conservation Areas
DM33	Safe, Sustainable and Active Travel
DM36	Parking and servicing
DM40	Protection of the Environment and Health - Pollution and Nuisance
DM44	Energy Efficiency and Renewables

10. CONSIDERATIONS & ASSESSMENT

Executive Summary:

- 10.1. The scheme is considered to be a significant improvement on the previous proposals and would not cause substantial harm to the character and appearance of the existing property, streetscenes or the surrounding conservation area. The benefits of additional specialist care home provision are a positive of the scheme which balance against any limited harm to the conservation area. Residential amenity would not be compromised. The proposal would have limited impact in terms of transport. The proposal would be sustainable and valuable trees would be protected.

Main Considerations:

- 10.2. The main considerations relating to the application are the principle of the development, the design and appearance of the proposal on the surrounding Tongdean Conservation Area, the impact of the extension upon neighbouring amenity, the standard of accommodation proposed, the impact on trees and transport issues.

Background:

- 10.3. The application relates to a two-storey detached property on Dyke Road Avenue. The property is Edwardian, built in 1901 with Old English vernacular consisting of red brick, tile hanging and half-timbering, with stone mullions and dressings to some windows. The building is situated within the Tongdean Conservation Area, and is described in the Tongdean Character Statement as the 'most notable of the surviving Edwardian houses', albeit the property is not listed. The plot is subject to a Tree Protection Order.
- 10.4. The property is currently in use as Oaklands Care Home for the elderly (use class C2) providing 22 bedspaces. Planning permission is sought for the erection of a part single-, part two-storey rear extension to the northwest of the site, facilitating 15 bedrooms. Some of the existing bedrooms would be converted to communal space or additional bathrooms within the main building, therefore resulting in a net gain of 10 new bedrooms.
- 10.5. The site has had a number of refused applications, the first of which (BH2017/03152) was refused on 18/07/2018 and subsequently dismissed at planning appeal for failing to preserve or enhance the character or appearance of the Tongdean Conservation Area (appeal ref: APP/Q1445/W/18/3214431).
- 10.6. The Inspector stated on the 2017 application that "The proposal would be viewed as an unduly dominant and bulky addition, which would detract from the character and appearance of the host property. The applicant submitted a Care Needs Assessment Document with the 2017 application setting out the need for the additional care home accommodation. The Inspector concluded however that 'Whilst additional accommodation for elderly residents would constitute a public benefit, including for primary care services, it can only be afforded limited weight...the appeal premises do not appear more suitable than any other less sensitive site. The appeal scheme would also generate additional employment opportunities locally. However, these public benefits would be clearly outweighed by the harm which the proposal would cause to the Tongdean Conservation Area.'
- 10.7. Whilst the subsequent 2019 (refused) application had reduced the scale and overall floor area and had altered the design, these did not fully address the concerns of the appeal Inspector. The present application, therefore, seeks to overcome those concerns and has resulted from significant pre-application advice.

Principle of Care Home Use and Standard of Accommodation:

- 10.8. The site is an existing care home located in a residential area. The principle of an extension is supported, to allow a more efficient use of the site.
- 10.9. The application would allow for the provision of a net gain of 10 bedrooms in the property. All of the new rooms would have en-suite bathrooms and access to natural light and outlook. The floorspace of the new rooms measure approximately 20m². The proposed bedrooms would have a good amount of circulation space.

- 10.10. Policy HO11 of the Brighton & Hove Local Plan seeks to secure appropriate amenity space for residents and states that the amount of amenity space should allow 25m² per resident, although a lower standard would be accepted for care homes where residents are less mobile. In this instance, the communal areas are being extended within the existing ground floor layout and a garden room is being provided within the proposed extension. The communal areas would total more than 120m² and therefore would be acceptable for the proposed number of occupants.
- 10.11. It is noted that the proposed extension would consume a large area of the existing garden. It is however considered that the remaining garden area would allow for sufficient amenity space for residents in this instance, in accordance with Policy HO11.
- 10.12. In light of the above, overall the proposed layout is considered to represent a good standard of accommodation for residents.
- 10.13. Emerging policy DM4 (Housing and Accommodation for the Elderly) in City Plan Part Two is considered to hold significant weight and will replace policy HO11. DM4 seeks to ensure there is a sufficient supply and range of housing and accommodation suitable for older people and is underpinned by the Older People's Housing Needs Assessment which includes projections of need for specialist housing and accommodation for older people in Brighton & Hove over the period to 2030 and beyond. The study recommends that to meet the full range of needs of older people, it will be necessary to plan for a mix of housing and care models, including specialised housing for older people that will cater for growing number of people living with dementia and complex care needs, including hybrid housing and nursing care models that can cater for people living with dementia and other complex care needs to end of life.
- 10.14. On the basis of the above, the provision of additional specialist care beds is welcomed.

Design and Appearance:

- 10.15. When considering whether to grant planning permission for development in a conservation area the council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. Case law has held that the desirability of preserving the character or appearance of a conservation area must be given "considerable importance and weight".
- 10.16. The current scheme follows detailed pre-application advice on a scheme that has been significantly re-designed since the previous refusals. The design of the proposed extension, whilst still large in scale, integrates far better with the main building due to the detailing, roof forms and use of materials.
- 10.17. The maximum depth of the extension would be 34m, projecting from the rear building line of the existing building. Whilst this is a similar depth to the previously-refused proposals, significant changes have been made to the design

to reduce mass and bulk, particularly along the northern boundary and at second floor level.

- 10.18. The extension is divided into three blocks which would step down in height as well as step in away from the side boundary to reduce the visibility of the proposal from the road and other public vantage points. The tallest block would measure 8.9m in height, the central block 8.4m in height and the single storey block 4.5m. The extension would be connected to the main building by a glass link extension which would integrate far better than previous proposals.
- 10.19. The Heritage Officer raised concern over the proposed scale of the extension at pre-application stage. The applicant has provided sufficient evidence to demonstrate why the additional bedrooms are required, and the room sizes have been reviewed to ensure that they would provide suitable accommodation without extending the building more than is required. As a result the proposed extension has been slightly reduced since that proposed at pre-application stage.
- 10.20. The application includes visualisations that indicate limited visibility of the proposed extension from the public realm due to the reduced scale and stepping of the planform progressively from the northern boundary. The visibility of the extension was a key concern of the Planning Inspector and it is considered that this current scheme successfully addresses these concerns.
- 10.21. The current scheme no longer significantly impacts on the surrounding conservation area due to its reduced visibility, and whilst the Heritage Officer has identified some harm due to the site coverage of the development, the harm is considered to be less than substantial. With schemes where the harm would be less than substantial, the NPPF states that it should be weighed against the public benefits of the proposal, which in this case is the benefit of securing specialist care accommodation. This is given significant weight.

Impact on Trees:

- 10.22. Policy HE6 requires the retention and protection of trees, gardens, spaces between buildings, and other open areas which contribute to the character of the conservation area.
- 10.23. The proposal includes the removal of two existing trees on site. A cherry tree is proposed for removal due to its poor condition and a holly is proposed for removal due to the proposed development. The larger trees on the site, notably a row of conifers along the south boundary and the horse chestnuts located on the neighbouring property to the west, would be retained. Therefore, it is considered that the proposed removal of trees would have minimal impact on the setting of the conservation area. Further, mitigation is proposed by way of the planting of three additional trees along the southern boundary.
- 10.24. The Arboriculturist has not raised any objections. A condition would ensure that the retained trees are protected during the construction works and that the proposed planting schedule and replacement landscaping scheme is carried out appropriately.

Impact on Neighbouring Amenity:

- 10.25. The proposed extension would be situated opposite the rear elevations of properties along Chalfont Drive to the south, but set well back from them. The tallest block of the extension would be approximately 30m from the nearest property on Chalfont Drive. The central block and single storey block would be approximately 23m.
- 10.26. It is noted that an extension of this size and bulk would have some impact on the amenity of no.s 26, 28 and 30 Chalfont Drive. The proposed two-storey blocks would introduce windows at first floor level where a perception of mutual overlooking between the application site and the properties along Chalfont Drive would result. In addition, there would be a perception of overlooking to the rear garden areas of these properties.
- 10.27. Notwithstanding this, it is considered that given the separation distance between building lines and rear garden boundaries, a significant level of overlooking between properties would not result, and certainly not one that would be uncharacteristic of dwellinghouses in residential areas. For example, there is a similar separation distance between rear building lines for the properties on the opposite side of Chalfont Drive. On this basis it is considered that the harm caused by perceived and actual overlooking between the extension and the rear elevations of 26, 28 and 30 Chalfont Drive is not of a magnitude to warrant refusal in this instance. Additional screening in the form of three new trees and planting is also included along this boundary which would also screen some of the impact identified above.
- 10.28. It is unlikely that significant overshadowing or loss of light would occur to neighbouring properties in this instance. A sun path analysis has been undertaken of the proposed care home extension utilising topographic information and roof heights, and it does not identify any direct overshadowing impact on the windows of neighbouring properties. Loss of light to gardens would also be minimal.
- 10.29. Similarly, it is considered that the separation distance between the extension and properties along Tongdean Place is sufficient to ensure that no significant harm to the amenity of these properties would occur given the level of screening that is provided between the properties, in the form of mature trees and vegetation.

Sustainable Transport:

- 10.30. National and local transport policy seeks to promote use of sustainable modes of transport and also ensure highway safety and appropriate car parking (including disabled) provision where required.
- 10.31. The applicant has provided additional information in response to the comments of the Transport Officer. The existing site provides 11 car parking spaces at the front of the building, some of which are suitable for disabled users. It is not proposed to make any changes as part of the proposal to car parking facilities.

- 10.32. The proposal could result in an increase in staff numbers and visitors to the site, however this is not considered to be a significant increase given the scale of the development. The site is located within a controlled parking zone and therefore if any overspill were to occur as a result of the proposal, this would be managed through the CPZ. A condition is recommended to ensure that adequate dedicated and laid out disabled parking bays are provided within the car parking area. The site is well located to take advantage of local bus routes.
- 10.33. The additional information provided shows that bicycle storage would be provided at the front of the site and it would be secure and conveniently located. It is therefore considered acceptable and its provision is secured by condition.
- 10.34. No trip generation information has been submitted. The extension could generate additional two way daily vehicle movements, however, the Transport Officer has made an assessment and, given the scale of the proposal, they deem this not to have severe impact on the highway or the surrounding transport network.

Other Considerations:

Sustainability and biodiversity:

- 10.35. Policy CP8 Sustainable Buildings expects that all new development will incorporate sustainable design features to avoid expansion of the city's ecological footprint, help deliver the principles of the One Planet approach, radical reductions in greenhouse gas emissions, particularly CO2 emissions, and mitigate against and adapt to climate change.
- 10.36. The design of the building would be underpinned by a low energy and sustainable ethos centring upon the industry recognised energy hierarchy (Be Lean, Be Clean, Be Green). Policy CP8 requires that minor commercial developments of less than 1000sqm shall meet a BREEAM 'very good' standard, and this is to be secured by condition.
- 10.37. To enhance the biodiversity of the site and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development, a condition is recommended to ensure a bee brick and swift bricks/boxes are to be incorporated within the development.

11. COMMUNITY INFRASTRUCTURE LEVY

- 11.1. Under the Regulations of the Community Infrastructure Levy (CIL) 2010 (as amended), Brighton & Hove City Council adopted its CIL on 23 July 2020 and began charging on all CIL liable planning applications on and from the 5 October 2020. The exact amount will be confirmed in the CIL liability notice which will be issued as soon as it practicable after the issuing of planning permission.

12. EQUALITIES

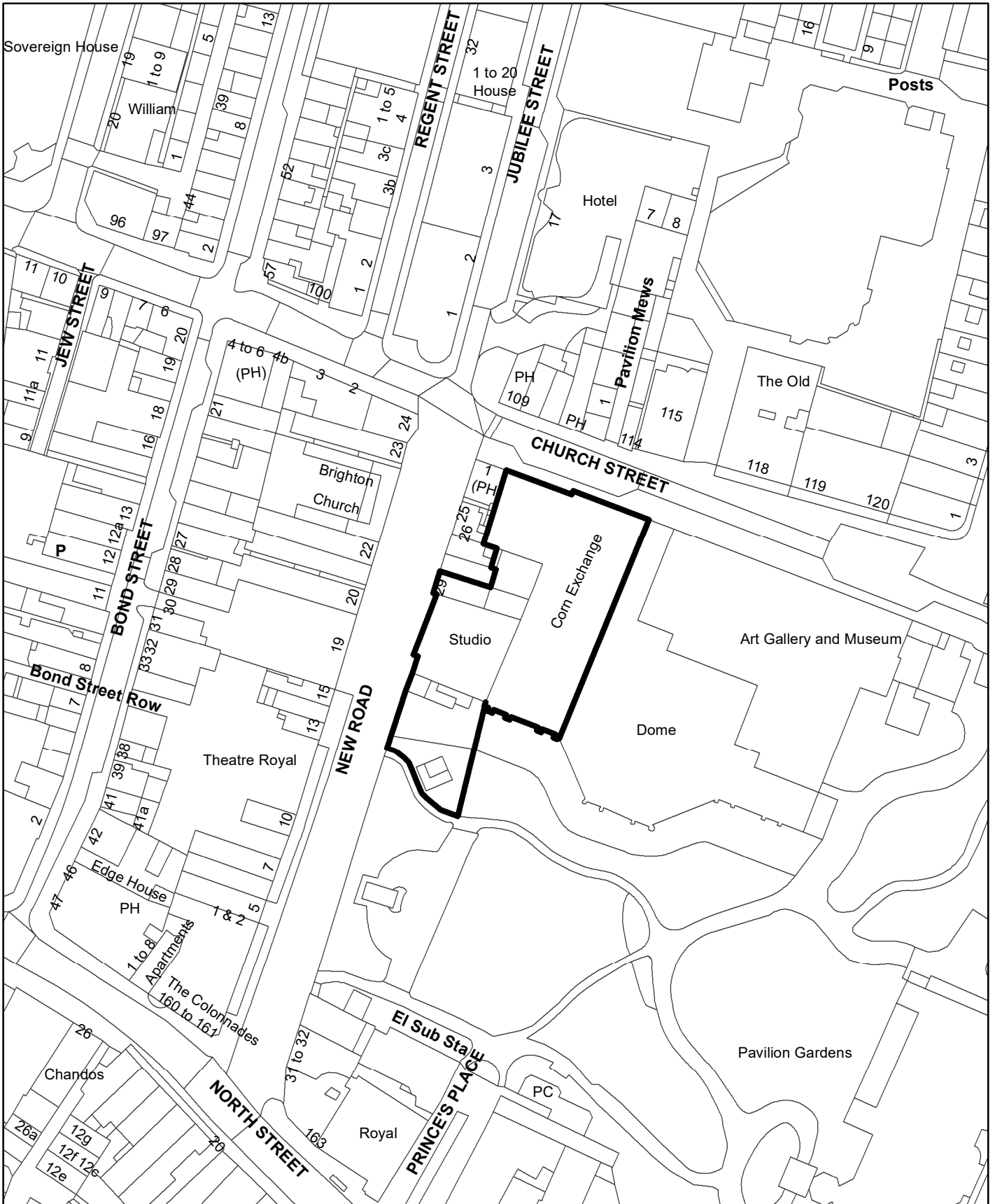
12.1. All bedrooms would be provided with accessible en-suite rooms.

ITEM I

**Pavilion Theatre, 29 New Road
BH2021/02476
Full Planning**

DATE OF COMMITTEE: 1st September 2021

BH2021 02476 - Pavilion Theatre, 29 New Road



N



Scale: 1:1,250

<u>No:</u>	BH2021/02476	<u>Ward:</u>	St. Peter's and North Laine Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Pavilion Theatre 29 New Road Brighton BN1 1UG		
<u>Proposal:</u>	Replacement of existing copper roof covering and existing sub lining with new natural copper roof and sub lining.		
<u>Officer:</u>	Rebecca Smith, tel: 291075	<u>Valid Date:</u>	14.07.2021
<u>Con Area:</u>	Valley Gardens	<u>Expiry Date:</u>	08.09.2021
<u>Listed Building Grade:</u>	Listed	<u>EOT:</u>	
	Building Grade II		
<u>Agent:</u>	FCB Studios Bath Brewery Toll Bridge Road Bath BA1 7DE		
<u>Applicant:</u>	Brighton & Hove City Council Major Projects & Regeneration Hove Town Hall Norton Road Hove BN3 3BQ		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

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
Location Plan	1729/P/130		5 July 2021
Proposed Drawing	1729/P/100 P2		5 July 2021
Proposed Drawing	1729 P 710 P1		14 July 2021
Report/Statement	Design & Access/Heritage Statement		14 July 2021

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.

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. SITE LOCATION

- 2.1. This Pavilion Theatre (also known as the Studio Theatre) is a Grade II Listed building, and dates from c1935, when it was built as a supper room for the Corn Exchange, by Robert Atkinson in a stylised form of Islamic architecture. It was later converted to a theatre. Its significance largely resides in its external design appearance, a careful mix of 1930s with the Moorish influence of the Pavilion estate buildings. Its copper clad pyramidal roof behind flanking towers and castellated parapet are key townscape features. The ground floor has been harmed by the bin store enclosure on the south elevation facing the gardens.
- 2.2. The neighbouring Corn Exchange (with the Dome Theatre) is a Grade I Listed Building, originally built as a riding school and stables by William Porden, between 1803-08, for the Prince of Wales, in connection with the Royal Pavilion, and extended in 1831. The Dome was converted into a theatre in 1864-67 by Philip Lockwood, with forms loosely derived from Islamic architecture, and the former riding school was converted to a corn exchange in 1868. The Dome was further extended and given two new entrances in 1901-02, including one on Church Street, and the building at this time took on an even greater Eastern character with greater reference to the Royal Pavilion. A further significant scheme of alterations took place in 1934 by Robert Atkinson, including the conversion of the Corn Exchange into an exhibition hall and the addition of the Church Street entrance foyer.
- 2.3. The site forms part of the wider Royal Pavilion estate consisting various designated heritage assets (including the Grade II Registered Park and Garden) and lies within the Valley Gardens Conservation Area.

3. RELEVANT HISTORY

- 3.1. **BH2021/02477** - Replacement of existing copper roof covering and existing sub lining with new natural copper roof and sub lining. Concurrent Listed Building Consent application to be heard at this Committee meeting
- 3.2. **BH2020/03419** - Replacement of fibrous plaster ceiling within Pavilion Theatre. Raising of parapet to North and South hip ends to Corn Exchange Roof. (Part Retrospective) Approved 12.02.2021
- 3.3. **BH2016/06449** - Refurbishment and alterations to Corn Exchange, Studio Theatre and 29 New Road. Works include demolition of existing single storey link building and erection of three storey infill extension to West of Corn Exchange, incorporating new foyers, bar, box office, WCs, production space, public stairs and lifts. Alterations to Corn Exchange including retractable seating beneath new balcony and replacement roof coverings. Alterations to Studio Theatre including new side balconies, lift, fire escape stairs and dressing rooms. Renovation of existing café, to be opened to New Road and Royal Pavilion gardens. Installation of new plant equipment, alterations to entrances on New

Road and Church Street and associated alterations. Erection of bin store to South of Brighton Dome access road. Approved 12.02.2017

- 3.4. **BH2016/05127** - Application for variation of condition 2 of application BH2014/02612 (Refurbishment and alterations to Corn Exchange, Studio Theatre and 29 New Road. Works include demolition of existing single storey link building and erection of three storey infill extension to West of Corn Exchange, incorporating new foyers, bar, box office, WCs, production space, public stairs and lifts. Renovation of existing café, to be opened to New Road and Royal Pavilion gardens. Installation of new plant equipment, alterations to entrances on New Road and Church Street and associated alterations.) to allow amendments to drawings (additional plans received). Approved 24.01.2017

4. APPLICATION DESCRIPTION

- 4.1. This application seeks planning permission for the replacement of the existing copper roof covering and existing sub lining with new natural copper roof and sub lining.

5. CONSULTATIONS

- 5.1. **Heritage:** No objection
As noted in the submitted Design and Access Statement the existing copper roof covering is likely to be the original 1935 roof, which has patinated naturally. The proposed works represent a like-for-like replacement over the entire large roof but, because of the significant difference in appearance between new natural copper and patinated copper, this replacement will have quite a dramatic visual impact where the roof is visible from New Road and from the Pavilion Gardens. However, this work will replicate the appearance of the roof when originally built and the new natural copper will patinate over time. The works would also have the benefit of securing the fabric of the building from water ingress in the long term.
- 5.2. Overall, it is considered that the works would the listed building (including its setting), would preserve the setting of the adjacent Corn Exchange, would preserve the setting of the registered Pavilion Gardens and would cause no harm to the appearance or character of the conservation area.
- 5.3. **Historic England:** No comment
On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation adviser.
- 5.4. **Theatres Trust:** No objection
There is clear need and justification for replacement of the roof, as set out within the applicant's supporting documents, and the roof is towards the end of its expected life having been installed around 1930. It is important for the ongoing conservation and operation of the theatre that the roof is safe and protects the

building's fabric. A like-for-like replacement is proposed. Therefore, we are supportive of this project.

6. MATERIAL CONSIDERATIONS

- 6.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 6.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016);
 - Brighton & Hove Local Plan 2005 (retained policies March 2016);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
 - Shoreham Harbour JAAP (adopted October 2019).
- 6.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

7. POLICIES

The National Planning Policy Framework (NPPF)

8. RELEVANT POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP15	Heritage

Brighton & Hove Local Plan (retained policies March 2016):

HE1	Listed Building Consent
HE3	Development affecting the setting of a listed building

Brighton & Hove City Plan Part Two

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications. The weight given to the relevant CPP2 policies considered in determining this application is set out in the Considerations and Assessment section below where applicable.

DM27	Listed Buildings
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9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the impacts of the proposed works would have on the historic character and appearance of the Grade II Listed Building and its setting.
- 9.2. In considering whether to grant planning permission relating to a listed building, the Council has a statutory duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 9.3. Case law has held that the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses should be given "considerable importance and weight".
- 9.4. The proposed works are to replace the existing copper roof, in its entirety, on a like-for-like basis. In recent years the existing roof has been patched up by way of minor repairs as part of the recent works, however the copper has continued to fracture and now it is too fragile to repair on a patchwork basis. The copper roof now needs replacing to protect the interior fabric of the listed building.
- 9.5. Once replaced, the copper roof would initially have a very different appearance, with bright copper tones. This would dull to a soft brown colour within the first year and continue to evolve in colour back to the soft, mint green of the existing roof as the copper naturally patinates. Due to the nature of copper the initial dramatic colour change is unavoidable and is not a reason to refuse the application as the new roof would secure the building from water ingress for the long term and allow the listed building to be preserved.
- 9.6. It is considered that the proposed works would preserve the historic character or appearance of the Grade II listed building and its setting, in accordance with policies HE1 & HE3 of the Brighton & Hove Local Plan, CP15 of the Brighton & Hove City Plan Part One and DM27 and DM29 of the Proposed Submission City Plan Part Two (which can both be given significant weight).

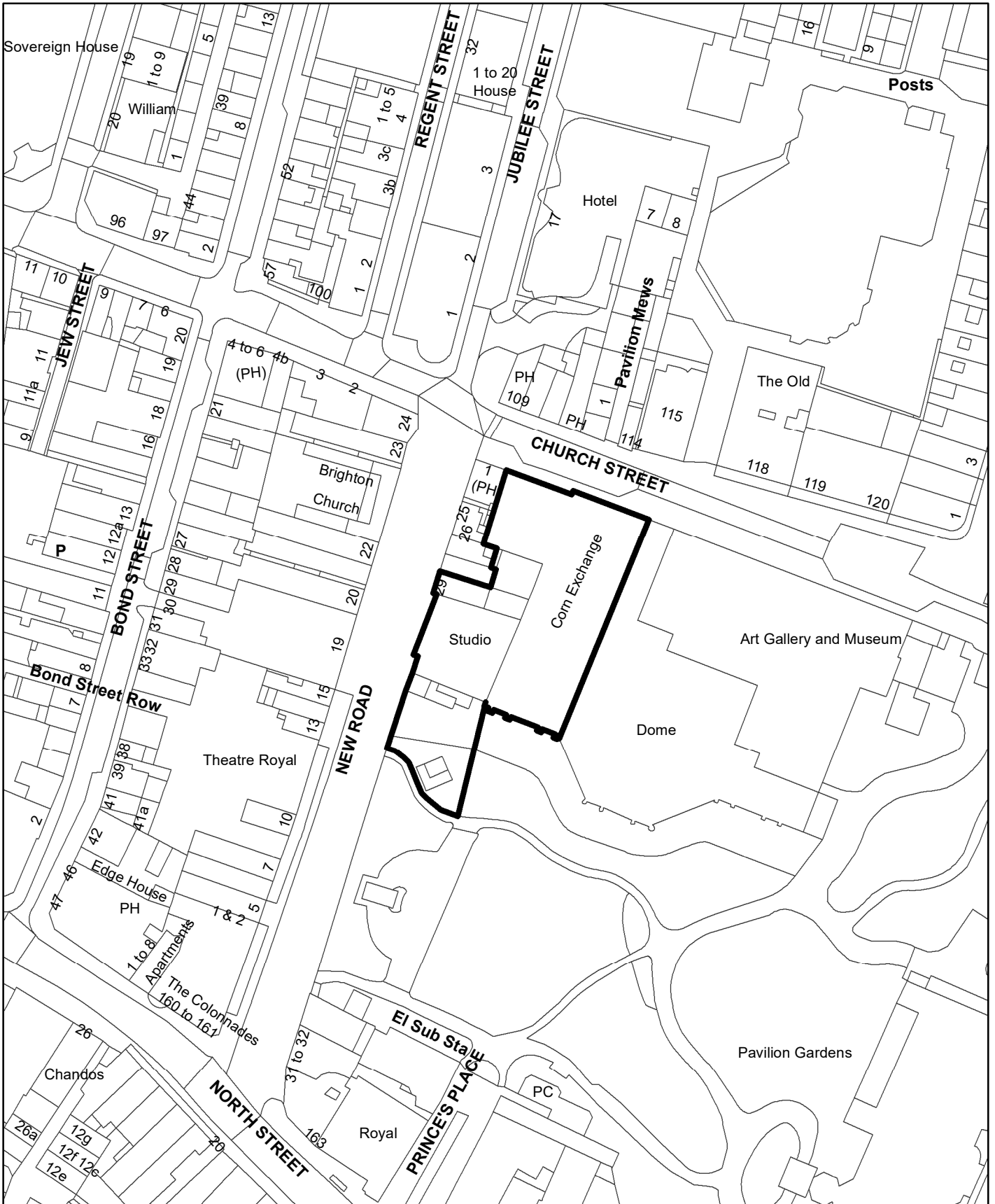
10. EQUALITIES None identified

ITEM J

**Pavilion Theatre, 29 New Road
BH2021/02477
Listed Building Consent**

DATE OF COMMITTEE: 1st September 2021

BH2021 02477 - Pavilion Theatre, 29 New Road



N



Scale: 1:1,250

<u>No:</u>	BH2021/02477	<u>Ward:</u>	St. Peter's and North Laine Ward
<u>App Type:</u>	Listed Building Consent		
<u>Address:</u>	Pavilion Theatre 29 New Road Brighton BN1 1UG		
<u>Proposal:</u>	Replacement of existing copper roof covering and existing sub lining with new natural copper roof and sub lining.		
<u>Officer:</u>	Rebecca Smith, tel: 291075	<u>Valid Date:</u>	14.07.2021
<u>Con Area:</u>	Valley Gardens	<u>Expiry Date:</u>	08.09.2021
<u>Listed Building Grade:</u>	Listed	<u>EOT:</u>	
Building Grade II			
<u>Agent:</u>	FCB Studios Bath Brewery Toll Bridge Road Bath BA1 7DE		
<u>Applicant:</u>	Brighton & Hove City Council Major Projects & Regeneration Hove Town Hall Norton Road Hove BN3 3BQ		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

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
Proposed Drawing	1729/P/100 P2		5 July 2021
Location Plan	1729/P/130		5 July 2021
Proposed Drawing	1729 P 710 P1		14 July 2021
Report/Statement	Design & Access/Heritage Statement		14 July 2021

2. The works hereby permitted shall be commenced before the expiration of three years from the date of this consent.
Reason: To comply with Sections 18 (as amended) and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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. SITE LOCATION

- 2.1. This Pavilion Theatre (also known as the Studio Theatre) is a Grade II Listed Building, and dates from c1935, when it was built as a supper room for the Corn Exchange, by Robert Atkinson in a stylised form of Islamic architecture. It was later converted to a theatre. Its significance largely resides in its external design appearance, a careful mix of 1930s with the Moorish influence of the Pavilion estate buildings. Its copper clad pyramidal roof behind flanking towers and castellated parapet are key townscape features. The ground floor has been harmed by the bin store enclosure on the south elevation facing the gardens.
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- 2.3. The site forms part of the wider Royal Pavilion estate consisting various designated heritage assets (including the Grade II Registered Park and Garden) and lies within the Valley Gardens Conservation Area.

3. RELEVANT HISTORY

- 3.1. **BH2021/02476** - Replacement of existing copper roof covering and existing sub lining with new natural copper roof and sub lining. Concurrent Full Planning application to be heard at this Committee meeting
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- 3.3. **BH2016/06449** - Refurbishment and alterations to Corn Exchange, Studio Theatre and 29 New Road. Works include demolition of existing single storey link building and erection of three storey infill extension to West of Corn Exchange, incorporating new foyers, bar, box office, WCs, production space, public stairs and lifts. Alterations to Corn Exchange including retractable seating beneath new balcony and replacement roof coverings. Alterations to Studio Theatre including new side balconies, lift, fire escape stairs and dressing rooms. Renovation of existing café, to be opened to New Road and Royal Pavilion gardens. Installation of new plant equipment, alterations to entrances on New

Road and Church Street and associated alterations. Erection of bin store to South of Brighton Dome access road. Approved 12.02.2017

- 3.4. **BH2016/05127** - Application for variation of condition 2 of application BH2014/02612 (Refurbishment and alterations to Corn Exchange, Studio Theatre and 29 New Road. Works include demolition of existing single storey link building and erection of three storey infill extension to West of Corn Exchange, incorporating new foyers, bar, box office, WCs, production space, public stairs and lifts. Renovation of existing café, to be opened to New Road and Royal Pavilion gardens. Installation of new plant equipment, alterations to entrances on New Road and Church Street and associated alterations.) to allow amendments to drawings (additional plans received). Approved 24.01.2017

4. APPLICATION DESCRIPTION

- 4.1. This application seeks Listed Building Consent for the replacement of the existing copper roof covering and existing sub lining with new natural copper roof and sub lining.

5. CONSULTATIONS

- 5.1. **Heritage:** No objection
As noted in the submitted Design and Access Statement the existing copper roof covering is likely to be the original 1935 roof, which has patinated naturally. The proposed works represent a like-for-like replacement over the entire large roof but, because of the significant difference in appearance between new natural copper and patinated copper, this replacement will have quite a dramatic visual impact where the roof is visible from New Road and from the Pavilion Gardens. However, this work will replicate the appearance of the roof when originally built and the new natural copper will patinate over time. The works would also have the benefit of securing the fabric of the building from water ingress in the long term.
- 5.2. Overall, it is considered that the works would the listed building (including its setting), would preserve the setting of the adjacent Corn Exchange, would preserve the setting of the registered Pavilion Gardens and would cause no harm to the appearance or character of the conservation area.
- 5.3. **Historic England:** No comment
On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation adviser.
- 5.4. **Theatres Trust:** No objection
There is clear need and justification for replacement of the roof, as set out within the applicant's supporting documents, and the roof is towards the end of its expected life having been installed around 1930. It is important for the ongoing conservation and operation of the theatre that the roof is safe and protects the

building's fabric. A like-for-like replacement is proposed. Therefore, we are supportive of this project.

6. MATERIAL CONSIDERATIONS

- 6.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 6.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016);
 - Brighton & Hove Local Plan 2005 (retained policies March 2016);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
 - Shoreham Harbour JAAP (adopted October 2019).
- 6.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

7. POLICIES

The National Planning Policy Framework (NPPF)

8. RELEVANT POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development
CP15 Heritage

Brighton & Hove Local Plan (retained policies March 2016):

HE1 Listed Building Consent
HE3 Development affecting the setting of a listed building

Brighton & Hove City Plan Part Two

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications. The weight given to the relevant CPP2 policies considered in determining this application is set out in the Considerations and Assessment section below where applicable.

DM27 Listed Buildings

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the impacts of the proposed works would have on the historic character and appearance of the Grade II Listed Building and its setting.
- 9.2. In considering whether to grant listed building consent the Council has a statutory duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 9.3. Case law has held that the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses should be given "considerable importance and weight".
- 9.4. The proposed works are to replace the existing copper roof, in its entirety, on a like-for-like basis. In recent years the existing roof has been patched up by way of minor repairs as part of the recent works, however the copper has continued to fracture and now it is too fragile to repair on a patchwork basis. The copper roof now needs replacing to protect the interior fabric of the listed building.
- 9.5. Once replaced, the copper roof would initially have a very different appearance, with bright copper tones. This would dull to a soft brown colour within the first year and continue to evolve in colour back to the soft, mint green of the existing roof as the copper naturally patinates. Due to the nature of copper the initial dramatic colour change is unavoidable and is not a reason to refuse the application as the new roof would secure the building from water ingress for the long term and allow the listed building to be preserved.
- 9.6. It is considered that the proposed works would preserve the historic character or appearance of the Grade II listed building and its setting, in accordance with policies HE1 & HE3 of the Brighton & Hove Local Plan, CP15 of the Brighton & Hove City Plan Part One and DM27 and DM29 of the Proposed Submission City Plan Part Two (which can both be given significant weight).

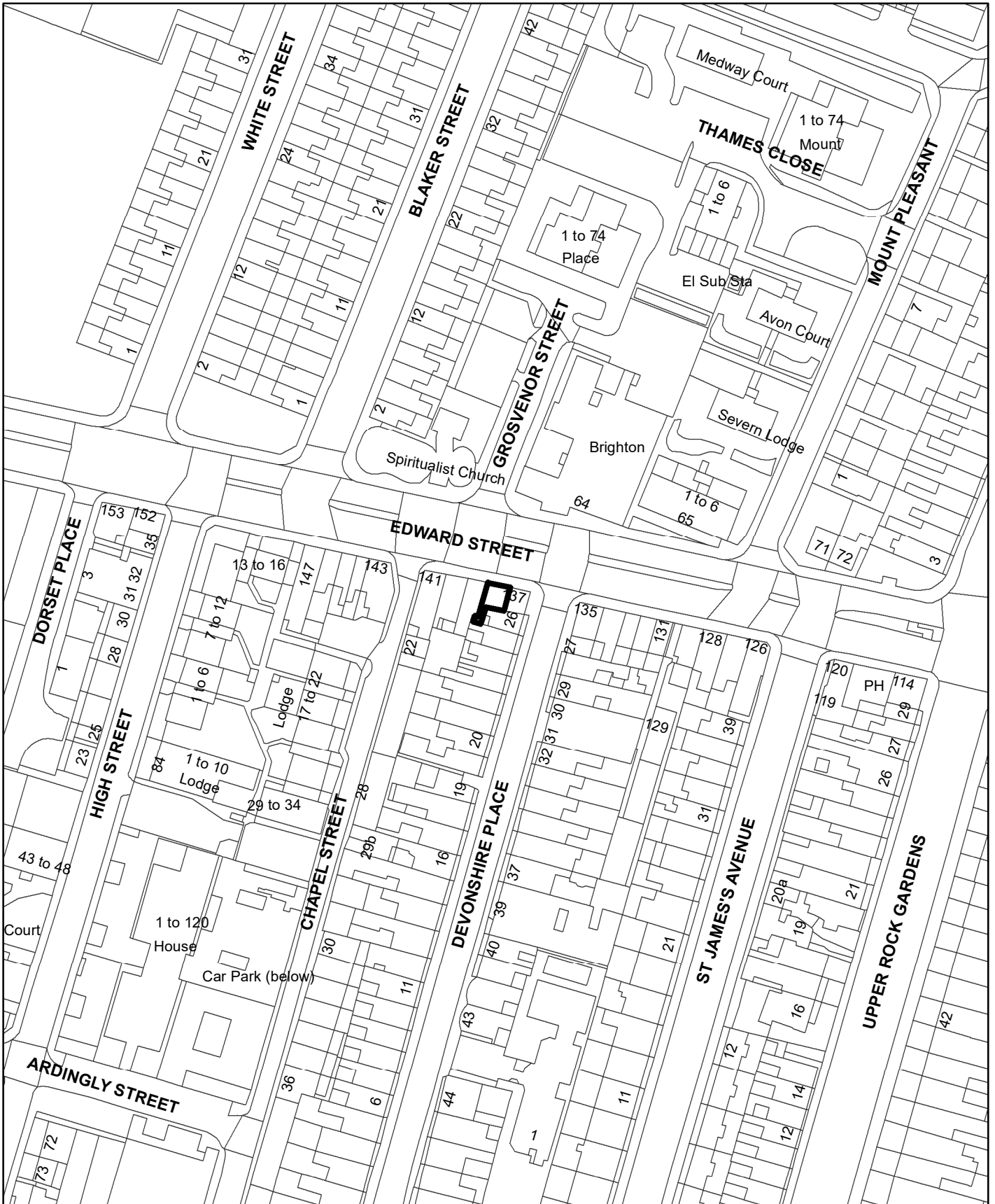
10. EQUALITIES None identified

ITEM K

**138 Edward Street
BH2021/01030
Full Planning**

DATE OF COMMITTEE: 1st September 2021

BH2021 01030 - 138 Edward Street



Scale: 1:1,250

<u>No:</u>	BH2021/01030	<u>Ward:</u>	Queen's Park Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	138 Edward Street Brighton BN2 0JL		
<u>Proposal:</u>	(Part Retrospective) Change of use from retail at ground floor (E) and residential 3no bedroom maisonette (C3) to 4no bedroom house in multiple occupation (C4).		
<u>Officer:</u>	Joanne Doyle, tel: 292198	<u>Valid Date:</u>	22.03.2021
<u>Con Area:</u>		<u>Expiry Date:</u>	17.05.2021
<u>Listed Building Grade:</u>		<u>EOT:</u>	
Agent:	BPM 33 Stoneleigh Avenue Brighton BN1 8NP		
Applicant:	Dino Morra 138 Edward Street Brighton BN2 0JL		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

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
Location and block plan	01	-	22 March 2021
Proposed Drawing	01	-	22 March 2021

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. The development hereby approved shall be implemented in accordance with the proposed layout detailed on the proposed floorplans, drawing no 01, and shall be retained as such thereafter. The layout shall be retained as communal space at all times and shall not be used as bedrooms.

Reason: To ensure a suitable standard of accommodation for occupiers and to comply with policy QD27 of the Brighton & 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. SITE LOCATION

- 2.1. The application site relates to a three storey property which has retail use (use class E) at ground floor, and residential uses (use class C3) at upper floors). It is located on the southern side of Edward Street, outside of a designated retail centre, and not within a conservation area. However, there is an Article Four Direction in place restricting the conversion of single dwellinghouses to houses in multiple occupation (HMOs - use class C4, or sui generis (outside of a use class)).

3. RELEVANT HISTORY

- 3.1. BH2019/01249- Change of use from retail (A1) and residential 3no bedroom maisonette (C3) to 5no bedroom house in multiple occupation (C4). Refused on 24 February 2020. The reason for the refusal was as follows:
"1. The communal space at basement level would provide for a gloomy and oppressive standard of accommodation to the detriment of the well-being of future occupants by reason of limited natural light and outlook, limited area and poor space for adequate circulation. The proposed development would be detrimental to the residential amenity of the future occupiers of the property, contrary to policy QD27 of the Brighton & Hove Local Plan."
- 3.2. This application was the subject of an appeal to the Planning Inspectorate (ref. W4001539). The appeal was dismissed on 8 February 2021, due to concerns over insufficient natural light and restricted outlook within the basement communal space.

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for the change of use of the building from its existing retail (use class E) use at ground floor with residential over (three-bedroom maisonette (use class C3), to a four-bedroom house in multiple occupation (HMO - Use Class C4). The application is part-retrospective as the property has been tenanted and licenced as a five-bed HMO since September 2019.
- 4.2. This application is a resubmission of the previously-refused application BH2019/01249. As noted above, this was refused and dismissed on appeal due to concerns over the quality of the communal accommodation at basement level.
- 4.3. This current application has sought to address these reasons for refusal by reducing the occupation from a five-bedroom HMO to a four- bedroom HMO, and providing communal space at ground floor level as well as at basement

level. It is also proposed to excavate a small area to the rear of the kitchen at basement level.

5. CONSULTATIONS

- 5.1. **Policy:** Comment from previous application BH2019/01249 23.10.2019
Local Plan policy SR8 has been met.
- 5.2. **Transport:** Verbal
No objection subject to recommended conditions.

6. REPRESENTATIONS

- 6.1. **Ward Councillor Childs** has objected to the proposal and requested that the application be heard at Planning Committee.

7. MATERIAL CONSIDERATIONS

- 7.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 7.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016);
 - Brighton & Hove Local Plan 2005 (retained policies March 2016);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
 - Shoreham Harbour Joint Area Action Plan (JAAP) 2019.
- 7.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

8. RELEVANT POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP8	Sustainable Buildings
CP9	Sustainable Transport
CP12	Urban design
CP14	Housing density
CP19	Housing mix

CP20	Affordable Housing
CP21	Student Accommodation and Houses in Multiple Occupation

Brighton & Hove Local Plan (retained policies March 2016):

TR1	Development and the demand for travel
TR7	Safe development
TR14	Cycle access and parking
SU10	Noise nuisance
QD14	Extensions ad alterations
QD27	Protection of Amenity
HO5	Provision of private amenity space in residential development
HO8	Retaining housing
HO14	Houses in multiple occupation (HMO)
SR8	Individual shops

Brighton & Hove City Plan Part Two (CPP2) (emerging)

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications. The weight given to the key CPP2 policies considered in determining this application is set out below where applicable.

DM1	Housing Quality, Choice and Mix
DM7	Houses in Multiple Occupation (HMOs)
DM13	Important Local Parades, Neighbourhood Parades and Individual Shop Units
DM20	Protection of Amenity
DM33	Safe, Sustainable and Active Travel
DM40	Protection of the Environment and Health - Pollution and Nuisance

Supplementary Planning Documents:

SPD12	Design Guide for Extensions and Alterations
SPD14	Parking Standards

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relates to the principle of the change of use, the impact upon neighbouring amenity, the standard of accommodation which the use would provide, and transport issues.

Principle of development:

- 9.2. Policy CP21 of the Brighton and Hove City Plan Part One specifically addresses the issue of changes of use to either class C4, a mixed C3/C4 use or to a sui generis House in Multiple Occupation and states that:
"In order to support mixed and balanced communities and to ensure that a range of housing needs continue to be accommodated throughout the city, applications for the change of use to a Class C4 (Houses in multiple occupation) use, a mixed

C3/C4 use or to a sui generis House in Multiple Occupation use (more than six people sharing) will not be permitted where:

- *More than 10 per cent of dwellings within a radius of 50 metres of the application site are already in use as Class C4, mixed C3/C4 or other types of HMO in a sui generis use."*

- 9.3. A mapping exercise has taken place which indicates that there are 81 neighbouring properties within a 50m radius, of which two properties are in HMO use. The percentage of neighbouring properties in HMO use within the radius area is therefore 2.4%. Less than 10% of properties within 50m are in HMO use so the proposed change to small HMO use complies with policy CP21.
- 9.4. In terms of the loss of the retail (use class E) element, the site currently comprises a 'lock-up shop' and maisonette. The application site is located outside a designated retail centre. The immediate streetscene appears to be formed of buildings that were originally part of a retail parade on Edward Street. The ground floor uses of the premises surrounding the application site, however, appear have already lost their original commercial function, with the exception of 141 Edward Street which is functioning as a dog grooming parlour. Therefore it is no longer considered to function as a retail parade, and is subject to Local Plan policy SR8 (individual shops).
- 9.5. This policy seeks to resist the loss of individual shops unless, in summary:
- (a) the shop is within easy walking distance of a comparable shop within a designated centre or parade;
 - (b) it has been demonstrated that a retail use is no longer economically viable in the unit; and
 - (c) the development would not be significantly detrimental to neighbouring amenity.
- 9.6. With regard to test a) the site is located within an easy walking distance (under 200m) of the St James's Street District Centre which contains a range of retail units. The Regional Centre is also nearby (under 700m walking distance).
- 9.7. With regard to test b), evidence was submitted as part of the previous application in 2019 and as part of this application to demonstrate that the site is unviable. The application is supported by letters from two separate commercial agents, confirming that the premises was marketed from October 2016 to 2019, including an advertisement in the window of the premises, and on live portals on an 'offers invited' basis. No viewings took place and no offers were received to rent the property in this period. In addition the retail unit would need investment before it could legally be rented out.
- 9.8. The agent has confirmed that the unit has been vacant for a number of years starting in May 2014, and images on Google Streetview appear to confirm this statement. As a consequence, and given the fact that the surrounding premises have already lost their original commercial function, there has been no additional footfall to the area within that period. Therefore, tests a) and b) are considered to be met. The unit has not been marketed since 2019 as the property has been tenanted and licenced as a 5-bed HMO since September 2019.

- 9.9. Test c) relating to neighbouring amenity has been considered in the impact upon neighbouring amenity section below.

Standard of Accommodation:

- 9.10. The 'Nationally Described Space Standards' (NDSS) were introduced by the Department for Communities and Local Government in 2015 to establish acceptable minimum floor space for new build developments. Although these space standards have not been formally adopted into the Brighton and Hove City Plan, Policy DM1 of Draft City Plan Part 2 proposes to adopt them and can now be given significant weight.
- 9.11. The NDSS identifies a minimum floor space that should be achieved for a single bedroom as measuring at least 7.5m², and a double bedroom should measure at least 11.5m². The minimum floor space requires a head height of above 1.5m. Rooms are also assessed for their ability to provide suitable room to circulate within them by future occupants.
- 9.12. The changes to the internal layout comprise the following: communal kitchen/dining/living at basement level, communal living room at ground floor level, 2no. bedrooms and bathroom at first floor level, and 2no. bedrooms and bathroom at second floor level.
- 9.13. The bedrooms all meet the government's minimum nationally described space standard, with good levels of natural light and outlook provided.
- 9.14. The communal areas at basement level (a 24.5sqm living room/diner/kitchen) and ground floor level (an 11.3sqm living room) are considered to be overly sufficient for a 4 person property in principle terms of the area provided.
- 9.15. The scheme proposes the excavation of a small area to the rear of the kitchen at basement level which has allowed for a reconfiguration of the internal layout when compared to the previous refusal. This communal area would be served by a large window opening facing out onto a lightwell 0.85 metres in depth. There would be minimal light from above serving this lightwell and therefore minimal light would serve the room and the room would have limited outlook, facing onto a wall 0.8 metres away. The indicative layout does, however, show that there would be sufficient circulation for dining and use of the kitchen.
- 9.16. Whilst the communal space at basement level would contain minimal light/outlook, given the provision of communal space at ground floor level this room would not be the sole room for occupants to relax in. The living room at ground floor would be sufficient as the main room for the occupants to use and for this reason the minimal light/outlook at basement level is considered acceptable.
- 9.17. Whilst large in size, if the communal rooms were converted to bedrooms in the future, this would restrict the level of shared space available to occupants. Therefore, a condition is recommended restricting the use of the communal

areas to ensure that alterations to the layout are not made at a later date that reduces the amount of communal space provided for the occupiers.

- 9.18. The accommodation proposed is considered acceptable, in accordance with policy QD27 of the Brighton and Hove Local Plan and emerging policy DM1 of CPP2 (of which can be given significant weight).

Impact on neighbour amenity:

- 9.19. 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.
- 9.20. The proposed change of use from a C3 dwellinghouse to a five-bedroom C4 HMO may result in a more intensive use of the property than if a family were to occupy it. However, it is not considered that the proposal would cause noise/disturbance to neighbouring properties beyond the existing C3 use, and particularly the previous retail/C3 use, sufficient to warrant refusal of the application.
- 9.21. As already noted, Policy CP21 of the Brighton and Hove City Plan Part One supports the change of use of dwellings (Use Class C3) to a small HMO use (C4), provided that there is not an excessive proportion of neighbouring dwellings in HMO use (over 10% within a 50 metre radius). The application accords with policy CP21 in this regard and any increased impact likely to be caused in this case would not be of a magnitude which would cause demonstrable harm to neighbouring amenity.

Sustainable Transport:

- 9.22. The proposed development would not result in a significant increase in trip generation and any impact on the highway would be minimal.
- 9.23. The site is located within Controlled Parking Zone (C) where uptake of parking permits is high. The number of vehicles able to be parked in the area is therefore already limited through the CPZ.
- 9.24. No cycle parking is proposed; however given the constraints of the site it is not considered reasonable to secure this by condition.

10. EQUALITIES

None identified.

PLANNING COMMITTEE

Agenda Item 28

Brighton & Hove City Council

NEW APPEALS RECEIVED 08/07/2021 - 04/08/2021

<u>WARD</u>	BRUNSWICK AND ADELAIDE
<u>APPEALAPPNUMBER</u>	BH2020/02799
<u>ADDRESS</u>	3-4 Western Road, Hove BN3 1AE
<u>DEVELOPMENT DESCRIPTION</u>	Erection of an additional storey to provide 1no self-contained one bedroom flat.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	15/07/2021
<u>APPLICATION DECISION LEVEL</u>	Delegated

<u>WARD</u>	CENTRAL HOVE
<u>APPEALAPPNUMBER</u>	BH2020/02381
<u>ADDRESS</u>	First Floor, 43 Connaught Terrace, Hove BN3 3YW
<u>DEVELOPMENT DESCRIPTION</u>	Erection of single storey first floor rear extension incorporating a recessed Juliet balcony. (Part-retrospective)
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	28/07/2021
<u>APPLICATION DECISION LEVEL</u>	Delegated

<u>WARD</u>	HOLLINGDEAN AND STANMER
<u>APPEALAPPNUMBER</u>	BH2020/01519
<u>ADDRESS</u>	Land to Rear of 236 Ditchling Road, Brighton BN1 6JF
<u>DEVELOPMENT DESCRIPTION</u>	Erection of 1no. one bedroom two storey dwelling including a lower ground floor (C3)
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	30/07/2021
<u>APPLICATION DECISION LEVEL</u>	Delegated

<u>WARD</u>	MOULSECOOMB AND BEVENDEAN
<u>APPEALAPPNUMBER</u>	BH2020/01887
<u>ADDRESS</u>	148 Bevendean Crescent, Brighton BN2 4RD
<u>DEVELOPMENT DESCRIPTION</u>	Change of Use from residential dwelling (C3) to six bedroom small house in multiple occupation (C4) incorporating erection of single storey rear extension (part retrospective)
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	20/07/2021
<u>APPLICATION DECISION LEVEL</u>	Delegated

<u>WARD</u>	MOULSECOOMB AND BEVENDEAN
<u>APPEALAPPNUMBER</u>	BH2020/02302
<u>ADDRESS</u>	14 Ringmer Road, Brighton BN1 9JA
<u>DEVELOPMENT DESCRIPTION</u>	Change of use from existing 6no bedroom small house in multiple occupation (C4) to an 8no bedroom large house in multiple occupation (sui generis)
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	30/07/2021
<u>APPLICATION DECISION LEVEL</u>	Delegated
<u>WARD</u>	MOULSECOOMB AND BEVENDEAN
<u>APPEALAPPNUMBER</u>	BH2020/02841
<u>ADDRESS</u>	9 Hornby Road, Brighton BN2 4JL
<u>DEVELOPMENT DESCRIPTION</u>	Change of use from six bedroom small house in multiple occupation (C4) to eight bedroom large house in multiple occupation (Sui Generis) incorporating erection of single storey rear extension.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	13/07/2021
<u>APPLICATION DECISION LEVEL</u>	Delegated
<u>WARD</u>	PRESTON PARK
<u>APPEALAPPNUMBER</u>	BH2020/02221
<u>ADDRESS</u>	Flat 4, 169 Ditchling Rise, Brighton BN1 4QR
<u>DEVELOPMENT DESCRIPTION</u>	Replacement of existing wooden windows with UPVC windows.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	28/07/2021
<u>APPLICATION DECISION LEVEL</u>	Delegated
<u>WARD</u>	REGENCY
<u>APPEALAPPNUMBER</u>	BH2020/03696
<u>ADDRESS</u>	83 Western Road, Brighton BN1 2HA
<u>DEVELOPMENT DESCRIPTION</u>	Installation of roller shutters to front and rear. (Part-retrospective)
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	20/07/2021
<u>APPLICATION DECISION LEVEL</u>	Delegated
<u>WARD</u>	WOODINGDEAN
<u>APPEALAPPNUMBER</u>	BH2020/02619
<u>ADDRESS</u>	98 Warren Road, Woodingdean, Brighton BN2 6BA

<u>DEVELOPMENT DESCRIPTION</u>	Demolition of rear existing extension and outbuilding (E) and construction of new rear single storey ground floor extension to form 1no two bedroom residential unit (C3).
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	09/07/2021
<u>APPLICATION DECISION LEVEL</u>	Delegated

APPEAL DECISIONS FOR THE PERIOD BETWEEN 21/07/2021 & 17/08/2021

WARD

APPEAL APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

HANOVER AND ELM GROVE

APL2020/00121

239 Queens Park Road Brighton BN2 9XJ

Change of use from dwelling house (C3) to four bedroom small house in multiple occupation (C4).

APPEAL TYPE

Against Non-determination

APPEAL DECISION

WITHDRAWN APPEAL

PLANNING APPLICATION NUMBER

BH2020/01125

APPLICATION DECISION LEVEL

Delegated

WARD

APPEAL APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

MOULSECOOMB AND BEVENDEAN

APL2021/00031

84 Chailey Road Brighton BN1 9JF

Change of use from six bedroom small house in multiple occupation (C4) to eight bedroom house in multiple occupation (Sui Generis) with installation of cycle and bin storage.

APPEAL TYPE

Against Refusal

APPEAL DECISION

APPEAL ALLOWED

PLANNING APPLICATION
NUMBER

BH2020/03322

APPLICATION DECISION LEVEL

Delegated

WARD

APPEAL APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

QUEEN'S PARK

APL2021/00027

31 East Drive Brighton BN2 0BQ

Demolition of existing garages and erection of two bedroom dwelling on ground and lower ground floor levels and associated works.

APPEAL TYPE

Against Refusal

APPEAL DECISION

APPEAL ALLOWED

PLANNING APPLICATION
NUMBER

BH2019/03677

APPLICATION DECISION LEVEL

Delegated

