



**Brighton & Hove  
City Council**

# Planning Committee

|          |  |
|----------|--|
| Title:   | <b>Planning Committee</b>  |
| Date:    | <b>11 October 2017</b>   |
| Time:    | <b>2.00pm</b>  |
| Venue    | <b>Council Chamber, Hove Town Hall, Norton Road, Hove, BN3 4AH</b>   |
| Members: | <p><b>Councillors:</b> Cattell (Chair), Gilbey (Deputy Chair), C Theobald (Opposition Spokesperson), Mac Cafferty (Group Spokesperson), Bennett, Hyde, Inkpin-Leissner, Littman, Miller, Moonan, Morris and Russell-Moyle</p> <p><b>Co-opted Members:</b> Conservation Advisory Group Representative</p> |
| Contact: | <p><b>Cliona May</b><br/>Democratic Services Officer<br/>01273 29-1065/29-1354<br/>planning.committee@brighton-hove.gov.uk</p>   |



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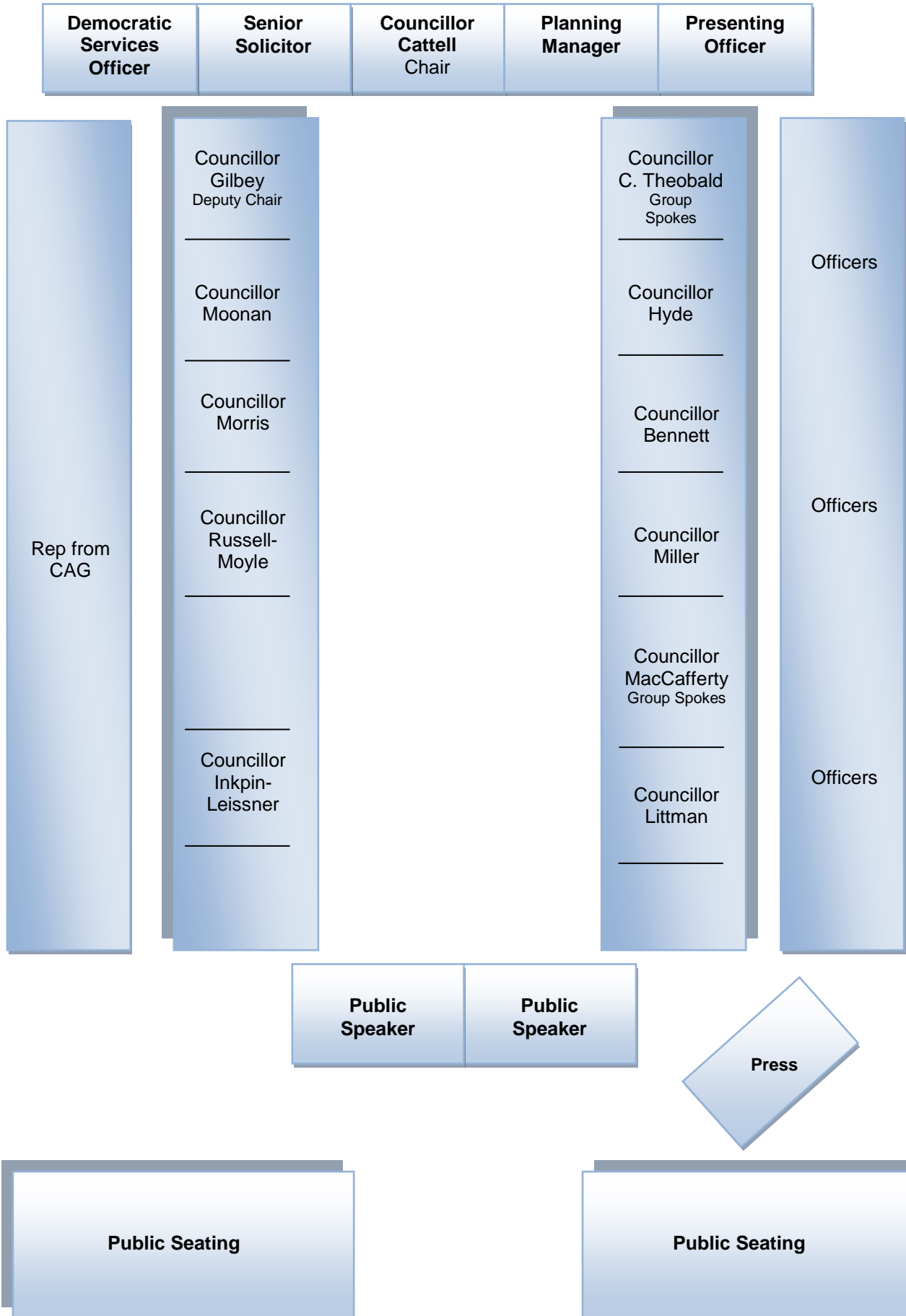
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# Democratic Services: Planning Committee



## AGENDA

### 53 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.*

(d) Use of mobile phones and tablets: Would Members please ensure that their mobile phones are switched off. Where Members are using tablets to access agenda papers electronically please ensure that these are switched to 'aeroplane mode'.

## PLANNING COMMITTEE

### 54 MINUTES OF THE PREVIOUS MEETING

Minutes of the meeting held on 13 September 2017 (copy to follow).

### 55 CHAIR'S COMMUNICATIONS

### 56 PUBLIC QUESTIONS

**Written Questions:** to receive any questions submitted by the due date of 12 noon on 4 October 2017.

### 57 TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS

### 58 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 BH2017/01259 - Sussex Police, Sussex House, Crowhurst Road, Brighton - Full Planning 1 - 22**

Change of Use of part of ground and first floor from general business (B1) to recreational use/immersive adventure experience (D2).

**RECOMMENDATION – MINDED TO GRANT**

*Ward Affected: Patcham*

#### **B BH2017/00662 - The Downsman, 189 Hangleton Way, Hove - Full Planning 23 - 58**

Demolition of former public house (A4) and erection of 33 dwellings (C3) comprising of 10 terraced houses and a block of 23 flats incorporating community space (D1) at ground floor level with associated access, parking and landscaping.

**RECOMMENDATION – MINDED TO GRANT**

*Ward Affected: Hangleton and Knoll*

#### **C BH2017/01065 - Baptist Tabernacle, Montpelier Place, Brighton - Full Planning & Demolition In CA 59 - 88**

Demolition of existing church and erection of 24no residential units (C3), comprising terrace of 5no four storey houses, five storey block of 14no flats and three storey block of 5no flats. Creation of non-residential unit (D1) to ground floor of five storey building and associated car parking and landscaping.

**RECOMMENDATION – MINDED TO GRANT**

*Ward Affected: Regency*

## PLANNING COMMITTEE

- D BH2017/02299 - Royal Pavilion, Pavilion Buildings, Brighton 89 - 104  
- Full Planning**

Temporary ice rink on Royal Pavilion Eastern Lawns annually during winter months. Structure to include ancillary buildings for a restaurant, cafe, toilet facilities, skate hire, learner's ice rink and associated plant and lighting. (6 year consent).

**RECOMMENDATION – APPROVE**

*Ward Affected: St Peters & North Laine*

### MINOR APPLICATIONS

- E BH2017/00284 - Wayland Paddock, 41 Wayland Avenue, 105 - 122  
Brighton - Householder Planning Consent**

Re-modelling and extensions to dwelling including associated works.

**RECOMMENDATION – GRANT**

*Ward Affected: Withdean*

- F BH2017/00128 - 17 Barnfield Gardens, Brighton - 123 - 134  
Householder Planning Consent**

Erection of part single part two storey rear extension with associated alterations.

**RECOMMENDATION – GRANT**

*Ward Affected: Queen's Park*

- G BH2016/02080 - 77 Dyke Road Avenue, Hove - Householder 135 - 150  
Planning Consent**

Erection of 2no five bedroom dwelling with 2no single storey detached garages.

**RECOMMENDATION – APPROVE**

*Ward Affected: Hove Park*

- H BH2016/01673 - 79-81 Ditchling Road, Brighton - Full 151 - 166  
Planning**

Creation of external seating area and associated alterations. (Retrospective)

**RECOMMENDATION – APPROVE**

*Ward Affected: St. Peter's & North Laine*

- I BH2017/00535 - 4 Plymouth Avenue, Brighton - Full 167 - 182  
Planning**

Change of use from three bedroom single dwelling (C3) to four bedroom small house in multiple occupation (C4) with associated alterations including erection of a single storey front extension and porch, raising of ridge height and installation of rooflights to rear and side elevations.

**RECOMMENDATION – APPROVE**

*Ward Affected: Moulsecoomb & Bevendean*

## PLANNING COMMITTEE

- 59 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

- 60 INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS 183 - 184**

(copy attached).

- 61 LIST OF APPLICATIONS DETERMINED UNDER DELEGATED POWERS OR IN IMPLEMENTATION OF A PREVIOUS COMMITTEE DECISION (INC. TREES MATTERS)**

(copy to follow)

- 62 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE 185 - 192**

(copy attached).

- 63 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES 193 - 194**

(copy attached).

- 64 APPEAL DECISIONS 195 - 208**

(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/index.cfm?request=c1199915>

The City Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public. Provision is also made on the agendas for public questions to committees and details of how questions can be raised can be found on the website and/or on agendas for the meetings.

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## PLANNING COMMITTEE

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If you have any queries regarding this, please contact the Head of Democratic Services or the designated Democratic Services Officer listed on the agenda.

For further details and general enquiries about this meeting contact Cliona May, (01273 29-1065/29-1354, email [planning.committee@brighton-hove.gov.uk](mailto:planning.committee@brighton-hove.gov.uk)) or email [democratic.services@brighton-hove.gov.uk](mailto:democratic.services@brighton-hove.gov.uk).

Date of Publication - Tuesday, 3 October 2017





# **ITEM A**

**Sussex Police, Sussex House,  
Crowhurst Road, Brighton**

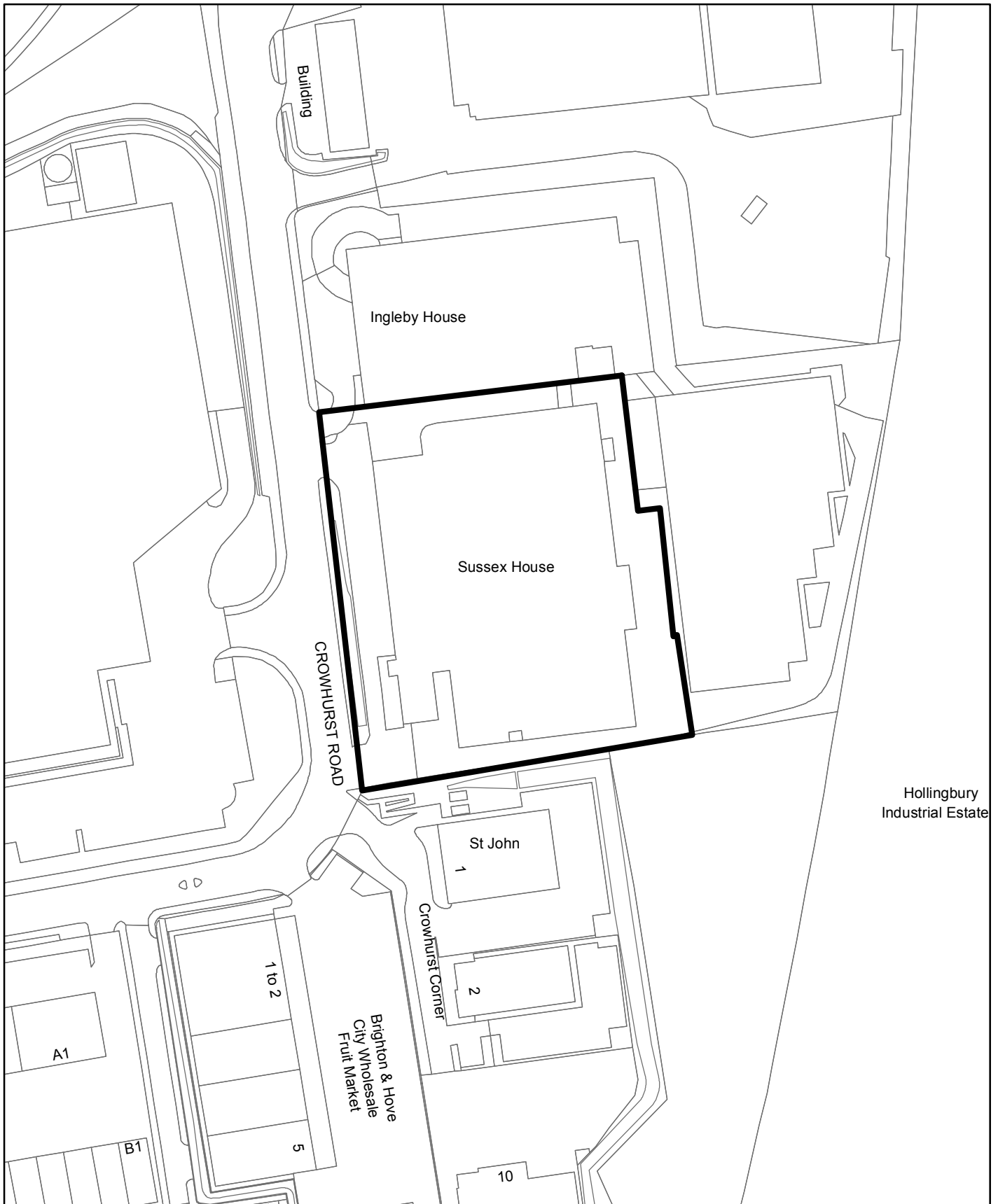
**BH2017/01259**

**Full Planning**

**DATE OF COMMITTEE: 11<sup>th</sup> October 2017**



# BH2017/01259 Sussex Police, Sussex House, Crowhurst Road, Brighton



**Brighton & Hove  
City Council**



**Scale: 1:1,250**



|                                      |  |                            |                     |
|--------------------------------------|--|----------------------------|---------------------|
| <b><u>No:</u></b>                    | <b>BH2017/01259</b>  | <b><u>Ward:</u></b>        | <b>Patcham Ward</b> |
| <b><u>App Type:</u></b>              | <b>Full Planning</b>   |                            |                     |
| <b><u>Address:</u></b>               | <b>Sussex Police Sussex House Crowhurst Road Brighton BN1 8AF</b>  |                            |                     |
| <b><u>Proposal:</u></b>              | <b>Change of Use of part of ground and first floor from general business (B1) to recreational use/immersive adventure experience. (D2)</b> |                            |                     |
| <b><u>Officer:</u></b>               | Luke Austin, tel: 294495   | <b><u>Valid Date:</u></b>  | 02.06.2017          |
| <b><u>Con Area:</u></b>              | N/A  | <b><u>Expiry Date:</u></b> | 01.09.2017          |
| <b><u>Listed Building Grade:</u></b> | N/A  |                            |                     |
| <b><u>Agent:</u></b>                 | Krona Design Ltd 50 Grand Parade Brighton BN2 9QA  |                            |                     |
| <b><u>Applicant:</u></b>             | Mr Lambor Cambridge Cottage Brantridge Lane Balcombe RH17 6JR  |                            |                     |

This application was deferred from Planning Committee on the 9 August 2017 to allow officers the opportunity to review and consider additional information that the applicant submitted.

## 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:

### S106 Heads of Terms

A sustainable transport contribution of £20,000 is requested in order to fund the provision of bus stop improvements at stops adjacent to the site which may include:

- Accessible kerb at the northbound and/or southbound 'Crowhurst Road North' bus stops on Crowhurst Road; and/or
- Real time public transport information at the northbound and/or southbound 'Crowhurst North' bus stops on Crowhurst Road.

### 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.

| <b>Plan Type</b>     | <b>Reference</b> | <b>Version</b> | <b>Date Received</b> |
|----------------------|------------------|----------------|----------------------|
| Location Plan        | A.002            |                | 11 April 2017        |
| Site Layout Plan     | A.001            |                | 11 April 2017        |
| Floor Plans Proposed | A.111            |                | 23 April 2017        |
| Floor Plans Proposed | A.112            |                | 23 April 2017        |
| Elevations Proposed  | A.200            |                | 20 July 2017         |

- 2 The Use hereby permitted shall be discontinued and the land restored to its former use (Class B1) on or before the 11<sup>th</sup> of October 2027.  
**Reason:** To retain the employment use of the premises and in line with the application, planning permission is granted for a time limited period only under Section 72 of the Town and Country Planning Act 1990 (as amended) and to comply with policies CP3 of the Brighton & Hove City Plan Part One.
- 3 The part of the building to which this permission relates shall only be used as an interactive immersive experience as described within the application submission and for no other purpose (including any other purpose in Class D2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).  
**Reason:** To retain the employment use of the premises, having regard to the location of the premises, parking, traffic generation and residential amenity of the area, to comply with policies CP3, CP9 and QD27 of the Brighton & Hove Local Plan 2005.
- 4 The use hereby approved shall not operate other than within the proposed opening hours of 09:00 and 21:00.  
**Reason:** To protect the amenity of the surrounding area and to comply with policies QD27 and SU10 of the Brighton and Hove Local Plan.
- 5 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.
- 6 Prior to first occupation of the development hereby permitted, details of the car park layout to include disabled car parking provision for the occupants of, and visitors to, the development and retained office shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented and made available for use 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 guidance.
- 7 Prior to first occupation of the development hereby permitted, details of works to narrow the site access points and provide dropped kerbs and tactile paving 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 pedestrians are provided and to comply with policies CP9 and CP7 of the Brighton & Hove City Plan Part One and TR7 of the Brighton & Hove Local Plan.

- 8 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.

- 9 Within three months of the date of first occupation, a Travel Plan for the development shall have been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include details of the shuttle bus service and 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 City Plan Part One.

- 10 The separating ceilings, floors and walls between the sound effects and props themed rooms and the adjacent commercial units should be designed to achieve airborne sound insulation values of at least 5dB higher, and impact residual noise level values of at least 5dB lower than that required by Approved Document E performance standards.

**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.

- 11 Unless otherwise agreed in writing by the Local Planning Authority, the development hereby approved shall not be occupied until an Energy Performance Certificate demonstrating a rating of 'C' has been 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 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 to contact the Council's Streetworks team (permit.admin@brighton-hove.gov.uk 01273 290729) for necessary highway approval from the Highway Authority prior to any works commencing on the adopted highway to satisfy the requirements of condition 6.

- 3 In regard to Condition 9, the applicant should contact the Highway Authority Access Team for advice and information at their earliest convenience to avoid delay (travel.planning@brighton-hove.gov.uk or telephone 01273 290729). The Travel Plan shall include such measures and commitments as are considered necessary to mitigate the expected travel impacts of the development and should include as a minimum the following initiatives and commitments:
- (i) Promote and enable increased use walking, cycling, public transport use, car sharing, and car clubs as alternatives to sole car use;
  - (ii) Details of planned shuttle bus service;
  - (iii) A commitment to reduce carbon emissions associated with business and commuter travel;
  - (iv) Increase awareness of and improve road safety and personal security;
  - (v) Undertake dialogue and consultation with adjacent/neighbouring tenants/businesses;
  - (vi) Identify targets focussed on reductions in the level of business and commuter car use;
  - (vii) Identify a monitoring framework, which shall include a commitment to undertake an annual staff travel survey utilising iTrace Travel Plan monitoring software, for at least five years, or until such time as the targets identified in section (vi) above are met, to enable the Travel Plan to be reviewed and updated as appropriate;
  - (viii) Following the annual staff survey, an annual review will be submitted to the Local Planning Authority to update on progress towards meeting targets;
  - (ix) Identify a nominated member of staff to act as Travel Plan Co-ordinator, and to become the individual contact for the Local Planning Authority relating to the Travel Plan.
- 4 In regard to Condition 11, 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.

## **2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1 The application site relates to the former Sussex Police building located to the east of Crowhurst Road, to the eastern end of the Hollingbury Industrial Estate. The building is set on a section of Crowhurst Road with a moderately steep gradient which rises from south to north towards the A27. The surrounding buildings are of a commercial nature, varying in size and appearance. Hollingbury Industrial Estate is an identified employment site which is protected under Policy CP3.
- 2.2 The majority of the building is two storey with a flat roof and a projecting section above the main stair well. The site currently has two vehicular access routes to the west of the building from Crowhurst Road in addition to a number of parking



spaces to the front of the building. The site is bound by several commercial buildings including a storage facility to the north, a St Johns Ambulance facility to the south and a Police Custody Facility to the rear.

- 2.3 The building is currently vacant and was last occupied by Sussex Police in September 2016. This application relates to an 'L' shaped section of the building; covering two storeys to the north-east corner and measuring approximately 2098 sqm in area. The application seeks consent for a change of use of this section of the building from general business (B1) to a recreational use (D2). The remainder of the building will be retained as a general business use (B1) however internal alterations and refurbishment in addition to several external alterations including recladding will be carried out as approved under application BH2016/06504.

### 3. RELEVANT HISTORY

**BH2017/03082** - Variation of Condition 1 of application BH2016/06504 (Alterations to layout and refurbishment of office space including removal of temporary central metal frame building to facilitate conversion to parking spaces, formation of new entrance to car park area, re-cladding of elevations associated works) to allow amendments to approved drawings. Received 13 September 2017, Under Consideration.

**BH2016/06504** - Alterations to layout and refurbishment of office space including removal of temporary central metal frame building to facilitate conversion to parking spaces, formation of new entrance to car park area, re-cladding of elevations associated works. Approved 24.04.2017.

**BH2010/00386** - Alteration to layout of front parking area to allow for the provision of 1 no. additional standard parking space and 1 no. additional disabled bay. Approved 29.04.2010.

**BH2008/02062** - Construction of three industrial units with mezzanine floors for B1, B2 and B8 use and provision of associated parking. Approved 26.03.2009.

**BH2000/03192/FP** - Alterations to convert existing 2 storey industrial building with roof top car park to police custody facility with ancillary offices and vehicle inspection area including formation of 33 parking spaces on 1st floor, retention of 81 spaces on roof and formation of secure pedestrian accessing on re-aligned southern boundary (presently part of No.10 with bridge link to No.12. Approved 09.05.2001.

### 4. REPRESENTATIONS

- 4.1 No comments received.

### 5. CONSULTATIONS

- 5.1 **External**  
**County Ecology:** Comment

Provided that the recommended mitigation measures are carried out, the proposed development is unlikely to have any significant impacts on biodiversity and can be supported from an ecological perspective. The site offers opportunities for enhancement that will help the Council address its duties and responsibilities under the NERC Act and NPPF.

5.2 Opportunities include, but are not limited to, the provision of a biodiverse roof and the provision of bird and/or bat boxes that target local species of conservation concern. Advice on appropriate species can be found in the Council's SPD 11, Annex 7 Notes on Habitat Creation and Enhancement. Where possible, native species of local provenance should be used.

5.2 **County Archaeology:** No objection

It is unlikely that any significant below ground archaeological remains would be affected by these proposals. For this reason I have no further recommendations to make in this instance.

5.3 **Sussex Police:** Comment

No concerns are raised regarding this application from a crime prevention perspective, however there are concerns regarding the physical security of the premises. Standard security measures are recommended.

5.5 **East Sussex Fire & Rescue Service:** No comment received.

5.6 **Internal:**

**Planning Policy:** Initial Comment (14/07/17) - Objection

5.7 The proposed use would be contrary to Policy CP3 Employment Land in the adopted City Plan Part 1. The site is allocated by the City Plan for B Class employment use; there is an existing and projected shortfall of B Class employment premises across the Plan period and it is therefore of importance that existing allocated sites be retained. The application submission fails to demonstrate that there is no reasonable prospect of the premises (which is undergoing refurbishment) being used for the allocated B Class employment use in accordance with paragraphs 18-22 of the National Planning Policy Framework (NPPF).

In addition to this in principle objection, the proposed D2 recreational/ immersive use is considered by the NPPF to be a main town centre use. Paragraph 24 of the NPPF requires local planning authorities to apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. The applicant has not demonstrated compliance with the sequential test in accordance with paragraphs 24 and 27 of the NPPF.

5.8 Second Comment (06/09/2017)

It is again noted that the proposed use would be contrary to Policy CP3 of the City Plan as the site is allocated for B Class employment use.

- 5.9 However a number of material considerations have been put forward by the applicant that on balance it is considered are relevant and a departure from the adopted policy could be considered given that:
- The propose change of use would not prejudice the B use class employment allocation of this site in its entirety, as it relates to only part of the ground floor and first floor of Sussex House and potentially – subject to further clarification - could enable the refurbishment of the remaining of the office building for modern office use.
  - The limited marketing provides some indication of the unsuitability of the current configuration of the floorspace for B1(a) office space, although it is less clear if it would be unsuitable for other B uses.
  - The proposed use has the potential to generate a level of employment similar to what might be expected by B Class uses (other than offices); the proposed use would include a number of skilled office/ managerial staff alongside leisure –related jobs.
- 5.10 The proposed D2 recreational/ immersive use is considered by the NPPF to be a main town centre use. Paragraph 24 of the NPPF requires local planning authorities to apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. A Sequential Assessment has been undertaken and following further clarifications by the applicant it is considered that on the basis of the information submitted and clarifications that the applicant has demonstrated that there are no other sites which are suitable, viable or likely to come forward within a reasonable timeframe which represent sequential preferable alternatives.
- 5.11 Policy CP5 Culture and Tourism states that new visitor attractions will be expected, where appropriate to comply with the requirements of national planning policy and be of a high environmental standard in terms of design, management and access; complement and build on the city’s distinct tourism offer; contribute to a sense of place; reduce seasonality; promote diversity; widen local access; support the regeneration for the city and benefit the city’s economy; and be accessible by public transport.
- 5.12 Subject to the comments of the Head of Tourism and the Economic Development Team, the proposed use would comply with the requirements of CP5 Culture and Tourism.
- 5.13 The supporting information and Planning Statement provides information on how travel demand arising from the proposed scheme will be managed and this should be assessed by the Transport Team, Policy CP9 Sustainable Transport applies.
- 5.14 **Public Art:** No artistic component sought in this case.

- 5.15 **Heritage:** No comment received.
- 5.16 **Sustainable Drainage:** No comment received.
- 5.17 **Sports Facilities and Development:** No comment received.
- 5.18 **City Clean:** No comment received.
- 5.19 **Sustainability Team:** Comment  
Normally a BREEAM rating for conversions would be sought, but only for changes of use only where there are substantial internal works because BREEAM can be onerous, and if there are few changes to assess the requirement unreasonable is considered unreasonable.
- 5.20 Confirmation should be sought from the applicant of what the previous EPC rating was [N.B. now confirmed as rated D] and seek an improvement of that with a rating of C minimum.
- 5.21 **Environmental Health:** Initial Comment (02/05/17)  
It is not clear from the application what the uses proposed for the ground floor or first floor are, therefore it is not possible to comment about any potential nuisance issues. There is no potentially contaminated land on the site.
- 5.22 Additional comments following the submission of additional details (19/07/07):  
Please secure additional sound proofing by condition. Full details of sound proofing measures to be secured to follow.
- 5.23 **Tourism and Leisure:** No objection  
The above application is welcomed as it would positively enhance the City's leisure facilities throughout the year both for residents and tourists. The proposed immersive adventure experience would enhance Brighton's reputation as a year round destination to visit, and would help attract and support tourism outside of the main season.
- 5.24 **Economic Development:** Initial Comment  
The proposed change of use is for a re-designation from storage and office use to D2 Use Class and relates to a section of the ground floor and a section of the first floor of Sussex House. The proposed D2 Use Class will result in an immersive adventure experience.
- 5.25 Sussex House, which was formerly used by Sussex Police, has been vacant since Sussex Police vacated the unit in September 2016. The Planning Statement says the site has been actively marketed by Flude Commercial since the property became vacant. City Regeneration considers this is too short a time period to ascertain redundancy of use for the allocated employment use and in addition there is no evidence submitted by the applicant to demonstrate the marketing, albeit over a short time period, that has been undertaken.
- 5.26 The applicant indicates there would be 40 FTE job opportunities created by this scheme. City Regeneration supports inward investment and the principle of

bringing vacant commercial floorspace back into use for alternative employment generating purposes but only subject to evidence of extensive marketing of the property over a substantive time period for its allocated employment use and, in addition, subject to comments provided by the council's Planning Policy team.

5.27 Additional comments following the submission of additional details:

Awaiting comments.

5.28 **Sustainable Transport:** Initial Comment (13/07/17) - No objection

Recommended approval subject to inclusion of the necessary conditions securing a car park layout plan, site access works, cycle parking details, a travel plan and a S106 sustainable transport contribution of £20,000.

5.29 Clarification requested as to whether Sussex Police have fully vacated the site (or will be) and as such whether the designated police vehicle bays on Crowhurst Road require removal. If so, an additional condition would be recommended to secure the necessary works and revocation of the Traffic Regulation Order.

5.30 Second Comment Following Clarification of the Police Parking Bays (13/07/17):

No further action would be required.

## 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);

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)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

CP2 Sustainable economic development

- CP3 Employment land
- CP5 Culture and tourism
- CP7 Infrastructure and developer contributions
- CP8 Sustainable buildings
- CP9 Sustainable transport
- CP10 Biodiversity
- CP11 Flood risk
- CP12 Urban design
- CP17 Sports provision
- CP18 Healthy city

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
- QD18 Species protection
- QD27 Protection of amenity
- HO20 Retention of community facilities

Supplementary Planning Documents:

- SPD11 Nature Conservation & Development
- SPD12 Design Guide for Extensions and Alterations
- SPD14 Parking Standards

**8. CONSIDERATIONS & ASSESSMENT**

8.1 The main considerations in the determination of this application relate to the principle of the change of use, the amenity impacts, ecology, sustainable transport and sustainability.

**8.2 Principal of Development:**

**8.3 Loss of the Existing Use**

The building was previously occupied by Sussex Police as office and associated storage with a predominant office character (Use Class B1(a)) and has been vacant since September 2016. The application seeks consent for the change of use of a section of the site covering a portion of the ground and first floor to the northern end of the building equating to approximately 2098 sqm. The proposed use would be recreational (D2) and is described as an 'interactive immersive experience'.

8.4 The applicant states that the remaining floor space of the building would be retained as office use however it would be adapted and modernised with several external alterations as approved under BH2016/06504 (amendments now sought under application BH2017/03082). Alterations to the internal layout had begun at the time of the site visit including the clearing of a large proportion of the central section of the building. The central section of the building was being

marketed as a 'warehouse', the applicant has confirmed that this was an error and the remainder of the site is to remain as refurbished B1 use.

- 8.5 Policy CP5 - Culture and Tourism seeks to maintain and enhance the cultural offer of the city to benefit residents and visitors through supporting the role of the arts, creative industries and sustainable tourism sector in creating a modern and exciting visitor destination with a range of high quality facilities, spaces, events and experiences. Whilst the proposed use would be in accordance with the objectives of CP5 by providing a positive tourist attraction, which would be non-seasonal, this must be weighed up against the issues identified below.
- 8.6 The site is located within the Hollingbury Industrial Estate which identified as a primary industrial estate within the City Plan Part One. Policy CP3 (Employment Land) recognises that sufficient employment sites and premises should be safeguarded in order to meet the needs of the city in order to support job creation, the needs of modern business and the attractiveness of the city as a business location.
- 8.7 Hollingbury Estate is identified as a primary industrial estate under Policy CP3 and as such is protected for business, manufacturing and warehouse use (B1, B2 and B8).
- 8.8 Policy CP3 does allow for Sui Generis uses on identified industrial estates provided these are: *'appropriate in nature to an industrial estate location will also be acceptable, provided that they generate employment which is quantitatively and qualitatively comparable to uses within B1- B8 Use Classes; do not harm the continuation of existing uses within those Classes'*.
- 8.9 Whilst policy CP3 does allow for redundancy of existing uses to be demonstrated and alternative uses would then be considered, this only covers secondary employment sites as indicated in CP3.5. The application site is a primary site and is allocated for long term retention as B Class employment. The rationale of this approach is set out in the supporting text of the policy at paragraph 4.32:
- 8.10 *The Employment Land Study Review 2012 assessed the city's stock of industrial estates/ business parks for their suitability for continued protection for employment use. The study found that these established areas remain popular, as demonstrated by high occupancy and low vacancy levels. With limited spare capacity in existing industrial floorspace supply it is therefore important to continue to protect these employment sites whilst encouraging new business investment and opportunities in order to facilitate renewal and growth.*
- 8.11 The protection of this industrial estate for B1, B2 and B8 uses is also guided by the forecast positive demand for employment floorspace over the Plan period (as set out in in table 4 in the City Plan Part 1). Further, as noted in paragraph 4.30 of the supporting text to Policy CP3, there is a shortfall of identified employment sites to meet the forecast demand for B use class employment floorspace over the plan period.

- 8.12 The principle of the policy is that existing B class uses should be safeguarded and should sites and premises come forward for redevelopment or renewal on these industrial estates the policy protects future use of the sites or premises for B1, B2 and B8 uses. The proposed D2 leisure use would therefore not comply with Policy CP3.3.
- 8.13 Notwithstanding these in principle concerns, in this case the applicant has provided supporting evidence in relation to several material considerations including the facilitation of the refurbishment of the building through the proposed change of use, the suitability of the existing site to policy compliant uses and the level of employment generated from the proposed use. The application was originally submitted with minimal supporting evidence. Since the original submission a planning statement has been submitted in addition to a further planning statement, marketing details and an assessment of other potential sites within the city in addition to several brief statements.
- 8.14 The applicant's supporting evidence indicates that the proposed leisure use will help facilitate the refurbishment of the rest of the building. The additional planning statement indicates that the applicant is investing £1m into the building and that without the change of use the refurbishment would not take place. The applicant has also provided a breakdown of the indicative costings of the development of a total of c. £900,000.
- 8.15 Whilst the costings of the total works and the scale of the proposed refurbishment that the applicant is proposing to undertake are acknowledged; a detailed statement of how the change of use will facilitate the wider refurbishment has not been provided. It would have been useful if the applicant had provided a statement exploring whether an appropriate policy compliant use (B1, B2 or B8) would be able to facilitate the wider refurbishment of the building as without the case put forward it is difficult to assess the comparison.
- 8.16 The planning statement submitted with the application considers that the majority of the ground floor and part of the first floor has very little natural light related to how the previous occupiers used the space. The applicant considers the space would not be considered suitable for use by other storage and office uses without significant investment. The planning statement further indicates that improving natural light to this area of the building would require demolition and other substantial works that would not be viable.
- 8.17 Several sections of the site do suffer from no outlook or natural light and are relatively industrial in character however several parts of the site, particularly at first floor level and to the rear at ground floor level are well lit and were laid out in an office fashion at the time of the site visit. It is acknowledged that poorly lit areas of the site could require upgrading in order to bring the space up to an adequate standard for an office use, however it has not been demonstrated whether the site would be able to facilitate other policy compliant uses in its current state such as storage or light industrial uses, or what works could be done in order to facilitate such uses.



8.18 Marketing information has been provided by Flude Commercial to address the concern expressed by the Planning Policy Team comments which indicated that there was insufficient information submitted by the applicant to conclude that there was no reasonable prospect of the continued use of this part of the building for an alternative B1, B2, B8 use in compliance with the policy. Flude Commercial indicates that following the sale, the new owners, Greenleaf Properties (Sussex) Ltd, instructed Flude Commercial to market the premises to let in January 2017 with the possibility of undertaking an extensive programme of refurbishment works. Flude Commercial indicate that during this six month period they were successful in generating some interest in large parts of the site for office use, however in respect of the ground floor element the feedback was negative and as follows:

- Lack of natural light and ventilation
- The limited provision of fenestration making the space unappealing as a work space
- The overall configuration making the premises unusable as work space

8.19 It was indicated however that the marketing had also generated some interest from D2 gym uses. The limited marketing provides some indication of the unsuitability of the current configuration for office space but is unclear if there was interest from other B uses.

8.20 Whilst it is noted that the applicants marketing details indicate a lack of interest from B1 users for the site it is unclear whether there has been any interest from B2 or B8 users in its current state nor what works would be required in order to generate interest. Therefore the application fails to demonstrate fully that the site would not present a viable option for all policy compliant uses. It is however acknowledged that the existing site would likely require investment in order to generate interest, given the current conditions.

8.21 The planning statement submitted with the application indicates that the proposed use would create 40 full time and part time jobs. As a comparison, applying the latest HCA/Offpat Employment Densities Guide 2015 using the applicant's net internal floorspace area the calculation for a general office use would have the potential for 166 jobs. It is acknowledged however that sections of the site in their current state potentially lend themselves to a more industrial use. A mixed B class maker space would have a potential for 50-133 jobs, B1c light industrial 47 jobs and B8 storage (final mile distribution centre) 28 jobs. The proposed use therefore has the potential to generate a level of employment similar to what might be expected in some B uses other than the existing office use, and the proposed use would include a number of skilled office/ managerial staff alongside leisure related jobs.

#### 8.22 The Proposed Use

The facility would consist of 2 'adventure routes'; each route would have teams of 8 participating and teams would be set off round the course every 30 minutes. This concludes that each hour could see a footfall total of 32 people (8 teams x 2 routes x teams per hour). The proposed opening hours would be Monday to Saturday 9am to 9pm and Sunday 9am to 7pm.

- 8.23 The proposed D2 recreational use is considered by the NPPF to be a main town centre use. Paragraph 24 of the NPPF requires Local planning authorities to apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre.
- 8.24 The application was not originally submitted with any form of sequential assessment. An assessment of other potential sites within the city was later provided by the applicant and undertaken by Flude Commercial. The report sought to identify sites within approximately a 3.2 mile radius of the town centre. Each potential site was assessed against the NPPF requirements of suitability, availability and viability. The search requirements were for a D2 space with at least 2,000 sq m the majority over the ground floor; a frontage and ample parking spaces and a long lease (more than 15 years).
- 8.25 The potential sites identified 17 industrial estates/ business parks; hospitality options (including a number of hotels within the search area) and multi-storey office buildings (within the search area) which 'if available/ vacant' would be potentially large enough to accommodate the proposed occupier. The report concludes that the potential sites are not suitable or viable and there are currently no alternatives. The report concludes that a site has not been identified that is deemed available, suitable and viable nearer to Brighton Town centre than Sussex House.
- 8.26 It is considered on the basis of the information submitted and further clarifications that the applicant has demonstrated that there are no other sites which are suitable, viable or likely to come forward within a reasonable timeframe which represent sequential preferable alternatives.
- 8.27 The proposed conversion would result in a loss of B Class employment floorspace within a protected area and would introduce a town centre use in an inappropriate location. The applicant has not adequately demonstrated that the existing site could not accommodate a use appropriate for an identified primary industrial estate nor has the applicant provided a detailed analysis of possible options which could be carried out in order to attract appropriate uses.
- 8.28 It has been identified, however, that areas of the site do suffer from minimal outlook and natural light, particularly on the ground floor level and the marketing evidence submitted, although minimal, does indicate a lack of interest for B Class uses. Furthermore the change of use relates only to part of the overall site and would form part of a wider refurbishment of the entire building for B1 use.
- 8.29 The proposal would also introduce a non-seasonal leisure use within the city which could potentially generate employment levels similar to that of some B

Class uses and it has been demonstrated that there is a lack of appropriate sites closer to the city centre that would meet the applicant's requirements.

- 8.30 Overall therefore, the proposed change of use remains directly contrary to Policy CP3, and would result in a harmful loss of B Class employment floorspace. It is considered that such a change of use cannot be supported on a permanent basis, notwithstanding the case which has been put forward and considered in full.
- 8.31 It is however clear that there are extenuating circumstances in this case and the proposed use, whilst not ideally located, would in itself provide benefits. It is considered that these conflicting considerations could be appropriately addressed through the grant of a temporary 10 year consent, which would allow the proposed use to come forward and operate for a substantial period, during which a more suitable centrally located site could potentially be found for the use to relocate to. A temporary permission would also ensure that the long term use of the building for B Class use would not be compromised, as the use of the building would have to return to a B1 use after a maximum 10 year period, or at the least a further application for planning permission would have to be submitted and the proposal would be reconsidered in light of the circumstances at the time in respect of the market and the demands for various types of employment uses.
- 8.32 The applicant has confirmed in writing that they and the intended tenant are in agreement to a temporary 10 year consent if this restriction is considered to be necessary.
- 8.33 **Design and Appearance:**  
The application does not propose any external alterations however it should be noted that refurbishment of the building; including recladding and associated alterations to the elevations, was recently approved under application BH2016/06504, and amendments to this scheme are now sought under application BH2017/03082.
- 8.34 **Impact on Amenity:**  
Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 8.35 It is stated within the outline document provided that the proposed development will make use of a 'combination of lighting, audio, visuals, props and bespoke, theatrical staging and costumes' which is likely to generate noise impact in addition to disturbance associated with the general movements and activity from users of the site. The applicant has stated that the remaining section of the building shall remain as a B1 use. Although the use within the remaining section of the building would be of a commercial nature it is still considered that the potential noise impact of the proposed use should be taken into account. For example, an office use could be susceptible to disruptive noise disturbance.

- 8.36 The Environmental Health Officer has recommended that details of additional sound proofing, beyond what would be secured through building regulations, should be secured by condition in order to avoid noise impact on the adjacent uses within the building. A condition is recommended to secure these measures.
- 8.37 As the site is located within an industrial estate with no residential properties within close proximity, the proposed use is unlikely to result in any significant harm to residential amenity. Sussex Police have commented upon the application and have advised that they have no objections to the hours of use proposed. It is recommended that these hours be secured by planning condition, as the potential impacts of a late night / 24 hour use have not been considered or consulted upon under this application.
- 8.38 **Sustainable Transport:**  
City Plan Part One policy CP9 sets out the Council's approach to sustainable transport and seeks, generally to further the use of sustainable forms of transport to reduce the impact of traffic and congestion and in the interests of health to increase physical activity.
- 8.39 The proposed development would result in additional trip generation in comparison to the existing use and therefore improvements to sustainable transport infrastructure in the immediate vicinity of the site are required to mitigate the impact of the proposed development. Further details of this are set out within the heads of terms and section 11 below.
- 8.40 The site is currently located within an accessible location, close to the A27 with bus routes to the city centre and other areas near to the site. The site is currently accessed via two entrances from Crowhurst Road which would remain unchanged as part of the proposal. The Sustainable Transport team, however, have identified that both accesses are currently wider than is necessary and have requested dropped kerbs and tactile paving to the northern access which shall be accessed by condition.
- 8.41 30 car parking spaces are proposed for the proposed D2 use which is considered to be appropriate to cater for the visitor capacity of 32 per hour and staff (40 people will be employed although not all would be on-site at any one time). This in particular takes into account the likelihood that visitors will arrive in groups. It is acknowledged that the applicant has outlined measures to encourage sustainable travel including a rail station pick-up service and car sharing by employees. However, to mitigate the impact of the development and ensure that trips generated as a result of the development are undertaken as sustainably as possible, it is recommended that a Travel Plan be secured by condition in accordance with Brighton & Hove Local Plan policy TR4
- 8.42 No information appears to be provided in relation to disabled parking. For D2 uses, SPD14 requires three bays as a minimum. It is noted that some disabled parking is provided to the front of the existing premises; however, it is unclear whether these would serve the retained B1 or proposed leisure use. Were approval to be recommended a car park layout plan identifying the allocation of

parking bays, including disabled parking, for the different uses be provided could be secured by planning condition.

- 8.43 No cycle parking appears to be provided on site. Details of such provision shall be secured by condition.
- 8.44 **Sustainability:**  
Policy CP8 required that all new development incorporate sustainable design features unless it can be demonstrated that doing so is not technically feasible and/or would make the scheme unviable.
- 8.45 Policy CP8 seeks for conversions over 1000sqm to achieve a BREEAM standard of Excellent. As the proposal relates to a change of use and will make use of the existing building with the majority of the layout retained it is considered that securing a BREEAM standard would be overly onerous in this case. Discussions with the applicant have confirmed that the existing building has an Energy Performance Certificate Rating of D. It is therefore recommended that an Energy Performance Certificate rating of C be secured by condition in order to meet the requirements of CP8. The applicant has agreed to this approach.
- 8.46 **Trees, Landscaping & Ecology:**  
As no external alterations or landscaping works are proposed on site the proposed change of use would not result in any direct harm to trees and ecology.
- 8.47 The County Ecologist recommends that that these requirements could be met through the securing of nature conservation measures including the provision of bird and/or bat boxes that target local species of conservation concern. The county Ecologist has recommended that if protected species are encountered during the development, works should stop and advice should be sought on how to proceed from a suitably qualified and experienced ecologist.
- 8.48 Whilst is acknowledged that the NPPF, policy CP10 and the guidance set out in SPD11 and its annex requires that all development delivers a 'net gain' in biodiversity terms, given that no external alternations or provision of additional floor space is proposed, the requested measures are not considered reasonable or necessary in this case.

## **9. CONCLUSION**

- 9.1 The proposal would result in the loss of B class employment floorspace protected by policy CP3 of the Brighton & Hove City Plan. The level of marketing provided, the lack of clarity regarding the prospect of appropriate B class tenants or the work required to bring the space up to standard in addition to the lack of explanation of how the proposed leisure use would facilitate the wider refurbishment of the building has not justified a full departure from the policy. It is considered that such a change of use cannot be supported on a permanent basis, notwithstanding the case which has been put forward and considered in full.

- 9.2 The proposed leisure use would comply with policy CP5 creating a non-seasonal attraction. The proposal would bring the vacant site into beneficial use whilst retaining a large proportion of B class employment use on site. On balance therefore it is recommended that a temporary use of 10 years be granted, which would allow the use to occupy the building temporarily while more suitable centrally located premises could potentially be identified, and would ensure that the long term B Class employment use of the site would be protected.
- 9.3 The Highway Authority raises no objection to the proposal. The forecast trip generation would be significantly more in comparison to the existing use class and therefore a financial contribution shall be secured via a legal agreement. Travel plan measures including details of the shuttle bus service in addition to details in relation to a parking layout, disabled parking facilities and cycle parking shall be secured by condition.
- 9.4 It is considered that the proposed use by virtue of its nature and hours of operation proposed, and location on an established industrial estate, would not cause harm to residential amenity. A soundproofing condition is recommended in respect of potential noise disturbance to the adjacent uses within the site.

## **10. EQUALITIES**

- 10.1 No changes are proposed to the access to this section of the building which is suitable for wheelchair access. As detailed above full details of disabled parking provision shall be secured by condition.

## **11. DEVELOPER CONTRIBUTIONS**

- 11.1 A sustainable transport contribution of £20,000 is also requested in order to fund the provision of bus stop improvements at stops adjacent to the site:
- Accessible kerb at the northbound and/or southbound 'Crowhurst Road North' bus stops on Crowhurst Road; and/or
  - Real time public transport information at the northbound and/or southbound 'Crowhurst North' bus stops on Crowhurst Road.

# **ITEM B**

**The Downsmen, 189 Hangleton Way, Hove**

**BH2017/00662**

**Full Planning**

**DATE OF COMMITTEE: 11<sup>th</sup> October 2017**









|                                      |  |                            |                                 |
|--------------------------------------|--|----------------------------|---------------------------------|
| <b><u>No:</u></b>                    | <b>BH2017/00662</b>  | <b><u>Ward:</u></b>        | <b>Hangleton And Knoll Ward</b> |
| <b><u>App Type:</u></b>              | <b>Full Planning</b>   |                            |                                 |
| <b><u>Address:</u></b>               | <b>The Downsman 189 Hangleton Way Hove BN3 8ES</b>   |                            |                                 |
| <b><u>Proposal:</u></b>              | <b>Demolition of former public house (A4) and erection of 33 dwellings (C3) comprising of 10 terraced houses and a block of 23 flats incorporating community space (D1) at ground floor level with associated access, parking and landscaping.</b> |                            |                                 |
| <b><u>Officer:</u></b>               | <b>Wayne Nee, tel: 292132</b>  | <b><u>Valid Date:</u></b>  | <b>17.03.2017</b>               |
| <b><u>Con Area:</u></b>              |  | <b><u>Expiry Date:</u></b> | <b>16.06.2017</b>               |
| <b><u>Listed Building Grade:</u></b> |  | <b><u>EOT:</u></b>         |                                 |
| <b><u>Agent:</u></b>                 | <b>DMH Stallard LLP Mr Daniel Frisby Gainsborough House Pegler Way Crawley RH11 7FZ</b>  |                            |                                 |
| <b><u>Applicant:</u></b>             | <b>Southern Housing Group / Perth Securities Mr Colin Thomas And Mr John Bacon C/o DMH Stallard LLP Mr Daniel Frisby Gainsborough House Pegler Way Crawley RH11 7FZ</b>  |                            |                                 |

## 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:

### S106 heads of terms

The applicant has agreed to provide the following, should the application be approved:

- Affordable Housing: On site provision of 4no. 1 bedroom units, 6no. 2 bedroom units, and 3no. 3 bedroom units, of which 3 will be affordable rent and 10 will be intermediate.
- Open Space and Recreation; £94, 481 (Awaiting confirmation of identified spends)
- Education contribution of £42,919.80 for secondary school and sixth form provision at either Hove Park School or Blatchington Mill School;
- Local Employment Scheme of £11,100;
- Training and Employment Strategy using minimum 20% local labour during demolition (where appropriate) and construction phase;
- Sustainable Transport Contribution of £35,000 towards;
  - Accessible kerbs at Barnet Way north and southbound bus stops on Hangleton Way; and/or
  - Real time public transport information at Barnet Way southbound bus stop on Hangleton Way.
- Travel plan measures, including:

- Welcome pack including information on walking, cycling and public transport routes
- 6 and timetable information for each first household;
- Three month public transport voucher for each first household
- Construction Environmental Management Plan (CEMP);
- Community space plan for delivery and management

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    |
|----------------------|------------|---------|------------------|
| Elevations Proposed  | Y0178-2002 | B       | 18 August 2017   |
| Elevations Proposed  | Y0178-2001 | B       | 18 August 2017   |
| Floor Plans Proposed | Y0178-110  | A       | 9 August 2017    |
| Floor Plans Proposed | Y0178_111  | A       | 9 August 2017    |
| Floor Plans Proposed | Y0178_112  | A       | 9 August 2017    |
| Floor Plans Proposed | Y0178_113  | A       | 9 August 2017    |
| Floor Plans Proposed | Y0178-1204 |         | 24 February 2017 |
| Roof Plan Proposed   | Y0178-1205 |         | 24 February 2017 |
| Elevations Proposed  | Y0178-2000 |         | 24 February 2017 |
| Elevations Proposed  | Y0178-2003 |         | 24 February 2017 |
| Elevations Proposed  | Y0178-2004 |         | 24 February 2017 |
| Location Plan        |            |         | 24 February 2017 |

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 other than demolition works and works to trees shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods as per the recommendations of the Sustainable Drainage Report and Flood Risk Assessment received on 17 March 2016 has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the building commencing.

**Reason:** To ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with policy SU3 of the Brighton & Hove Local Plan.

4. Unless otherwise agreed in writing by the Local Planning Authority, the community space hereby approved shall not be occupied until a an EPC certificate demonstrating Energy performance Certificate 'B' rating as a minimum, has been 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 City Plan Part One.

- 5 No development shall take place (including and demolition, ground works, site clearance and archaeological investigations) until a method statement for the rescue and translocation of reptiles has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include the: a. purpose and objectives for the proposed works; b. detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used); c. extent and location of proposed works shown on appropriate scale maps and plans; d. timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction; e. persons responsible for implementing the works; f. initial aftercare and long-term maintenance (where relevant); g. disposal of any wastes arising from works. The works shall be carried out in accordance with the approved details and shall be retained in that manner thereafter.

**Reason:** To protect species identified in the ecological surveys from adverse impacts during construction.

- 6 No development shall take place until an ecological design strategy (EDS) addressing enhancement of the site for biodiversity and protection of the adjacent woodland has been submitted to and approved in writing by the local planning authority. The EDS shall include the following. a. Purpose and conservation objectives for the proposed works. b. Review of site potential and constraints. c. Detailed design(s) and/or working method(s) to achieve stated objectives. d. Extent and location/area of proposed works on appropriate scale maps and plans. e. Type and source of materials to be used where appropriate, e.g. native species of local provenance. f. Timetable for implementation demonstrating that works are aligned with the proposed phasing of development. g. Persons responsible for implementing the works. h. Details of initial aftercare and long-term maintenance. i. Details for monitoring and remedial measures. j. Details for disposal of any wastes arising from the works. The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

**Reason:** To ensure that any adverse environmental impacts of development activities can be mitigated, compensated and restored and that the proposed design, specification and implementation can demonstrate this.

- 7 No development shall commence until a scheme for the suitable treatment of all plant and machinery e.g. lift motors, against the transmission of sound and/or vibration has been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in strict accordance with the approved details prior to the occupation of the development and shall thereafter be retained as such.

**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.

- 8 The community space shall not be occupied until a noise management plan to manage noise from the community space has been submitted to and approved in writing by the Local Planning Authority. The community space hereby permitted shall not be operational except between the hours of 07:00 and 23:00 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.

- 9 The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Local Planning Authority:

- i) A detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring is to be submitted. Such a scheme shall include nomination of a competent person to oversee the implementation of the works.
- ii) The development permitted shall not be occupied or brought into use until a written verification report by a competent person required and approved under the provisions of condition (i) that any remediation scheme has been implemented fully in accordance with the approved details (unless varied with the written agreement of the local planning authority in advance of implementation). If not otherwise agreed in writing by the local planning authority the verification report shall comprise: a) built drawings of the implemented scheme; b) photographs of the remediation works in progress; c) certificates demonstrating that imported and/or material left in situ is free from contamination.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under (i).

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

- 10 a) Prior to commencement, a full asbestos survey of the premises, undertaken by a suitably qualified specialist shall be submitted in writing to the local planning authority for approval. And if any asbestos containing materials are found, which present significant risk/s to the end user/s then:

b) A report shall be submitted to the local planning authority in writing, containing evidence to show that all asbestos containing materials have been removed from the premises and taken to a suitably licensed waste deposit site. The development shall be carried out as approved and in accordance with the approved details.

**Reason:** To safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan.

- 11 No development shall take place until the applicant has secured the implementation of a further programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority. A written record of any archaeological works undertaken shall be submitted to the Local Planning

Authority within 3 months of the completion of any archaeological investigation unless an alternative timescale for submission of the report is first agreed in writing with the Local Planning Authority.

**Reason:** To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with the National Planning Policy Framework

- 12 No development shall take place until detailed drawings of the access road and footway within the site to include 'rumble strips', minimum 1.5m footway width, dropped kerbs, tactile paving and street lighting have been submitted to and approved in writing by the Local Planning Authority. The works shall be designed to as near adoptable standards as is possible and be implemented in accordance with the details approved prior to the first occupation of the development and retained as such thereafter.  
**Reason:** In the interests of highway safety and for the benefit of the public and to comply with policies CP9 of the Brighton & Hove City Plan Part One and TR7 of the Brighton & Hove Local Plan.
- 13 Prior to first occupation of the development hereby permitted, details of highway works to include the vehicle access serving the site access road, vehicle crossovers serving individual properties, reinstatement of the redundant vehicle crossover serving the existing public house, relocation of lamp column and footway resurfacing on Hangleton Road alongside the site boundary shall have been submitted to and approved in writing by the Local Planning Authority. The approved works shall be fully implemented and made available for use prior to the first occupation of the development.  
**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.
- 14 Prior to first occupation of the development hereby permitted, details of the car parking layout for the development hereby approved, including disabled parking, motorcycle parking and vehicle swept paths, shall have been submitted to and approved in writing by the Local Planning Authority. 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.
- 15 Prior to the occupation of the building hereby approved, a Car Park Management Plan outlining the management of the parking areas shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include details of the parking space allocation and enforcement policies, including electric vehicle charging points and disabled parking. The approved scheme shall be implemented prior to occupation of the building and thereafter retained at all times.  
**Reason:** To ensure that adequate parking provision is retained and to comply with policy CP9 of the City Plan Part One

- 16 Prior to first occupation of the development hereby permitted, details of electric vehicle charging points for the occupants of, and visitors to, the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.  
**Reason:** To encourage travel by more sustainable means and to comply with policy CP9 of the Brighton & Hove City Plan Part One and SPD14.
- 17 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.
- 18 No development shall commence until a scheme for the soundproofing of the building has been submitted to and approved in writing by the Local Planning Authority. The Party Ceilings, Floors and Walls between the flats and flats and associated uses e.g. community space, bin/cycle stores should be designed to achieve airborne sound insulation values of at least 5dB higher and impact sound insulation values of at least 5dB lower than that required by Approved Document E performance standards. The measures shall be implemented in strict accordance with the approved details prior to the occupation of the development and shall thereafter be retained as such.  
**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.
- 19 Prior to first occupation of the development hereby permitted, details of external lighting shall have been submitted to and approved in writing by the Local Planning Authority. The external lighting shall be installed in accordance with the approved details and thereby retained as such unless a variation is subsequently submitted to and approved in writing by the Local Planning Authority.  
**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to comply with policies QD25 and QD27 of the Brighton & Hove Local Plan.
- 20 Prior to first occupation of the development hereby permitted a plan detailing the positions, height, design, materials and type of all existing and proposed boundary treatments shall have been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be provided in accordance with the approved details prior to first occupation of the development and shall thereafter be retained at all times.  
**Reason:** To enhance the appearance of the development in the interest of the visual and residential amenities of the area and to comply with policies QD15 and QD27 of the Brighton & Hove Local Plan and CP12 of the City Plan Part One.



- 21 No development above ground floor slab level of any part of the development hereby permitted shall take place until samples of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):
- a) Samples of all brick, 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 of all hard surfacing materials
  - d) Samples of the proposed window, door and balcony treatments
  - e) Samples of all other materials to be used externally

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

**Reason:** To ensure a satisfactory appearance to the development and to comply with policies QD14 of the Brighton & Hove Local Plan and CP12 of the City Plan Part One.

- 22 The windows of the proposed flats in the north 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 QD14 and QD27 of the Brighton & Hove Local Plan.

- 23 The development hereby approved shall not be occupied until a scheme of privacy screening for the flat balconys hereby approved have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in full as approved prior to first occupation of the development and shall thereafter be retained for use at all times.

**Reason:** To safeguard the privacy of the occupiers of the adjoining property and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

- 24 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 City Plan Part One

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

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

- 26 No refuse and recycling collections shall take place on the site except between the hours of 07.00 and 19.00 on Monday to Sunday.

**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.

- 27 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a method statement to identify, risk assess and address the unidentified contaminants.

**Reason:** To safeguard the health of future residents or occupiers of the site and to comply with policy SU11 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 is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Trees and scrub are likely to contain nesting birds between 01 March and 31 August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.
3. The applicant is advised that the details of external lighting required by the condition above should comply with the recommendations of the Institution of Lighting Engineers (ILE) 'Guidance Notes for the Reduction of Light Pollution (1995)' 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: ehl.environmentalprotection@brighton-hove.gov.uk website: www.brighton-hove.gov.uk).
4. Planning permission is no defence against a statutory noise nuisance being caused or allowed to occur. Should the department receive a complaint, we are required to investigate under the provisions of the Environmental Protection Act 1990 to determine whether or not a statutory nuisance is occurring and it is quite feasible to have numerous planning consents in place and for this to still occur.
5. The applicant should also note that any grant of planning permission does not confer automatic grant of any licenses under the Licensing Act 2003 or the Regulation (EC) No. 852/2004 on the Hygiene of Foodstuffs, Article 6(2).

- 6 The planning permission granted includes alterations and amendments to areas of the public highway. All necessary costs including any necessary amendments to a Traffic Regulation Order (TRO), the appropriate licence 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 highway works are required to be constructed under licence from the Head of Asset and Network Management. The applicant must contact the Streetworks Team (01273 293 366) prior to any works commencing on the public highway

## **2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1 The application site relates to a triangular shaped plot of land located towards the northern end of Hangleton Way. The site contains the Downsman public house, a 2-storey pitched roof building which is built on what used to be golf course land. The public house opened in 1956 with ancillary living accommodation in the first floor, and closed in 2014. The rest of the land within the site is underdeveloped and is classified as open space.
- 2.2 The site is predominately surrounded by residential development, with semi-detached properties and blocks of flats to the north-east on Chichester Close and Buckley Close, semi-detached properties to the west on Honey Croft, and also to the south on Hangleton Way.
- 2.3 To the immediate west adjoining the site is the public footpath on the old Dyke Railway Trail, which replaced the Dyke Railway which closed in 1938. There is also a car park at the bottom of the trail. Further to the west on Hangleton Way there is a parade of shops.
- 2.4 The wider Hangleton neighbourhood can be classified as downland fringe with a 20th Century residential suburb, part of which was planned as public housing and part of which has evolved over time, enveloping earlier villages and farmsteads. Low rise, low density houses have been arranged over a typical suburban layout.
- 2.5 Planning permission is sought for the demolition of former public house (A4) and erection of 33 dwellings (C3) comprising of 10 terraced houses and a block of 23 flats incorporating community space (D1) at ground floor level with associated access, parking and landscaping.  
Since submission of the application, the proposal has been amended in the following ways:
  - Removal of upper floor balconies on north elevation of block of flats, and revised fenestration.
  - Increased width of the footpath from Hangleton Way
  - Amendment of proposed affordable housing mix and tenure.

### **3. RELEVANT HISTORY**

3.1 None

### **4. REPRESENTATIONS**

4.1 One (1) letter of representation has been received objecting to the application for the following reasons:

- Too many properties squeezed into the area;
- Increase in traffic will be detrimental;
- Extra pressure on existing amenities such as schools and doctors.

4.2 Two (2) letters has been received commenting on the proposed development as follows:

- Want to be certain that the development will help local people find affordable rented accommodation;
- Would be keen to ensure that the proposed community facility would benefit residents;
- There is a significant lack of provision for young people in the area;
- It is hoped that the existing recycling facility at the south of the site should not be lost;
- Boundary fences and trees should provide privacy for existing neighbours on Chichester Close

### **5. CONSULTATIONS**

5.1 **Children and Young Peoples Trust:** No objection

A contribution towards education infrastructure would be expected if this development was to proceed and the number of pupils that are likely to be generated by the development.

5.2 In this instance the most local primary schools have a considerable amount of surplus capacity and this is anticipated to continue for the foreseeable future and therefore a contribution towards primary provision is not sought for this development. With regard to the secondary provision, the development is in the current catchment area for Hove Park and Blatchington Mill. There are currently a few spare places in these schools at the present time, but this is not expected to continue to be the case. Secondary pupil numbers in the city are currently rising and it is anticipated that all secondary schools will be full in a few years' time. At the present time the council is expecting that a new secondary school for the city will open in either 2018 or 2019 and at that time it will be necessary to revisit the catchment areas in the city. As a consequence the team would be seeking a contribution in respect of secondary provision and sixth form provision of £42,919.80 if this development was to proceed. The money would be spent at either Hove Park School or Blatchington Mill School.

5.3 **Brighton and Hove Archaeological Society:** No objection

Hangleton and the surrounding area has a number of archaeological records including being the site of some deserted medieval villages, and the location of

a Saxon burial. The Benfield valley was the subject of archaeological investigation prior to the creation of the Brighton bypass finding Bronze Age activities. The proposed development may possibly reveal some vestige of ancient archaeology

5.4 The Brighton and Hove Archaeological Society would suggest that you contact the County Archaeologist for his recommendations.

5.5 **County Archaeology: Comment**

Initial comment -

The proposed development is of archaeological interest due to its location within an Archaeological Notification Area defining the medieval settlement of Hangleton. Indeed the important deserted medieval village of Hangleton was once centered immediately to the south-west of the proposed development site.

5.6 Unfortunately, the application does not include an appraisal of the archaeological / historical context of the development site or any assessment of the impact that the development proposals might have on below ground / buried archaeological remains, with particular reference to the potential survival of medieval archaeological features once associated with the medieval village of Hangleton (see the relevant National Planning Policy noted above).

5.7 Further comment -

An archaeological trial - trench evaluation of the above site has now been completed. This work has revealed a number of buried archaeological features (walls, ditches, a pit and in-situ medieval pot) clearly once associated with the now deserted medieval village of Hangleton.

5.8 Given the now confirmed potential for impacts to identified heritage assets with archaeological interest resulting from the proposed development, the area affected by the proposals should be the subject of a programme of archaeological works. This will enable any archaeological deposits and features that would be disturbed by the proposed works, to be either preserved in situ or, where this cannot be achieved, adequately recorded in advance of their loss. These recommendations are in line with the requirements given in the NPPF (the Government's planning policies for England)

5.9 **Sussex Police: No objection**

In general terms the proposals are supported in this application which seeks to redevelop this otherwise redundant site for residential use. The applicant is encouraged to give due consideration to appropriate measures to promote crime prevention and community safety using the principles of Secured by Design and the attributes of safe, sustainable places.

5.10 These are:

- Access and movement - places with well-defined routes, spaces and entrances that provide for convenient movement without compromising security.

- Structure - places that are structured so that different uses do not cause conflict.
- Surveillance - places where all publicly accessible spaces are overlooked.
- Ownership - places that promote a sense of ownership, respect, territorial responsibility and community.
- Physical protection - places that include necessary, well designed security features.
- Activity - places where the level of human activity is appropriate to the location and creates a reduced risk of crime and a sense of safety at all times.
- Management and maintenance - places that are designed with management and maintenance in mind, to discourage crime in the present and the future.

**5.11 Economic Development: No objection**

City Regeneration welcomes the housing provision and the potential employment opportunities this development will deliver. 33 dwellings, 40 % of which are indicated as intermediate housing, will contribute to the council's challenging housing targets and meets the council's needs and expectations for creating more balanced communities (Policy CP20) by providing accommodation of mixed tenure and size, accessible to local residents.

5.12 The site, in the heart of an established area of the council's housing stock, will have the potential to provide employment and training to local residents. In the event this proposal or any amended proposal is approved, an Employment and Training Strategy will be required which should include the developer's commitment to using an agreed percentage of local labour. It is proposed for this development that the minimum percentage of 20% local employment for the demolition (where appropriate due to the specialist nature of the works) and construction phase is required.

5.13 The council's Local Employment Scheme Co-ordinator is available to provide guidance in the production of the strategy and will be the council's key liaison and support during the life of the project with regards to monitoring of KPIs relating to employment and training. The strategy should be submitted one month in advance of site commencement and early contact with the council's Local Employment Scheme Co-ordinator is recommended to avoid any delays in site start.

5.14 The CITB (Construction Industry Training Board) Client-Based Approach should be referred to in the preparation of the strategy in respect of expected outputs to be included, for a development of this size. Also, if approved, in accordance with the council's Developer Contributions Technical Guidance, City Regeneration requests a contribution of £11,100 through a S106 agreement, towards the delivery of the council's Local Employment Scheme. The contribution, in this instance, is based on the number of residential dwellings. There is no requirement for a contribution in respect of the community D1space as the sq meterage falls below the threshold.

**5.15 Southern Water: Comment**

The exact position of the public sewers must be determined on site by the applicant before the layout of the proposed development is finalised.

- 5.16 Furthermore, due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site.
- 5.17 Our initial investigations indicate that Southern Water can provide foul sewage disposal to service the proposed development. Southern Water requires a formal application for a connection to the public sewer to be made by the applicant or developer.
- 5.18 The planning application form makes reference to drainage using Sustainable Urban Drainage Systems (SUDS). Under current legislation and guidance SUDS rely upon facilities which are not adoptable by sewerage undertakers. Therefore, the applicant will need to ensure that arrangements exist for the long term maintenance of the SUDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system.
- 5.19 **Arboriculture: No objection**  
The Arboricultural team have no objection to this application as there are few trees on the site and those that were found are of only low amenity value only.
- 5.20 This application has been submitted with an arboricultural assessment, the content of which we are in agreement with. The few trees on site are all quite young and small and of relatively low public amenity. In view of the quality of the trees on site, from a design perspective it is perhaps best that these are not viewed as a material consideration and should not be permitted to impact upon any design parameters.
- 5.21 The need for new tree planting, landscaping and good building design should be seen as the priority for this site. Whilst the proposed layout does show some scope for useful landscaping some elements such as the "street trees" have been given minimal space and will have little potential for impact.
- 5.22 **Sustainable Drainage: No objection**  
In principle, the Lead Local Flood Authority (LLFA) would have no objections to this development.
- 5.23 The LLFA note the inclusion of measures such as permeable paving, swales and soakaways as per the Flood Risk Assessment submitted in support of the application.
- 5.24 Recommended approval as the Lead Local Flood Authority has no objections in principle to this application subject to a condition.

- 5.25 **Ecology: No objection**  
Slow worm and common lizard were recorded on site. Slow worms, grass snakes, common lizards and adders are protected against intentional killing or injuring under Schedule 5 of the Wildlife and Countryside Act 1981, as amended. Surveys were carried out over a compressed period during a sub-optimal time of year. Whilst full survey results were not provided, six of the seven survey visits were carried out at temperatures above the recommended maximum. There is therefore the potential that populations may have been underestimated.
- 5.26 The proposed mitigation scheme is based on the assumption that low populations are present on site, when in fact a good population of slow worm and a low population of common lizard were recorded. The minimum recommended survey effort for a good population of slow worm is 90 suitable days. The mitigation strategy should be adjusted accordingly.
- 5.27 The proposed mitigation strategy suggests the use of round-up on site during the late summer/early autumn. Such an approach is not recommended. Habitat manipulation by phased cutting under ecological supervision may be used as part of the translocation exercise to enhance trapping effort.
- 5.28 A suitable receptor site must be identified and prepared prior to the start of translocation in line with best practice guidance. The site should be local to the donor site and should not currently support a population of the species to be translocated for known reasons, but be capable of supporting them given suitable remedial works if necessary. It is understood that the applicant is currently in discussion with City Parks to identify a suitable site.
- 5.29 The site has the potential to support breeding birds. Under Section 1 of the Wildlife and Countryside Act 1981 (as amended), wild birds are protected from being killed, injured or captured, while their nests and eggs are protected from being damaged, destroyed or taken. To avoid disturbance to nesting birds, any demolition of buildings or removal of scrub/trees that could provide nesting habitat should be carried out outside the breeding season (generally March to August). If this is not reasonably practicable within the timescales, a nesting bird check should be carried out prior to any demolition/clearance works by an appropriately trained, qualified and experienced ecologist, and if any nesting birds are found, advice should be sought on appropriate mitigation.
- 5.30 The site is unlikely to support any other protected species. If protected species are encountered during development, work should stop and advice should be sought from a suitably qualified and experienced ecologist on how to proceed.
- 5.31 In summary, provided the recommended mitigation measures are carried out, the proposed development is unlikely to have any significant impacts on biodiversity and can be supported from an ecological perspective. The site offers opportunities for enhancement that will help the Council address its duties and responsibilities under the NERC Act and NPPF.



5.32 **Sustainability: Comment**

Minimum energy and water efficiency standards as set out in City Plan Part One policy CP8 have been addressed by proposals. There are some positive sustainability measures proposed with the scheme. More could be done to improve the scheme.

5.33 A BREEAM Strategy Report has been submitted with the application which indicates that the community centre within the development has been targeted to achieve a BREEAM 'very good' rating. Whilst this is welcomed, the community centre will consist of an area of 151sqm and therefore falls below the threshold in policy CP8 where a BREEAM assessment would be required. (The non-major threshold for non-residential development other than retail is 236-1000sqm). In order to meet policy CP8 it is recommended that the applicant be encouraged to build to a minimum Energy performance Certificate standard of an EPC 'B' rating and this be secured by condition.

5.34 This approach has been implemented elsewhere e.g. BH2013/00710 where non-residential elements of a scheme fall below the minimum thresholds for BREEAM, in order to address CP8 policy para 2: (a), (b) and (c). e.g.

5.35 Preliminary energy assessments have been carried out on samples of the proposed new build flats and house types. This indicates that based on the proposed strategy for the new build units and the suggested renewable systems, there is the potential to provide a 30% improvement for the flats, and 36% improvement for the houses over the Building Regulations ADL1a 2013 minimum target. This will be achieved through passive design measures, energy efficient equipment and renewable technologies. Energy efficiency improvements are proposed, and minimum thresholds for the thermal elements are proposed to be improved from national Building Regulations (for elements such as windows, walls roof, etc)

5.36 It has been estimated that the flat roof space over the new build flats is capable of accommodating an array of mono-crystalline module panels offering a total output of 13kWp solar PV (75sqm), which could provide a 0.5kWp contribution to each of the newly built flats and 1.5kWp for the common ways and community space. It is also proposed that each of the new houses will also be fitted with 1.0kWp on their pitched roofs. Based on the potential for installing a PV system, the newly built flats could achieve a 19.3% reduction of CO2 emissions, and the new house will achieve a 25.4% reduction of CO2 emissions.

5.37 The Energy Strategy states that due to the scale of development, it is considered that community heating is not a viable option for practical and economic reasons. This is considered acceptable, as the industry rule of thumb suggests 50 units provide the threshold at which communal heating is likely to become viable. The proposed development is not in an area identified as having potential for a heat network, therefore capacity to connect is not required.

5.38 The Energy and Sustainability Report also states that the Minimum water efficiency standard will be met. In addition to the energy and water measures mentioned above, the submitted Sustainability Checklist indicates the following

measures to address Policy CP8: use of sustainable materials such as use of timber from certified sustainable sources; proposals for 20 trees to be planted on site; 49 cycle parking spaces.

- 5.39 Areas that the proposals have failed to address: incorporation of green roofs or walls; incorporation of rainwater harvesting or rainwater butts; integration of food growing/edible/productive planting into landscaping proposals; incorporation of ecological enhancements; provision of composting facilities on site.
- 5.40 **Environmental Health: Comment**  
The acoustic report submitted by Impact Acoustics which is undated but bears the reference IMP4985-1. Having considered the report, it is not fit for purpose and needs to be rewritten in a clear and concise format and only referencing the applicable British Standards.
- 5.41 There are a number of issues in the report which are not correct and it lacks the required attention to detail. It is also unclear whether this has been subject to any quality check or oversight due to its incoherent approach.
- 5.42 In terms of land contamination, the submission of a Southern Testing report dated 23rd December 2016 reference J12832 is noted. Works have been carried out on site to attempt to quantify and characterise the site in terms of its contamination status, however it is apparent on reading the report, that whilst the end use is indeed residential with gardens, no site plans or proposed drawings have been offered at the time of the work being undertaken. The resultant effect of this is that the consultants have carried out work to try and spatially characterise the site, but this is not targeted to the end uses. It is therefore required that the conceptual site model be revised to include a more factual approach to the site including both where houses are located and additionally, the heights at which these will be built. This will allow a targeted investigation to be carried out. The height being referenced is important, as it is acknowledged in the report and from a site visit, that the site has been and will be subject to cut and fill works. So whilst samples might have been taken at 1.2m in one perhaps elevated position, this is likely to be irrelevant if the site is levelled. One needs an indication of what soil conditions are present in the garden areas at the end ground level which is where one might reasonably expect exposure pathways to humans to occur. It is also noted that the Southern Testing report seems to be cut short. This is apparent when examining the trial pit logs which finish at TP5, yet there were 7 trial pits dug on the site. It is unknown what other information might be missing. A phased potentially contaminated land condition is recommended which will ensure that the site is properly characterised and any intrusive works are targeted accordingly.
- 5.43 Further comments -  
The proposal is in a residential area and a Construction Environment Management Plan (CEMP) will be required. The building to be demolished contains asbestos and a full ACM survey is needed. Additional attention to sound insulation in flats adjacent to community space, lift motor, bin/bike store. Acoustic report recommendations to be adopted. Contaminated land report to be developed to include a remediation strategy. This can be signed off providing

acceptable verification evidence is submitted when the remediation strategy is implemented in future. External lighting that is designed so that glare is not a problem for neighbours.

5.44 **Housing: Objection**

Initial comments -

Not fully supported for the following reasons

:

- Housing welcomes the inclusion of the policy compliant number of units as 13 (40%).
- Current tenure mix is for 100% Shared ownership when the greatest identified need is for Affordable Rented housing
- The scheme can only be fully supported by Housing if : Tenure mix meets the 55% Affordable/45% Intermediate Housing split in the AHB, Unit type mix is adjusted to more fully reflect the AHB, and Wheelchair housing requirements comply with the AHB.

5.45 Further comments following amendments to proposed affordable housing mix and tenure -

The proposal is still light on Affordable Rent which is absolute priority at present. No financial viability has been provided to support this mix. The statement refers more to the fact that there's plenty of rented in that area already - but there are plenty of people on the Housing Register too.

5.46 Further comment -

Our view is still that the policy compliant provision of 7 Affordable rent and 6 Shared ownership better meets the council's housing needs and that a reduction in the Affordable Rented units is not acceptable.

5.47 **Planning Policy: No objection**

Public houses are defined as community facilities in the NPPF, and Local Plan Policy HO20 relating to the retention of community facilities therefore applies. This policy states that planning permission will not be granted for proposals that involve the loss of these facilities unless one of four exception criteria are considered to apply. The applicant has submitted evidence to argue that criteria (d) applies in this instance, i.e. that it can be demonstrated that the site is not needed, not only for its existing use but also for other types of community use

5.48 The pub has been closed for a number of years and three years of accounts have been submitted to demonstrate its unprofitability prior to this point. The property was marketed specifically for ongoing public house use for a period of only four months, before the freehold was placed on the market for conditional sale as an opportunity for alternative development through with no restrictions on future use. Although evidence has been supplied that there were no expressions of interest in maintaining a public house use, this did not include the period when the premises was solely being offered as a pub. Evidence should be supplied in this regard.

5.49 The provision of 33 dwellings would make a useful contribution towards the city's housing target as set out in Policy CP1 of the City Plan Part One and part

of the site is identified in the 2017 SHLAA with an indicative provision of 30 dwellings, as 'Land east & north of 'The New Downsman PH' . The development of this part of the site is supported as a means of increasing housing supply and is identified as part of the council's five year supply of housing.

5.50 Following submission of further information - Information has now been provided which clarifies that local pub operators made enquiries in the period that the premises was being advertised for ongoing A4 use but did not express an interest in taking matters further.

5.51 **Sustainable Transport:** Comment  
Pedestrian Access

The proposed development will have a main pedestrian and vehicle access from Hangleton Way with the proposed terrace houses fronting Hangleton Way having a direct pedestrian access to each property. The Highway Authority has no objections to the proposed pedestrian access arrangements in principle. ; however a footway of 1.2m is required to be provided alongside the access road. The Highway Authority generally specifies a width of 2m in accordance with Manual for Streets; however, given expected footfall, a reduction to 1.5m would be acceptable in this instance which would comply with the Department for Transport's (DfT) Inclusive Mobility requirement for a pedestrian and wheelchair user to pass. This can be achieved by condition.

5.52 Vehicle Access

The proposal includes an access road from Hangleton Way located to the north of the existing access together with vehicle crossovers serving each of the ten terraced properties. The Transport Statement indicates that visibility splays of 2.4m by 50m to the north and 2.4m by 32m to the south can be achieved. This is in excess of the 2.4m by 25m minimum recommended in Manual for Streets where speeds are 20mph.

5.53 The access road is 4.1m wide which is in accordance with that outlined in Manual for Streets for two cars to pass. Larger vehicles would not be expected to access the site on a frequent basis and as such this is considered suitable. Further comments in respect of deliveries and servicing are however provided below.

5.54 The Transport Statement includes swept paths which demonstrate that a standard car can access the car park; however, in order to access to bays 13/14, an area shown on the landscaping plan as planting would need to be overrun (NB. There is some inconsistency in bay numbering with the landscaping plan labelling these bays as 9/10). It is however, considered that there is scope to overcome this issue by extending the over-runnable/ hardstanding area as necessary. It is recommended that this be addressed as part of the car park layout and access road conditions which should also secure measures to calm traffic entering the site (such as use of setts to create 'rumble strips') and lighting.

5.55 The vehicle crossovers are in some cases wider than is necessary to serve the on-plot parking spaces and for a single parking space, the maximum crossover

width that would be permitted by the council's crossover guidance would be 2.75m excluding the tapered kerbs. Review of the site layout to minimise the number of crossovers required by sharing these between adjacent properties would be preferred though refusal would not be recommended on these grounds. It is also likely to be necessary to relocate a lamp column which will need to be agreed with the Highway Authority and all costs funded by the applicant. It is recommended that full details of the off-site works (main site access and vehicle crossovers) be secured through the recommended highway works condition. Implementation would then be subject to agreement of the detailed design and granting of relevant highway works/ crossover licences.

5.56 Deliveries and Servicing

The submitted Transport Statement indicates that it is possible for a fire appliance and refuse vehicle to access the site and turn in order to enter and exit in forward gear. The Highway Authority has no objections in principle; however, it is noted that the submitted vehicle swept paths show a refuse vehicle and fire appliance over hanging an area shown on the landscaping plan as a ramped access to rear of the flats/ community centre. It is therefore recommended that the case officer seek clarification that this would be possible with the proposed ramp as indicated in the swept path diagrams and consult City Clean and East Sussex Fire and Rescue as necessary.

5.57 Car Parking

The proposals include one parking space for each of the proposed residential dwellings (33). This is less than the maximum of one space plus one space per two dwellings that would be permitted by SPD14 in this location (50 spaces); however, it should be noted that lower levels of parking are also permitted.

5.58 The 2011 Census indicates an average car ownership of 1.1 per household for the super 3 output area covering the site (Brighton & Hove 006). Of the proposed dwellings, it could be expected that 27.0% (9) of households will have no car, 45.6% (15) will have one car, 21.7% (7) will have two cars and 5.6% (2) will have three or more cars. This equates to approximately 35 cars. Car ownership will however typically be lower for residents in flats.

5.59 It would be preferable for spaces within the courtyard parking area to be unallocated. This will allow a more efficient use of parking spaces with two car households and visitors able to use spaces that would otherwise remain empty if allocated to non-car owning households. This would reduce the likelihood of additional on-street parking demand, and allow access to electric vehicle charging points as required by residents/ visitors. It is recommended that details of how the car park will be managed, including allocation and enforcement policies, be secured by condition.

5.60 This will not be the case with the proposed on-plot parking for the houses however and it is likely that all households owning two or more cars would result in additional demand for onstreet parking. Based on the above car ownership levels, a worst-case level of overspill parking by 8-10 vehicles would be expected, though taking the houses alone this would reduce to 2-4 vehicles. This lower level would be expected if parking spaces for the flats were

unallocated and taking account of expected lower car ownership for these. It is also requested that a scheme of Travel Plan measures to include public transport vouchers and welcome packs for each first household be secured by condition to mitigate the impact of additional parking demand.

- 5.61 In addition, it is noted that the provision of vehicle crossovers along the majority of the site frontage will remove opportunities for on-street parking on the west side of Hangleton Way. However, as the road effectively provides capacity for parking on one side only at present, this is not expected to significantly reduce capacity in practice.
- 5.62 Although it would have been beneficial for residential parking surveys to have been submitted, taking account of the requested mitigation in the form of the Car Park Management Plan and Travel Plan measures, it is not considered that the likely level of overspill parking would be of a level that could be deemed to amount to a 'severe' impact upon the highway. Therefore, refusal would not be warranted on these grounds under the National Planning Policy Framework.
- 5.63 Additional parking may be generated for the small community facility (127 sqm D1 use) which has no allocated parking. However, given that this would be expected to meet a predominantly local need, it is not expected that associated parking demand would be substantial.
- 5.64 The layout of parking is generally acceptable; however, as noted in the vehicle access comments above, additional overrun areas may be required compared to those currently shown on the landscape plan. The bay immediately north of the proposed site access however is not ideal as it is likely to obstruct visibility of the footway for vehicles exiting the site and would preferably be set back, although it is noted that this may result in the slight reduction of parking. This could be addressed as part of the recommended car park layout and access road conditions.
- 5.65 Disabled Parking  
Three disabled parking spaces are proposed. SPD14 requires one space per wheelchair accessible unit (3) plus 50% (2). The proposed development includes four disabled parking spaces which would be sufficient to meet the needs of the wheelchair accessible flats. It is recommended that the fourth space be unallocated so as to provide for the needs of all 4 visitors to the development, including the community use. This should be addressed as part of the recommended Car Park Management Plan condition.
- 5.66 Three of the proposed disabled parking bays are located parallel to the access road. This is not ideal as access is possible from one side only. The layout is however in accordance with the DfT's Traffic Advisory Leaflet (TAL) 5/95 with longer bays provided. TAL 5/95 recommends that where it is not possible to access the footway, bays are widened to 3.3m to allow safe access to and from vehicles alongside passing traffic. However, in this instance, it is recognised that traffic flows will be light and measures have been recommended by condition to calm traffic entering the site. No objections are therefore raised in principle to the proposed layout, though in order to address other comments, the applicant

may wish to consider relocating all disabled bays to the main car park. Although a 1.2m access zone is required on both sides, this can be shared between adjacent bays.

5.67 It is also noted that there is inconsistency between the submitted landscape plan and site plans with the number and location of disabled bays varying. It is therefore recommended that details be confirmed by means of the recommended car park layout condition.

5.68 As previously noted, the access road condition should include full details of provision for pedestrians, including dropped kerbs so as that disabled users are able to travel between parking areas and the proposed flats/ community use.

5.69 Electric Vehicles

The applicant has indicated that electric vehicle parking will be provided in accordance with SPD14. For residential uses, the minimum required is 10% of all car parking spaces plus a further 10% to have passive provision, equivalent to four spaces for each in this instance (SPD14 states that the number of spaces should be rounded up so 3.3= four spaces as opposed to the three stated). It is recommended that full details be secured by condition.

5.70 Motorcycle Parking

The Transport Statement indicates that two motorcycle parking places will be provided. This provides 5% provision in accordance with SPD14 and it is recommended that full details be secured as part of the recommended car park layout condition.

5.71 Cycle Parking

SPD14 requires the following cycle parking provision:

- One space per 1-2 bed unit = 27 units = 27 spaces;
- Two spaces per 3 bed unit = 6 units = 12 spaces;
- One space per three units for visitors = 11 spaces;
- Two spaces plus one per 350 sqm for D1 use = 3 spaces Total = 53 spaces

5.72 The applicant is proposing 68 spaces which is in excess of the minimum required and welcomed. These are split between a communal store for the flats, visitor provision and individual secure stores for the proposed houses.

In order to comply with Brighton & Hove Local Plan policy TR14, cycle parking should be secure, convenient to access and, wherever possible, covered. The proposals include Sheffield stands in an acceptable layout for the communal store and visitor cycle parking. However, details of the proposed cycle storage for the houses are requested by condition. Individual cycle lockers/ sheds as proposed are acceptable in principle where cycle parking is not communal as is the case in this instance.

5.73 Trip Generation

The submitted Transport Statement includes a trip generation exercise undertaken using the TRICS national trip rate database. The site parameters applied are acceptable, though it is recognised that there are limited similar

public house sites within the database. The applicant's transport consultant has presented figures for the latter, though not included these in the net impact assessment on the basis the estimated figures are likely to be an over representation of the trips that were likely to have been generated by the relatively local facility when it was in use. Trips associated with the proposed community use have also not been included in the forecast though this is offset by not deducting trips for the existing pub. In total, 179 person trips are forecast per day, of which approximately 25 trips are forecast to occur in the morning development peak and 17 in the evening. 14 vehicle trips are forecast in the morning development peak and eight in the evening.

5.74 In order to mitigate the impact of the proposed development and provide improved opportunities for travel by sustainable modes, a sustainable transport Section 106 contribution of £35,000 is requested in order to fund the below measures:

- Accessible kerbs at Barnet Way north and southbound bus stops on Hangleton Way; and/or
- Real time public transport information at Barnet Way southbound bus stop on Hangleton Way.

5.75 This is in order to provide for the needs of future residents and visitors of all abilities travelling to the development and encourage the use of sustainable modes in accordance with Brighton & Hove Local Plan policies CP7 and CP9. In addition, to encourage travel by sustainable modes in accordance with Brighton & Hove Local Plan policy TR4 and mitigate the potential for overspill car parking, it is also recommended that a public transport voucher and welcome pack for each household be secured as part of the S106 agreement.

## **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);

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)

#### Brighton & Hove City Plan Part One

- SS1 Presumption in Favour of Sustainable Development
- SA6 Sustainable Neighbourhoods
- CP1 Housing delivery
- CP2 Sustainable economic development
- CP3 Employment land
- CP7 Infrastructure and developer contributions
- CP8 Sustainable buildings
- CP9 Sustainable transport
- CP10 Biodiversity
- CP11 Flood risk
- CP12 Urban design
- CP13 Public streets and spaces
- CP14 Housing density
- CP16 Open space
- 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
- 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
- HO20 Retention of community facilities
- HE12 Scheduled ancient monuments and other important archaeological sites

#### Supplementary Planning Documents:

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

## 8. **CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations in the determination of this application relate to the principle of the proposed development and its impacts on the visual amenities of the site and surrounding area, the proposed access arrangements and related

traffic implications, impacts upon amenity of neighbouring properties, future occupiers' amenity, ecology, and sustainability impacts.

**8.2 Planning Policy:**

Loss of existing use:

The National Planning Policy Framework (paragraph 70) and the emerging City Plan (Policy SA6) indicate that public houses can be considered to be community facilities.

- 8.3 The existing public house (class use A4) is registered as an Asset of Community Value (AVC) since July 2015. As the building is listed as an ACV, it is a material planning consideration of some weight as it reasonably demonstrates that the public house provides a valued community facility within the locality and in particular a demand that those facilities should be provided on the subject site.
- 8.4 Community facilities are protected under HO20 of the Brighton and Hove Local Plan which is fully consistent with the NPPF. The policy states that planning permission will not be granted that involves the loss of community facilities. Exceptions may apply when:
- a) The community use is incorporated, or replaced within a new development; or
  - b) The community use is relocated to a location which improves its accessibility to its users; or
  - c) Existing nearby facilities are to be improved to accommodate the loss; or
  - d) It can be demonstrated that the site is not needed, not only for its existing use but also for other types of community use.
- 8.5 Policy HO20 states that where an exception (a-d) applies, a priority will be attached to residential and mixed use schemes.
- 8.6 The applicant has submitted a planning statement which includes marketing information. The public house has been closed since 2014, and no public objections have been received during the application to the loss of the public house, which would indicate some indifference to its loss. Accounts have been submitted covering a three year period which indicate very small profits or loss between 2011-2013
- 8.7 The submitted marketing information clarifies that the premises was marketed for ongoing use as a pub for four months in 2014, and then marketed for a wider opportunity as an alternative development site for a further three months before the sale was completed in March 2015. Feedback from the marketing period suggests that very little interest was shown in the site for the continued use as a public house, and it wasn't until it was marketed as a development site that interest was shown which lead to the eventual sale.
- 8.8 There are two other public houses within reasonable walking distance (1km) of the site. This indicates that these is not a high level provision of public houses in this area, however it is recognised that the surround residential area is relatively

low density which means that there is less potential customer base for a high provision of public houses in the area. Given the lack of objection to its loss, the marketing and accounts information, and the reasonable alternatives available, it is considered that the public house is not needed in this instance.

- 8.9 Criteria (d) of HO20 also requires it to be demonstrated that the site is not needed for alternative community uses, and no detailed information has been received in support of this. However it is noted that there is an existing community use in close proximity to the site (Hangleton Community Centre which is within 3 minutes walk).
- 8.10 A material consideration is that the proposed development includes 127m<sup>2</sup> of replacement multi-functional community space within the ground floor of the flatted block. The proposed D1 space would be for general community use which could be booked for use as meeting rooms or use by local groups. It is intended that the applicant would manage the community provision in a similar way to other similar types of community space, the nearest example in the city being in Pankhurst Avenue. Given this provision, and taking into account the above circumstances, it is considered that the proposed development is in accordance with criteria (d) of HO20.
- 8.11 Other than the public house, the rest of the site is identified as an area of open space. Policy CP16 seeks to retain public and private open space unless it can be justified through the criteria. Criteria d) indicates that it would be acceptable where the site is physically incapable of meeting the city's wider open space needs, is not part of the beach or a playing field (current or historical), and is of a poor quality without potential for improvement and there is an identified surplus in all types of open space within the locality.
- 8.12 The applicant states that the open space has been associated with the public house for around 30 years and during that time has been underused, occasionally used for ancillary outdoor space for the public house. It has been indicated that the open space around the public house in the past has not been used frequently by the public, and has in the more recent past been boarded up to prohibit entry to the site.
- 8.13 The land as existing provides some contribution in that it is an open land and is underdeveloped which provides a visual gap between existing residential houses. However the site appears to have a low level of quality in terms of recreational value. No objections have been received to its loss. The existing west edges of the site provide a foliage buffer to the public path adjoining the site. The proposal provides landscaping with trees in the south and north-west corners of the site which would provide the retention of natural screening between the residential development and the adjoining public path.
- 8.14 It is considered that the locality in this instance is not deficient of open space, with Hangleton Park and St Helen's Park within walking distance, as well as the adjoining footpath that leads to the South Downs National Park. It is considered that in this instance the benefits of the development would outweigh the loss of the open space.

- 8.15 Principle of Housing:  
Policy SA6 (part 8) seeks to deliver balanced communities through the requirement for new residential development to provide an appropriate amount of affordable housing, and a mix of dwelling sizes and tenure types.
- 8.16 City Plan policy CP19 seeks to improve housing choice and ensure that an appropriate mix of housing is achieved across the city and specifically references extra care housing. Part c of the policy states that sites coming forward as 'windfall' development, as in this case, will be required to demonstrate that proposals have had regard to housing mix considerations and have been informed by local assessments of housing demand and need.
- 8.17 Policy CP19 notes that it will be important to maximise opportunities to secure additional family sized housing on suitable sites. Where appropriate (in terms of site suitability and with reference to the characteristics of existing communities/neighbourhoods), the intention will be to secure, through new development, a wider variety of housing types and sizes to meet the accommodation requirements of particular groups within the city.
- 8.18 The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually. The most recent land supply position was published in the 2016 SHLAA Update (February 2017) which demonstrates a 5.6 year supply position. The Council can therefore demonstrate an up to date housing supply position in accordance with the NPPF.
- 8.19 Given the acceptability of the existing use, the proposed development would provide a welcome provision of housing in this predominantly residential area.
- 8.20 Policy CP19 of the City Plan Part One requires development to demonstrate regard to housing mix considerations and be informed by local assessments of housing demand and need. The Objective Assessment of Housing Need (GL Hearn, June 2015) indicates the strategic mix of homes to be delivered over the plan period which is 25% for 1 bedroom units, 35% for 2 bedroom units, 30% for 3 bedroom units, and 10% for 4-plus bedroom units. In terms of the demand for market housing, the greatest demand is likely to be for 2 and 3 bedroom properties (36% and 34% respectively). The proposal is for 12 x 1-bed, 15 x 2-bed, and 6 x 3-bed units, which is considered to be a broad mix.
- 8.21 Policy CP20 requires all sites of 15 or more units to provide 40% affordable housing on site. The preferred unit size mix is 30% for 1 bedroom units, 45% for 2 bedroom units, and 25% 3+ bedroom units. The proposal includes 40% affordable housing forming part of the development, which would be 13 units in this instance. The submitted Housing Statement indicates that the proposed unit mix would be 4 x 1 beds (30%) , 6 x 2 beds (45%) and 3 x 3 beds(25%), which is considered acceptable.

- 8.22 The preferred tenure mix as set out in the Affordable Housing Brief is 55% Affordable Rent and 45% intermediate, which would be 7 rented and 6 intermediate. The proposal is providing 13 no. affordable units, 3(23%) as affordable rent and 10(77%) as intermediate. The proposed development therefore does not meet the preferred tenure mix in this instance and the Housing Strategy Team has objected on this basis. In the submitted Housing Statement, the applicant sets out their belief that the tenure mix meets the right balance for the local area, as the majority of the housing is affordable rented accommodation. The applicant suggests that a provision of a higher proportion of intermediate housing would complement and balance the existing housing stock in this location. Given the acceptability of the proposal in all other respects, which would result in 33 no. residential units that would contribute to the housing supply, including 40% affordable housing units, on balance it is considered that the tenure mix is acceptable in this instance.
- 8.23 According to the Affordable Housing Brief, 10% of the affordable units would be required to be wheelchair accessible, which would be 1 unit in this instance.
- 8.24 Developer contributions:  
Developer contributions are sought in accordance with policy objectives as set out in the City Plan Part One and the remaining saved policies in the Brighton & Hove Local Plan 2005. The contributions will go towards appropriate and adequate social, environmental and physical infrastructure to mitigate the impact of new development. Contributions are required where necessary in 13 OFFRPT accordance with City Plan policy CP7 Infrastructure and Developer Contributions.
- 8.25 The Affordable Housing Contribution is set out above. Further Developer Contributions are requested for the following:
- Sustainable transport contribution of £35,000 for highway improvements;
  - Education contribution of £42,919.80 for secondary school provision;
  - Employment contribution of £11,100 for the delivery of the council's Local Employment Scheme;
  - Open Space contribution of £94,481.
- 8.26 The applicant has agreed to these contributions.
- 8.27 **Design and Appearance:**  
The NPPF attaches great importance to the design of the built environment and identifies good design as a key aspect of sustainable development. This is reflected in policy CP12 of the City Plan Part One which seeks to raise the standard of architecture and design in the city. CP12 requires new development in particular to establish a strong sense of place by respecting the diverse character and urban grain of the city's identifiable neighbourhoods.
- 8.28 The immediate surrounding area is predominantly characterised by two storey dwellings and some low rise residential blocks with communal landscaping to the north of the site. The nearby houses are mostly brick built with pitched roofs. To the west of the site there is a parade of shops within a row of two storey

terraced properties, which have roof dormers that create a three storey appearance to these properties.

- 8.29 The existing public house building has limited architectural merit, and does not significantly contribute to the character of the area. Therefore its demolition is considered acceptable.
- 8.30 The proposed terraced houses would be located along the south-east boundary of the site fronting onto Hangleton Way. The row would have a similar form to that of neighbouring houses in the vicinity. It is considered that the design of the proposed terraced houses would fit in with the context of the surrounding residential development.
- 8.31 The proposed block of flats would be higher than the buildings in the immediate area. However it would be set within a lower part of the site, in the north-west. Given the sloping of the land, and that the proposed block would not be located fronting the street, it is considered that the proposed height of the building would not be overly prominent.
- 8.32 The proposed flat roof is not characteristic of the area, and the block would be a bold addition to the locality. The square block design offers a simple and functional overall appearance. Whilst the proposed flat roof of the block of flats differs from the appearance and character of the existing built form in the locality, as it would not form part of a street frontage, there is no objection in principle to this design in this instance.
- 8.33 The proposed brick walls would reflect the tone and palette of the surrounding area. Turquoise tiles are proposed for cladding to the top floor of the block of flats, as well as detailing to the terraced houses. The proposed would stand out amongst the rest of the design which is quite conventional. The intention is to relate to the existing public house roof, and some of the neighbouring houses to the south of the site on Hangleton Way have a similar coloured detail. It is considered that the proposed material palette would respect the locality and provide interest to the functional design and is considered acceptable.
- 8.34 It is considered the demolition of the existing building and the development of appropriately designed terraced houses and a block of flats would not detract from the character and appearance of the street scene and wider area, and overall the proposal is considered acceptable.
- 8.35 Landscaping:  
Whilst the large expanse of car-parking to the north of the site detracts visually in comparison with the existing green open space, it is acknowledged that a certain level of car-parking is necessary and also that developing this space with buildings would likely result in amenity issues for neighbouring residents. The development provides three separate communal garden spaces which would have a mixture of soft and hard surfaces. Trees would be located on the boundaries which would acceptably soften the appearance of the development, especially in the western corners of the site adjoining the public path.

- 8.36 **Standard of Accommodation:**  
The new build properties are all designed in accordance with the nationally described space standards and have acceptable internal layouts with sufficient light and outlook, and access to outside space.
- 8.37 There would be a certain level of mutual overlooking between the residential properties themselves, though this is to be expected within a scheme of this nature and the levels of privacy for future occupiers is considered to be acceptable.
- 8.38 The proposed community use would be located below residential units which has the potential to cause noise and disturbance to future occupiers. An acoustic report has been submitted, which the Environmental Health agree with the contents and have recommended sound insulation in flats adjacent to community space, lifts, and bin/bike storage areas. This is required by condition.
- 8.39 All occupiers of the terraced houses would benefit from private rear gardens and access to communal gardens. Occupiers of the flat units would have private balconies and/or access to communal garden. The proposal is considered to provide sufficient outdoor amenity space for future occupants.
- 8.40 Overall, subject to relevant conditions the proposal would provide adequate living conditions for future occupiers in accordance with policy QD27 of the Brighton & Hove Local Plan.
- 8.41 **Impact on Neighbouring Amenity:**  
Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 8.42 The neighbouring properties most likely to be affected by the proposed block of flats are Flats 2-8(even) within the block of flats to the north on Buckley Close. The rear windows of this block face directly towards the proposed block. The proposed development has been designed with consideration to protecting amenity to these neighbouring properties. Although the block of flats would have four storeys, the top floor would be set back to limit the impact of loss of light and overshadowing. The applicant has submitted a Daylight and Sunlight Assessment. It concludes that although some daylight would be lost from the windows that face the site, this would not be a significant impact.
- 8.43 The provision of balconies on the proposed block has the potential to result in overlooking and loss of privacy to these neighbouring properties. Screens to prevent overlooking are required by condition. The north elevation windows are proposed to be obscure glazed which will further limit opportunity of overlooking towards the north.
- 8.44 The neighbouring houses on Chichester Close to the east of the site would also be affected by the proposal. However the proposed buildings would be

sufficiently set away from these neighbouring properties so as not to be significantly affected by them. These properties would be closer to the proposed trees which will offer some screening from the proposed car park. The car park would result in some noise and disturbance from vehicles; however it is considered that this would not be so significant as to warrant refusal of the application on this basis.

- 8.45 Replacement boundary treatment is proposed along the boundary of the site, which will offer some privacy for neighbouring occupiers, as well as future occupiers of the development. Details are required by condition.
- 8.46 The properties to the south on Hangleton Way would experience an acceptable front-to-front relationship with the new terraced houses.
- 8.47 Concerns have been raised over the potential for the loss of the existing recycling facility at the south of the site. However this is outside the boundary of the site and so cannot be considered here.
- 8.48 Overall, it is not considered that the proposal would result in any significant harm to the amenity of the neighbouring properties in accordance with policy QD27 of the Brighton and Hove Local Plan.
- 8.49 **Sustainable Transport:**  
City Plan Part One policy CP9 sets out the Council's approach to sustainable transport and seeks, generally to further the use of sustainable forms of transport to reduce the impact of traffic and congestion and in the interests of health to increase physical activity.
- 8.50 The proposal includes an access road from Hangleton Way located to the north of the existing access. The access to the site, including that of the individual vehicle crossovers for the terraced properties on Hangleton Way is considered acceptable. A proposed access footway is proposed wither side of the access road, however this would need to be increase in width from 1.2m to 1.5m in order to provide appropriate access. A Transport Statement has also been submitted which includes swept paths. Due to some inconsistencies over the landscaping and size of paths and crossovers, a car park layout condition is required. Disabled parking spaces are proposed, further details of their location and use are required by condition. Details of off-site works, including relocating a lamp column, are also required by condition.
- 8.51 One parking space per residential dwelling is proposed, which equates to 33 no. parking spaces. This level of parking is below the maximum standards within SPD14 and is considered acceptable. Details of how the car park will be managed, including allocation, are required by condition. Despite the provision, the development is likely to result in some additional demand for on-street parking. It is however not considered that the likely level of overspill parking would be of a level that would result in a significant detrimental impact on the highway. The proposed community use may in some instances create additional demand for off-street parking, however given that this is promoted for local use, it is considered that parking demand would not be substantial for this. A Travel



Plan is required by condition to mitigate the impact of additional parking demand in this instance.

- 8.52 The proposal would provide 68 no. cycle parking spaces, which is considered acceptable, subject to further details required by condition.
- 8.53 The submitted Transport Statement includes a trip generation exercise. In order to mitigate the impact of the proposed development and provide improved opportunities for travel by sustainable modes, a sustainable transport Section 106 contribution is required for local transport improvements.
- 8.54 **Ecology:**  
The site mostly comprises species-poor grassland, however slow worms and common lizards have been recorded on site. A submitted mitigation scheme has been submitted, however further information is required for the rescue and translocation of species, which can be provided by condition.
- 8.55 Protection of breeding birds and to adjacent woodland is also required during works.
- 8.56 **Sustainability:**  
In accordance with Policy CP8 the proposed new build residential units are recommended to be secured as compliant with Optional Building Regulation standards for energy and water usage by planning condition.
- 8.57 **Land Contamination:**  
The land is potentially contaminated, and so the applicant has submitted a Contaminated Land Report. Verification evidence is required as part of a remediation strategy to be implanted on site. The Environmental Health Team has recommended a phased potentially contaminated land condition.
- 8.58 The existing building contains asbestos, and so a full asbestos survey is required by condition.
- 8.59 **Flooding:**  
A Flood Risk Assessment and Drainage Strategy has been submitted which concludes the site is at a low risk of flooding, and identifies measures to limit increase run off. A detailed design and associated management and maintenance plan of surface water drainage for the site is required by condition.
- 8.60 **Archaeology:**  
The site is of archaeological interest and consequently is within an Archaeological Notification Area. The applicant has commenced an archaeological trial and has revealed features of interest. The County Archaeologist recommends a condition for a full programme of archaeological works.

## 9. EQUALITIES

- 9.1 The new build properties will be conditioned to be constructed to the optional Building Regulations access standards.

**10. CONCLUSION:**

- 10.1 The principle of the loss of the existing community use is considered acceptable, and the proposed development would provide a replacement community space. The proposed development would deliver 33 new residential units. 40% affordable housing is proposed (23% of which is affordable rent, 77% of which is intermediate), which will meet an identified need in the city. Giving the contribution to the housing supply which would include 40% affordable housing units, the provision of tenure mix is considered to be acceptable in this case.
- 10.2 It is considered that the proposed building design will sit comfortably in the Hangleton Way street scene, and subject to matters such as full details of landscaping and materials being secured by condition, an appropriate appearance would result in compliance with local plan policies.
- 10.3 The proposed cycle and parking provision are acceptable subject to full details being secured by condition. It is projected that significant overspill parking will not result given the amount of parking proposed on site.
- 10.4 The proposed buildings would result in some additional overshadowing and overlooking of neighbouring properties however, subject to conditions for obscure glazing and details of balcony screening, significant harm would not be caused.
- 10.5 Other matters such as sustainability measures, tree protection measures and ecology are recommended to be secured by condition.
- 10.6 Overall it is considered that the scheme would deliver substantial benefits and significant harm would not be caused. Approval of planning permission is therefore recommended subject to the completion of a s106 planning legal agreement and to the conditions recommended above.

# **ITEM C**

**Baptist Tabernacle, Montpelier Place,  
Brighton**

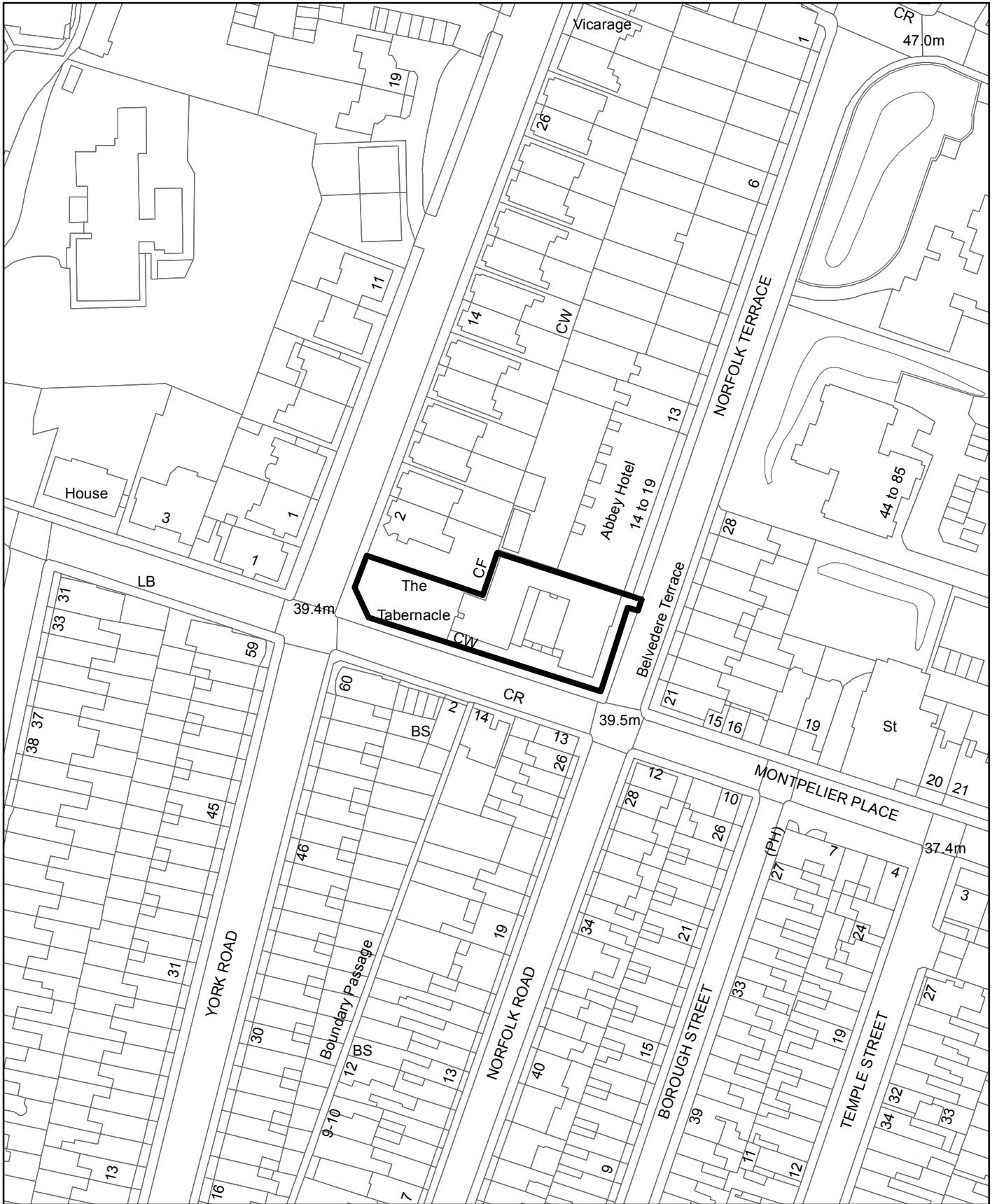
**BH2017/01065**

**Full Planning & Demolition In CA**

**DATE OF COMMITTEE: 11<sup>th</sup> October 2017**



# BH2017/01065 Baptist Tabernacle, Montpelier Place, Brighton



**Brighton & Hove  
City Council**



**Scale: 1:1,250**



|                                      |  |                            |                     |
|--------------------------------------|--|----------------------------|---------------------|
| <b><u>No:</u></b>                    | <b>BH2017/01065</b>  | <b><u>Ward:</u></b>        | <b>Regency Ward</b> |
| <b><u>App Type:</u></b>              | <b>Full Planning and Demolition in CA</b>  |                            |                     |
| <b><u>Address:</u></b>               | <b>Baptist Tabernacle Montpelier Place Brighton BN1 3BF</b>  |                            |                     |
| <b><u>Proposal:</u></b>              | <b>Demolition of existing church and erection of 24no residential units (C3), comprising terrace of 5no four storey houses, five storey block of 14no flats and three storey block of 5no flats. Creation of non-residential unit (D1) to ground floor of five storey building and associated car parking and landscaping.</b> |                            |                     |
| <b><u>Officer:</u></b>               | Sonia Gillam, tel: 292265  | <b><u>Valid Date:</u></b>  | 10.04.2017          |
| <b><u>Con Area:</u></b>              |  | <b><u>Expiry Date:</u></b> | 10.07.2017          |
| <b><u>Listed Building Grade:</u></b> |  | <b><u>EOT:</u></b>         | 07.10.2017          |
| <b><u>Agent:</u></b>                 | Crowther Associates Architects<br>Brighton BN1 4ET   | Pelham House               | 25 Pelham Square    |
| <b><u>Applicant:</u></b>             | Mortar Nova Developments LLP   | 95 Ditchling Road          | Brighton BN1 4ST    |

## 1. RECOMMENDATION

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:

### S106 Heads of Terms

- 21% affordable housing - 3 affordable rent units (Units 15, 16, and 19), 2 shared ownership units (17 and 18). 1 no. unit to be wheelchair accessible (Unit 15).
- The S106 will include a Review Mechanism to reassess the viability of the scheme close to completion in order to, where possible, secure up to policy compliant level of affordable housing via an off-site financial contribution.
- A contribution of £8,200 towards the Council's Local Employment Scheme,
- A Construction Training and Employment Strategy including a commitment to using a minimum 20% local employment during the demolition and construction phases of the development,
- A contribution of £16,400 towards sustainable transport infrastructure improvements within the vicinity of the application site. This will be allocated to accessibility improvements to public transport facilities in the local vicinity of the site which could include the provision of accessible kerbs and/or real time passenger information signs to the Park Royal North and Southbound bus stops on Montpelier Road.
- A scheme of Travel Plan measures which should include:

- Details of pedestrian and cycle routes in the local area;
  - Public transport timetable/maps;
  - 2 years membership to City Car Club; and
  - Bus 12 month season ticket for Brighton & Hove buses.
- A contribution of £74,720.26 towards recreation, open space and indoor sport provision.
  - A contribution of £68,635 towards local Education provision

**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.

| <b>Plan Type</b>               | <b>Reference</b> | <b>Version</b>     | <b>Date Received</b> |
|--------------------------------|------------------|--------------------|----------------------|
| Location Plan                  | 08) 002          |                    | 28 March 2017        |
| Existing Elevations            | (08) 003         |                    | 28 March 2017        |
| Site Layout Plan               | (08) 005         | A                  | 14 July 2017         |
| Streetscene elevation proposed | (08) 011         | North and west     | 28 March 2017        |
| Elevations Proposed            | (08) 012         | South and east     | 28 March 2017        |
| Floor Plans Proposed           | (08)009          | Fourth and roof    | 28 March 2017        |
| Streetscene elevation proposed | (08)010          | South and east     | 28 March 2017        |
| Sections Proposed              | (08)014          |                    | 6 April 2017         |
| Location and block plan        | (08)001          |                    | 28 March 2017        |
| Elevations Proposed            | 013              | A North and west   | 7 July 2017          |
| Sections Proposed              | 015              | A                  | 7 July 2017          |
| Floor Plans Proposed           | 008              | A Second and Third | 11 July 2017         |
| Floor Plans Proposed           | 006              | B                  | 14 July 2017         |
| Floor Plans Proposed           | 007              | B GF and FF        |                      |

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 extension, enlargement, alteration or provision within the curtilage of the of the dwellinghouses as provided for within Schedule 2, Part 1, Classes A - E 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) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.  
**Reason:** The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and to the character of the area and for this reason would wish to control any future development to comply with policies QD14 and HE6 and QD27 of the Brighton & Hove Local Plan.
- 4 The first, second and third floor bathroom windows (serving flats 4, 8 and 12 as shown on drawing 006B received on the 14/07/2017) and the hall windows in the northern elevation (directly adjacent to the Abbey Hotel) of the development hereby permitted shall be obscure glazed and non-opening, unless the parts of the window/s which can be opened are more than 1.7 metres above the floor of the room in which the window is installed, and thereafter permanently retained as such.  
**Reason:** To safeguard the privacy of the occupiers of the adjoining property and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
- 5 No cables, wires, aerials, pipework (except rainwater downpipes as shown on the approved plans), meter boxes or flues shall be fixed to any elevation facing a highway.  
**Reason:** To safeguard the appearance of the building and the visual amenities of the locality and to comply with policy QD14 and HE6 of the Brighton & Hove Local Plan and CP12 and CP15 of the City Plan Part One.
- 6 The D1 use hereby permitted shall not be operational except between the hours of 08:00 and 20:00 on Mondays to Sundays, including Bank and Public Holidays.  
**Reason:** To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
- 7 No waste collections relating to the commercial unit shall occur at the premises except between the hours of 07:00 and 20:00 on Mondays to Fridays and 08:00 and 18:00 on Saturdays, Sundays, Bank and Public Holidays.  
**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.
- 8 If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority), shall be carried out until a method statement identifying, assessing the risk and proposing remediation measures, together with a programme, shall be submitted to and approved in writing by the Local Planning Authority. The remediation measures shall be carried out as approved and in accordance with the approved programme.

**Reason:** To safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan.

- 9 All hard surfaces 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.
- 10 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.
- 11 The Party Ceilings, Floors and Walls between the ground floor commercial unit and the first floor residential flats 1, 2, 3, and 4, and House 5 to the south, as shown on drawing (08)007revB received on 14 July 2017, should be designed to achieve airborne sound insulation values of at least 5dB higher and impact residual sound values of at least 5dB lower than Building Regulations Approved Document E performance standards, for airborne and structural sound insulation for floors of purpose built dwelling-houses and flats.  
**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.
- 12 No development, other than the demolition of the existing building, shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods as per the recommendations of the Sustainable Drainage Report and Flood Risk Assessment, March 2016 has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the building commencing.  
**Reason:** To ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with policy SU3 of the Brighton & Hove Local Plan.
- 13 No development above ground floor slab level of any part of the development hereby permitted shall take place until samples of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):
- a) Samples of all brick, 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 of all hard surfacing materials

- d) Samples of the proposed window, door and balcony treatments
- e) Samples of all other materials to be used externally

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

**Reason:** To ensure a satisfactory appearance to the development and to comply with policies QD14 and HE6 of the Brighton & Hove Local Plan and CP12 and CP15 of the City Plan Part One.

- 14 No development above ground floor slab level of any part of the development hereby permitted shall take place until full details including 1:10 scale elevation and section details of all windows (including reveals and cills), doors, railings, gates and planters, have been submitted to and approved in writing by the Local Planning Authority.  
**Reason:** As this matter is fundamental to the acceptable delivery of the permission to ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan and CP15 of the City Plan Part One.
- 15 No development above ground floor slab level of any part of the development hereby permitted shall take place until full details of the ground floor banded rustication, including 1:5 scale section details, have been submitted to and approved in writing by the Local Planning Authority.  
**Reason:** As this matter is fundamental to the acceptable delivery of the permission to ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan and CP15 of the City Plan Part One.
- 16 No development above ground floor slab level of any part of the development hereby permitted shall take place until such time as a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit.  
**Reason:** This condition is imposed in order to allow the Traffic Regulation Order to be amended in a timely manner prior to first occupation to ensure that the development does not result in overspill parking and to comply with policies TR7 & QD27 of the Brighton & Hove Local Plan and CP9 of the City Plan Part One.
- 17 No development above ground floor slab level shall commence until a Scheme of Management of the vehicle parking has been submitted to and been approved in writing by the Local Planning Authority. The submitted scheme shall include details of how each car parking space will be allocated and any necessary measures to ensure that each car parking space is secured for the use of its allocated owner. The approved scheme shall be implemented prior to the first occupation of the building and thereafter retained at all times.  
**Reason:** To ensure the development maintains a sustainable transport strategy and to comply with policy CP9 of the City Plan Part One
- 18 No development shall take place until a programme of archaeological work has been secured in accordance with a Written Scheme of Archaeological

Investigation which has been submitted to and approved in writing by the Local Planning Authority.

**Reason:** This pre-commencement condition is imposed because it is necessary to ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with policy HE12 of the Brighton & Hove Local Plan

- 19 Before any equipment, materials or machinery are brought onto the site for the purposes of development, a pre-commencement site meeting between the Tree Officer and Site Manager shall take place to confirm the protection of the three trees on the highway adjacent the site. No development shall commence until fences for the protection of trees to be retained have been erected in accordance with a scheme which has been submitted to and approved in writing by the Local Planning Authority. The fences shall be erected in accordance with BS5837 (2012) 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 City Plan Part One.

- 20 No demolition shall take place until a Demolition Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include:

- i) The phases of the Proposed Demolition including the forecasted completion date(s)
- ii) A commitment to apply to the Council for prior consent under the Control of Pollution Act 1974 and not to Commence Development until such consent has been obtained
- iii) A scheme of how the contractors will liaise with local residents to ensure that residents are kept aware of site progress and how any complaints will be dealt with reviewed and recorded (including details of any considerate constructor or similar scheme)
- iv) A scheme of how the contractors will minimise complaints from neighbours regarding issues such as noise and dust management vibration site traffic and deliveries to and from the site
- v) Details of hours of demolition including all associated vehicular movements
- vi) Details of the demolition compound
- vii) A plan showing demolition traffic routes
- viii) An audit of all waste generated during demolition works

The demolition shall be carried out in accordance with the approved Plan

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

- 21 No development, other than demolition of the existing building, shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include:
- i) The phases of the Proposed Development including the forecasted completion date(s)
  - ii) A commitment to apply to the Council for prior consent under the Control of Pollution Act 1974 and not to Commence Development until such consent has been obtained
  - iii) A scheme of how the contractors will liaise with local residents to ensure that residents are kept aware of site progress and how any complaints will be dealt with reviewed and recorded (including details of any considerate constructor or similar scheme)
  - iv) A scheme of how the contractors will minimise complaints from neighbours regarding issues such as noise and dust management vibration site traffic and deliveries to and from the site
  - v) Details of hours of construction including all associated vehicular movements
  - vi) Details of the construction compound
  - vii) A plan showing construction traffic routes
  - viii) An audit of all waste generated during construction works
  - ix) The construction shall be carried out in accordance with the approved CEMP.

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

- 22 Prior to first occupation of the development hereby permitted, a scheme for landscaping shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:
- a) Details of all hard and soft surfacing;
  - b) Details of all boundary treatments;
  - c) Details of all proposed planting to all communal areas and/or all areas fronting a street or public area, including numbers and species of plant, and details of size and planting method of any trees.

All hard landscaping and means of enclosure shall be completed in accordance with the approved scheme prior to first occupation of the development. All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar

size and species, unless the Local Planning Authority gives written consent to any variation.

**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 of the City Plan Part One.

- 23 Prior to first occupation of the development hereby permitted a plan detailing the position, height, design, materials and type of the proposed high level obscure glazed screen proposed to the balcony of Flat 14, as shown on drawing 006B, shall have been submitted to and approved in writing by the Local Planning Authority. The screen shall be provided in accordance with the approved details prior to first occupation of the development and shall thereafter be retained at all times.

**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.

- 24 The development hereby permitted shall not be brought into use until the archaeological site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 18 and that provision for analysis, publication and dissemination of results and archive deposition has been secured, unless an alternative timescale for submission of the report is first agreed in writing with the Local Planning Authority.

**Reason:** This condition is imposed because it is necessary to ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with policy HE12 of the Brighton & Hove Local Plan.

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

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

- 26 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 City Plan Part One.

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

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

- 28 The new 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.

- 29 Prior to the first occupation of the development hereby permitted the redundant vehicle crossover on York Avenue shall have been converted back to a footway by raising the existing kerb and footway.

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

- 30 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.

- 31 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.

- 32 The wheelchair accessible dwelling hereby permitted as detailed on drawing no. C-1638 (08)007 B received on 14 July 2017 shall be completed in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings) prior to first occupation and shall be retained as such thereafter. All other dwelling(s) hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.

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

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 responsibility for the safe development and secure occupancy of the site rests with the developer. The local planning authority has determined the application on the basis of the information made available to it. It is strongly recommended that in submitting details in

accordance with the above/below conditions that the applicant has reference to CLR 11, Model Procedures for the management of land contamination. This is available online as a pdf document on both the DEFRA website ([www.defra.gov.uk](http://www.defra.gov.uk)) and the Environment Agency ([www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)) website.

- 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 required 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 The applicant is advised that advice regarding permeable and porous hardsurfaces can be found in the Department of Communities and Local Government document 'Guidance on the permeable surfacing of front gardens' which can be accessed on the DCLG website ([www.communities.gov.uk](http://www.communities.gov.uk)).
- 6 The applicant is advised that the scheme required to be submitted by Condition 16 should include the registered address of the completed development; an invitation to the Council as Highway Authority (copied to the Council's Parking Team) to amend the Traffic Regulation Order; and details of arrangements to notify potential purchasers, purchasers and occupiers that the development is car-free.
- 7 The applicant is advised that the proposed highways works should be carried out in accordance with the Council's current standards and specifications and under licence from the Streetworks team. The applicant should contact the Streetworks Team (01273 293366).
- 8 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 to be constructed under licence from the Head of Asset and Network Management. The applicant must contact the



Streetworks Team (01273 293 366) prior to any works commencing on the public highway.

- 9 A formal application for connection to the water supply is required in order to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk)".

## **2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1 The application relates to a former Baptist Church (D1), built in 1967, with associated car parking. The site has a main frontage along Lansdowne Road/Montpelier Place and is bounded by York Avenue to the west and Norfolk Terrace to the east. To the northern boundary is housing which fronts both York Avenue and Norfolk Terrace. The rectangular site measures approximately 0.14 hectares (0.35 acres).
- 2.2 The church is a single storey pale brick structure formed of two pitched gables, joined at the rear, with an internal, partially covered, recessed, gated courtyard. The building sits to the south east corner of the site with an open car park to the south west. The site is situated within the Montpelier and Clifton Hill Conservation Area, which was developed from the 1830s and is a mix of well-to-do streets of detached and semi-detached villas, set-piece developments of grand townhouses and narrower streets of smaller terraced houses.
- 2.3 The opposite side of the road, to the south, lies partly within this conservation area and, to the west, partly within the Brunswick Town conservation area, which was largely developed from the 1820s in typical Regency style with grand terraces. Montpelier Place/Lansdowne Road is a main east west route through these areas and the architecture and townscape are varied and there is a mix of residential, institutional and commercial uses.
- 2.4 There are several listed buildings within the vicinity: immediately to the north is the grade II listed Abbey Hotel. Opposite this is the grade II listed Belvedere Terrace. Opposite the site to the south is the grade II listed 14 Montpelier Place, a single house of terraced design. To the west of the site, on the corner with York Avenue, is the locally listed Mercia House.
- 2.5 The proposed scheme relates to the demolition of the church building and redevelopment of the entire site. The construction of 5 houses and 19 flats and a ground floor D1 unit (115m<sup>2</sup>) is proposed, along with 7 no. car parking spaces. The building would be a mix of three to five storeys in height. It would provide 5 x 4 bedroom houses, 7 x 1 bedroom flats (including 1 wheelchair accessible) and 12 x 2 bedroom flats
- 2.6 The scheme was subject to pre-application advice and was presented to the Design Review Panel.

## **3. RELEVANT HISTORY**

3.1 2016: Pre-application advice was sought on the scheme.

#### 4. REPRESENTATIONS

4.1 **Fifty three (53) letters and a Petition with 50 signatures** have been received objecting to the proposed development. The main grounds for objection are as follows:

- Loss of existing building
- Loss of church/ community use
- Non-compliance with Local Plan policy H20
- Density too high
- Add to overcrowding
- Design
- Height
- Size
- Overshadowing
- Loss of daylight and sunlight
- Potential for damp
- Loss of view
- Overlooking and loss of privacy
- Increased noise and disturbance
- Increased pollution
- Increased traffic
- Impact on highway safety
- Parking issues
- Increase in energy costs
- Shop not required
- Potential loss of earning for existing local shop
- Increased litter and lack of street bins
- Abbey Hotel is in residential use
- No end user for D1 premises
- Potential subsidence
- Affordable housing should be addressed

4.2 **Six (6)** letters has been received supporting the proposed development on the following grounds:

- Existing site is an eyesore
- Housing provided
- Appropriate brownfield location
- Appropriate scale and massing
- Appropriate design

4.3 **Montpelier and Clifton Hill Association** : Support : Proposal would preserve and indeed enhance the character of the conservation area and will sit well with the grade 2 listed buildings in the immediate vicinity.

## 5. CONSULTATIONS

### 5.1 External

**Ecology:** No objection The proposed development should not have an adverse impact on biodiversity and can be supported from an ecological perspective.

5.2 **County Archaeologist:** No objection In the light of the potential for impacts to heritage assets with archaeological interest resulting from the proposed development, the area affected by the proposals should be the subject of a programme of archaeological works.

5.3 **CAG:** No objection subject to details regarding design of western building portico, materials, trees, paint colour.

5.4 **Southern Water:** No objection subject to a condition relating to submission of proposed drainage system.

5.5 **Sussex Police:** No objection

### 5.6 Internal

**Economic Development:** No objection subject to the submission of an Employment and Training Strategy, and a developer contribution of £8,200 through a S106 agreement, towards the delivery of the council's Local Employment Scheme.

5.7 **Education:** No objection subject to a developer contribution of £68,635.00 towards the cost of primary, secondary and sixth form provision.

5.8 **Environmental Health:** No objection subject to conditions relating to soundproofing contaminated land, hour of waste collections and provision of a Construction Environmental Management Plan (CEMP).

5.9 **Heritage:** No objection The redevelopment of the site is welcomed and there is no objection to the demolition of the existing church building. The scale of the proposed development, its footprint, height and massing, are considered to be appropriate to the site. The proposed design approach has struck an appropriate balance between achieving a distinct new development and respecting the sensitive heritage context of this prominent site.

5.10 **Housing:** Objection Only 20% of properties (5 units) are offered against the policy position of 40% - 10 properties. The unit mix is for smaller units only where the development provides a range of unit sizes. The tenure appears to be shared ownership only which is not Affordable Housing Brief compliant. Confirmation of the wheelchair tenure is required.

5.11 *Further comment after DVS recommendation for 5 Affordable units :* No objection The five units are self-contained in one block and the wheelchair accessible unit is proposed as affordable rent which is considered to be appropriate.

- 5.12 **Planning Policy:** Comment No information has been submitted setting out if use of the site for other community facilities has been investigated. It is however acknowledged that the proposal would provide a new community facility, albeit of a smaller size, although no end user has yet been identified. The provision of 24 residential units would make a valuable contribution to the City's housing requirements and would assist with the five year housing land supply.
- 5.13 **Sustainable Transport:** No objection subject to Section 106 requirements (£16,400 and travel plan measures), conditions including the reinstatement of the redundant vehicle crossing, new crossover, cycle parking scheme, car park management plan, CEMP.
- 5.14 **Sustainability:** No objection subject to conditions re energy and water efficiency.
- 5.15 **Arboriculture:** No objection provided trees are protected during construction.

## 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);
- 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)

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
- CP12 Urban design

CP13 Public streets and spaces  
CP14 Housing density  
CP15 Heritage  
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  
SU3 Surface Water Drainage  
SU5 Surface water and foul sewage disposal infrastructure  
SU9 Pollution and nuisance control  
SU10 Noise Nuisance  
QD5 Design - street frontages  
QD14 Extensions and alterations  
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  
HO20 Retention of community facilities  
HE3 Development affecting the setting of a listed building  
HE6 Development within or affecting the setting of conservation areas  
HE12 Scheduled ancient monuments and other important archaeological sites

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

Developer Contributions Technical Guidance (March 2017)

**8. CONSIDERATIONS & ASSESSMENT**

8.1 The main considerations in the determination of this application relate to the principle of the proposed development, the suitability of the site to accommodate the proposed building having regard to the amenity requirements, the effect upon the character of the conservation area and the setting of the nearby listed buildings, the impact on neighbouring residential amenity, the standard of accommodation, transport, arboriculture and sustainability issues.

8.2 **Planning Policy:**  
*Housing Provision*

The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually. The most recent land supply position was published in the 2016 SHLAA Update (February 2017) which demonstrates a 5.6 year supply position. The Council can therefore demonstrate an up to date housing supply position in accordance with the NPPF.

- 8.3 The site is identified in the SHLAA for approximately 20 dwellings in the 5 year supply (2015-2020) on the basis of mixed use (it is noted that the site was a former church so some replacement community facilities would be expected). The site unit capacity identified is an approximate figure. The provision of 24 dwellings would make a useful contribution towards the City's housing target as set out in Policy CP1 of the City Plan Part One and would assist with the five year housing land supply.
- 8.4 The development of the site is supported as a means of increasing housing supply and making more effective use of the site in line with the requirements of City Plan Policy CP14 (Housing Density). CP14 indicates that proposals should seek to achieve a minimum density of 50 dwellings per hectare. The proposal is for 24 residential units on a 0.12ha site which provides a density of 200dph which is satisfactory in this central urban location, subject to on site design and amenity considerations.
- 8.5 Policy CP19 requires that proposals have regard to housing mix considerations and have been informed by local assessments of housing demand and need. Usually a mix of unit sizes would be sought which reflects the housing needs of the city, albeit a flatted development in a city centre / central location would be expected to deliver a greater proportion of smaller units. The proposal would provide 5 x 4 bedroom houses, 7 x 1 bedroom flats (including 1 wheelchair accessible) and 12 x 2 bedroom flats, a mix which is considered acceptable.
- 8.6 *Retention of community facilities*  
Churches/places of worship are defined as community facilities in the NPPF and Local Plan Policy HO20 relating to the retention of community facilities therefore applies. This policy states that planning permission will not be granted for development proposals, including changes of use that involve the loss of community facilities. Exceptions may apply, for example, if it can be demonstrated that the site is not needed, not only for its existing use but also for other types of community use. Where an exception applies a priority is attached to residential and mixed use schemes which may provide 'live work' and/or starter business units to meet identified local needs.
- 8.7 The church closed as a place of worship in 2012, due to a declining membership, with the congregation moving to other Baptist Churches in the local area. Since the church has become vacant it has been subject to anti-social issues, illegal squatting and vandalism and as such the building is in a poor state of repair, of poor quality for modern requirements, and is in need of

investment. It is acknowledged that a vacancy for this length of time indicates that the existing facilities, as they stand, are probably not required.

- 8.8 The LPA will, where practicable, seek the reuse for community purposes of facilities no longer required by community or religious groups by another such group. It is recognised, however, that existing church buildings will not always meet the needs of other religious and cultural groups in which case they can provide a valuable resource for other community uses.
- 8.9 No information has been submitted setting out if use of the site for other community facilities has been investigated. Since purchasing the site earlier this year, the applicant has not marketed the premises with a view to retaining the existing use/building. With regard to previous marketing activity it is understood that there is not much in the way of documented evidence of activity in this respect.
- 8.10 However it is acknowledged that the proposal would provide a new community facility, albeit of a smaller size; 115m<sup>2</sup> of D1 floor space would be provided at ground floor level in the eastern corner of the site. Whilst no end user has been identified, the unit has been designed for a small doctor/dental surgery or similar use and that, whilst smaller than the existing D1 facility, it would be of higher quality and would be a more usable space. It is noted that Policy HO20 does not state that a community facility of the same size as existing needs to be retained.
- 8.11 The LPA has sought the view of NHS Brighton and Hove Clinical Commissioning Group with regard to use as an NHS GP surgery. The Group has stated that it would not support the development of an NHS general practice of 115 m<sup>2</sup> in size. This response is noted however it is acknowledged that dentists and other smaller healthcare sole practitioners tend to occupy smaller units. A letter from property agents, Flude Commercial Limited, has been submitted with the application; this states that the market for D1 premises of this size and location are in high demand in the City and that they do not anticipate a problem in finding a suitable D1 use occupier for the proposed unit.
- 8.12 To summarise, the existing building is in a poor condition and has been vacant for some years; the declining congregation has moved to other churches within the local area. It is understood that these churches have upgraded facilities, achieved through the introduction of ramps and steps to the main entrances and the inclusion of suitable facilities inside the buildings.
- 8.13 The proposed development would improve the quality of the built environment and provide 24 no. new residential units of a good standard, including 5 no. units of affordable housing and 1 no. wheelchair accessible unit. The higher quality, more accessible D1 facilities could potentially be suitable for a wide array of community uses. Given the above it is considered that, on balance, the merits of the proposed residential-led development of the site outweigh the loss of the building and reduction in D1 floorspace.
- 8.14 *Objection*

It is noted that an objection to the application has been submitted by an agent who represents an alternative religious group in the City who object to the proposed reduction in D1 floorspace and the provision of mainly market led housing. It is stated that an unconditional offer was submitted by the Group for the purchase and retention of the site in primarily D1 use with an element of affordable housing. The offer was made to the previous owners of the site; the applicant was not party to the discussions and decisions taken and is unable to provide information with regard to the proposals. Furthermore the decision by the previous owners of the Church to sell the site to the applicant rather than to the religious group is a commercial decision and not a material planning consideration.

- 8.15 It is acknowledged that the suggested alternative scheme from the Group would entail no loss of D1 floorspace on the church site with 100% affordable housing proposed on the former parking area. However no planning application, or indeed pre-application advice request, has been submitted for this scheme, and the LPA can only consider the scheme before it.
- 8.16 **Design and Appearance:**  
The NPPF attaches great importance to the design of the built environment and identifies good design as a key aspect of sustainable development. This is reflected in policy CP12 of the City Plan Part One which seeks to raise the standard of architecture and design in the city. CP12 requires new development in particular to establish a strong sense of place by respecting the diverse character and urban grain of the city's identifiable neighbourhoods.
- 8.17 The existing Church building, whilst not without some architectural merit, is too low and spreading for this urban context and has no great historic interest. The wider site does not make a positive contribution to the conservation area or to the setting of the neighbouring conservation area; indeed in its vacant state and near derelict appearance it detracts from the areas.
- 8.18 The redevelopment of the site is therefore welcomed by the Council's Heritage Officer and there is no objection to the demolition of the existing church building. A residential led scheme is appropriate in terms of the character of the conservation areas and some D1 use at ground floor is welcomed in terms of the specific character of Montpelier Place and the historic use of the site.
- 8.19 The scale of the proposed development, its footprint, height and massing, are considered to be appropriate to the site. The proposed design approach has struck an appropriate balance between achieving a distinct new development and respecting the sensitive heritage context of this prominent site, which encompasses varying scales and both Regency style stucco terraces and later Victorian and Edwardian red brick buildings.
- 8.20 The vertical emphasis and rhythm of the proposed elevations is entirely sympathetic to the surrounding historic context. The variation in height and roofline across the block is welcome in reflecting the varied character of Montpelier Place and the very different townscapes of Norfolk Terrace and York



Avenue. The taller and larger scale block on the eastern corner is appropriate given the scale and grandeur of the Abbey Hotel and Belvedere Terrace.

- 8.21 The D1 use at ground floor level, with larger 'shop front type' windows, would provide ground floor animation on this corner and some sense of continuity with the commercial and institutional uses east of Norfolk Terrace. The terraced town houses would represent simplified but well-proportioned takes on the 19th century townhouses in the vicinity.
- 8.22 Greater height to the block on the western corner would have been desirable however this could not be achieved due to amenity considerations. Nevertheless it would present a fitting and attractive means of turning this corner and managing the transition from Montpelier Place to York Avenue. The use of red brick for the facing material, with stone dressings, and the deeply projecting eaves to the set-back upper floor are particularly welcome in this respect and this building would enhance the setting of the locally listed Mercia House to the west of the site.
- 8.23 The Council's Heritage Officer and the Conservation Advisory Group have no objections to the scheme.
- 8.24 **Affordable Housing:**  
The City Plan Part 1 Policy CP20 requires the provision of affordable housing at 40% on-site for schemes of 15 or more net dwellings. For a scheme of 24 units this would be 9.6 affordable units; the City Council would therefore require 10 affordable units on-site to ensure the 40% requirement is met. To meet the Affordable Housing Brief these should be provided as 55% Affordable Rent (6 units) and 45% shared ownership (4 units).
- 8.25 Developers are required to prove where it is not viable for them to meet this policy provision. In this case the applicant has submitted a viability report outlining the site constraints. This, along with the LPA's policy position, was submitted to the District Valuer Services (DVS). The DVS has concluded that 5 units (21%) is the most the scheme can viably provide (3 no. units including the wheelchair accessible unit (15,16,19) as Affordable Rent and 2 no. units (17,18) as Shared Ownership).
- 8.26 Given DVS advice, it is considered that 5 affordable units is the maximum viable level of affordable housing that can be achieved on this site in compliance with CP20. The Council's Housing Officer has advised The Council's Housing Officer has advised that it is appropriate that the five affordable units are self-contained in one block and the wheelchair accessible unit is proposed as affordable rent.
- 8.27 Standard of accommodation:  
Policy QD27 will not permit development where it would cause a loss of amenity to proposed residents. The Council does not at present have an adopted policy do require minimum unit sizes. Government has however published room and unit sizes which they consider to represent the minimum acceptable size for rooms and units, in the form of their 'Technical housing standards - nationally

described space standard', March 2015. Whilst the Council has not adopted these standards, they do clearly provide a useful and highly relevant reference point in assessing standard of accommodation in new residential units.

- 8.28 Overall it is considered that the proposed dwellings would provide a good standard of accommodation; units would be of acceptable size and accord with the Government recommended space standards; habitable rooms would benefit from adequate natural light and outlook. In terms of potential noise nuisance, conditions are recommended relating to soundproofing between the residential and non-residential units, and hours of waste collection.
- 8.29 Policy HO5 requires the provision of private useable amenity space in new residential developments, which is appropriate to the scale and character of the development. The 5 no. townhouses would benefit from a private rear garden, which although not large, are commensurate with gardens in City centre locations. The 2 no. ground floor flats would have courtyard gardens. The upper floor flats would have each benefit from a balcony. Bearing in mind the site location and proposed mix of units, the provision of outdoor amenity space is considered to be acceptable, and appropriate that the larger units have use of a garden area.
- 8.30 Policy HO13 requires all new residential dwellings to be built to Lifetime Homes standards whereby they can be adapted to meet people with disabilities without major structural alterations. The requirement to meet Lifetime Homes has now been superseded by the accessibility and wheelchair housing standards within the national Optional Technical Standards. These can be secured by condition.
- 8.31 Policies require all new residential development to provide refuse and recycling storage facilities. The facilities are adjacent to the parking area to the rear of the site which is appropriate. The facilities to flat 15 (wheelchair compliant) are appropriately sited by the entrance door to the unit. There are also Council provided refuse/ recycling facilities in the street.
- 8.32 **Impact on Amenity:**  
Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 8.33 *Light*  
In terms of potential loss of light, a Daylight/Sunlight Assessment has been submitted with the application. The report has used the BRE's Guide to Good Practice Layout Planning for Daylight and Sunlight and considers three amenity issues: vertical sky component (VSC) for habitable windows, annual probable sunlight hours (APSH) for habitable windows and overshadowing of amenity space. It concludes that "the proposed development at Montpelier Baptist Church will have no impact on the majority of the adjacent properties and a minimal impact to a small number of windows."

- 8.34 The adjacent Abbey Hotel, to the north of the site, now functions as self-contained bedsits for some 100 residential occupants. As noted in the submitted Sunlight/ Daylight assessment, and confirmed by the site visit, three bedsits (on the first, second and third floor) to the southern elevation of the Abbey would have notable loss of light and/ or outlook. However the LPA understands that these rooms are relatively short-lets. On balance, given that only these three rooms are affected and that there are wider benefits from the scheme, such as bringing a derelict site back into use and the improvement to the built environment which will be beneficial with regard to the current anti-social issues, the impact is considered to be acceptable.
- 8.35 Again, directly to the north of the site, the ground floor dwelling at no. 2 York Avenue would suffer a loss of daylight/ sunlight, particularly to its southern side windows. It is noted that some of these windows are secondary windows and/ or have obscured glazing, suggesting some non-habitable rooms. Furthermore the dwelling does have windows to the front and rear which would allow in light. Additionally, there would be good separation distances between no. 2 and the new development, which has been designed to be mindful of the relationship with this property by a lowered height to three storeys at this juncture.
- 8.36 It is acknowledged that a few other properties will suffer some loss of daylight/ sunlight, most notably the residential properties in Montpelier Place/ Lansdowne Road directly to the south of the site. However given the surrounding site context, the scale, footprint, height and massing of the proposed development, are considered to be acceptable. Buildings in the area are generally several storeys tall and this leads to a degree of overshadowing and mutual overlooking; this is not untypical for a city centre location. It is considered that there would be good separation distances between the proposed development and its surrounding neighbours and the relationships would be entirely appropriate for the area.
- 8.37 *Overlooking and loss of privacy*  
Concern has been raised over overlooking and loss of privacy the new units may afford. With regard to the proposed northern elevation adjacent to the Abbey Hotel, only windows serving bathrooms are proposed; a condition is recommended that these are obscure glazed to prevent overlooking. There is a front balcony proposed to one of the penthouse flats which could impact upon one of the bedsits at third floor level at the Abbey Hotel, the balcony being sited very close to its window. However, screening is proposed to prevent overlooking; it is recommended that a condition is applied requesting further details of the screening.
- 8.38 There would be a potential impact from the upper floor windows directly overlooking no. 2 York Avenue to the north of the site. However these windows serve bathrooms, stairwells and bedrooms, which are not the most intensively used rooms. Given this and the separation distances of at least 10 metres between the windows in the properties, it is considered to be sufficient to overcome any concerns and significant harm to amenity is not anticipated.

- 8.39 The proposed fenestration and balconies to the front facades of the building would give views across the streets. The eastern elevation would be sited 16 metres from the front elevation of Belvedere Terrace. To put this into context, this is similar to the separation distances between the Abbey Hotel (which houses bedsits) and Belvedere Terrace, and those on either side of York Avenue to the east of the site. It is in excess of the separation distances between the properties on either side of Norfolk Road (14 metres), to the south of the site. Additionally the development would follow the building line on Montpelier Place and Lansdowne Road. The separation distances are in fact similar to those between facing front windows throughout the neighbourhood.
- 8.40 Balconies to the rear are proposed to the upper level units; however it is considered that these are sited far enough away from neighbouring properties to not cause significant overlooking or loss of privacy.
- 8.41 *Noise*  
Although use of the balconies would likely be more pronounced than activity at a window it is not considered that the presence of these terraces would excessively harm the amenities of the residents opposite. Any noise associated with occupiers of the development would not be out of keeping with that generally experienced within a residential area, and would not be as potentially harmful as the current commercial use of the site.
- 8.42 There is currently no end user proposed for the commercial unit. As a D1 use class covers a variety of uses, it is considered prudent to apply restrictions on the hours of use.
- 8.43 It is noted that the driveway, car park, cycle storage and bin storage are all beneath residential units. In order to prevent noise from the non-residential units affecting residential units, the Council's Environmental Health officer has recommended a condition to secure appropriate insulation relating to the party ceilings and floors between the non-residential units and the residential units.
- 8.44 Additionally waste collection times need to be considered, due to the proximity of waste storage to residents and the noise associated with such. It is recommended that no waste collections shall occur at the premises except between the hours of 07:00 and 20:00 on Mondays to Fridays and 08:00 and 18:00 on Saturdays and Sundays. This can be secured by condition.
- 8.45 **Sustainable Transport:**  
*Wheelchair accessible unit and disabled car parking*  
The applicant is proposing a disabled car parking space on-street. Ideally the Highway Authority would wish to see on-site disabled car parking and the wheelchair accessible unit located closer to the car park area, however there are benefits of the wheelchair accessible unit having parking provision at ground floor level with level access from the street. Therefore on balance this is considered acceptable. In line with Council policy the on-street car parking would not be converted into a disabled bay until a specific request is made by a resident.

- 8.46 *Cycle parking and access*  
The applicant is proposing 37 long stay spaces (covered) and 5 short stay (uncovered). The cycle parking layout would provide two separate internal stores; this is considered appropriate. The location of the cycle store access is separate from the vehicular access on Norfolk Terrace which is acceptable.
- 8.47 *Pedestrian access*  
The proposed access points of the residential units are in locations that will create active frontages onto the surrounding streets which would enhance the street scene and may improve both perceived and actual safety in the area. The applicant has provided a delineated pedestrian access within the car park by using a contrasting paving material; this is welcomed by the Highway Authority.
- 8.48 *Car Parking*  
The applicant has proposed 7 car parking spaces for the development. This is within the maximum standards according to SPD14 and is acceptable. The site is within a Controlled Parking Zone (CPZ) in a city centre location, with good public transport and access links. Therefore, to prevent further parking pressures within the vicinity, it is recommended that occupiers of the units within the development have no entitlement to a resident's parking permit. This can be secured by condition.
- 8.49 *Car Park management plan*  
The Council's Highways team has advised that car parking spaces on-site should be for residents only and not patrons of the D1 use who should be encouraged to walk, cycle or public transport to promote sustainable travel and prevent and discourage journeys by car. Allocation of the spaces should be indicated in a car park management plan; this is can be secured by condition.
- 8.50 *Financial contribution*  
The proposed development would result in additional trip generation and therefore improvements to sustainable transport infrastructure in the immediate vicinity of the site are required to mitigate the impact of the proposed development. These are recommended to be secured by legal agreement as set out in section 10 below.
- 8.51 **Sustainability:**  
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. This can be secured by condition. The commercial unit is 115m<sup>2</sup> which falls below the threshold where a BREEAM assessment would be required.
- 8.52 **Arboriculture:**  
There are street located trees in the pavements of Montpelier Place, Lansdowne Road and York Avenue. These trees, principally elms, contribute to the local street scene and provide valuable green relief. The proposal should have minimal impact on the existing off site trees but it is necessary to protect these

council owned trees with hoarding during the construction period. This can be secured by condition.

8.53 The trees do have a close relationship with the neighbouring proposed building, and the Council's Arboriculture officer has suggested that this conflict is lessened by having the building line pulled back. However this is not deemed necessary as the trees are not large and the Council should be able to resist calls for excessive pruning in terms of loss of view and light.

8.54 **Archaeology:**

The site does not lie within an Archaeological Notification Area, however, it was once the site of an earlier church (Emmanuel Church) clearly shown on the 19th century 1st Edition Ordnance Survey sheet. There is potential for buried archaeological remains associated with the earlier church to survive on site. In the light of this, the County Archaeologist has recommended that the area affected by the proposals should be the subject of a programme of archaeological works. This will enable any archaeological deposits and features to be either preserved in situ or, where this cannot be achieved, adequately recorded in advance of their loss.

8.55 **Other Considerations:**

There is a vast amount of construction proposed, in very close proximity to local residents. Construction by its very nature does have noisy phases and will inevitably be noticeable at various stages to various individuals throughout the build. It is therefore recommended that a Demolition Management Plan and a Construction Environmental Management Plan (CEMP) is requested via condition.

8.56 The application has identified land as potentially contaminated, therefore a contaminated land discovery condition is recommended.

8.57 Neighbour concerns about potential subsidence are not a material planning consideration. The structural side of the build is a Building Regulations issue.

8.58 Neighbour concerns regarding the impact on property values, potential loss of earnings of the existing local shop, increased damp and energy costs from reduction in natural light, and loss of views are noted, however are not material planning considerations.

## 9. EQUALITIES

9.1 The scheme provides 21% affordable housing (affordable rent and shared ownership). Conditions are recommended to secure 1 unit (affordable rent tenure) as wheelchair accessible; the remaining units to be constructed to optional Building Regulations access standards.

### 9.2 **Developer Contributions**

Sustainable Transport: Based upon the current adopted Developer Contributions Technical Guidance and established formulae, the securing of a

£16,400 contribution to sustainable transport infrastructure to be allocated towards the following:

- Accessibility improvements to public transport facilities in the local vicinity of the site which could include the provision of accessible kerbs and/or real time passenger information signs to the Park Royal North and Southbound bus stops on Montpelier Road.

9.3 Open space and indoor sport: Based upon the current adopted Developer Contributions Technical Guidance and SPGBH9, £74,720.26 towards the following:

For Children's play £1906.32:

St Anne's Well Gardens And/Or St Nicholas, Kings Road

Parks elements inc Amenity, Natural Semi Natural £40,334.27:

St Anne's Well Gardens And/Or St Nicholas, Pavilion Gardens

Outdoor Sports £18033.48:

St Anne's Well Gardens And/Or Dyke Park

Indoor Sport £11,858:

Prince Regent Swimming Complex And/Or King Alfred Leisure Centre, Withdean Sports Complex

Allotments £2588.19:

Craven Vale And/Or Waterworks, Weald, North Nevill

9.4 Local Employment scheme: Based upon the current adopted Developer Contributions Technical Guidance, £8,200 plus a commitment to 20% local employment for the demolition and construction phases.

9.5 Education: Based upon the current adopted Developer Contributions Technical Guidance, £68,635 towards the cost of primary, secondary and sixth form provision





# **ITEM D**

**Royal Pavilion, Pavilion Buildings, Brighton**

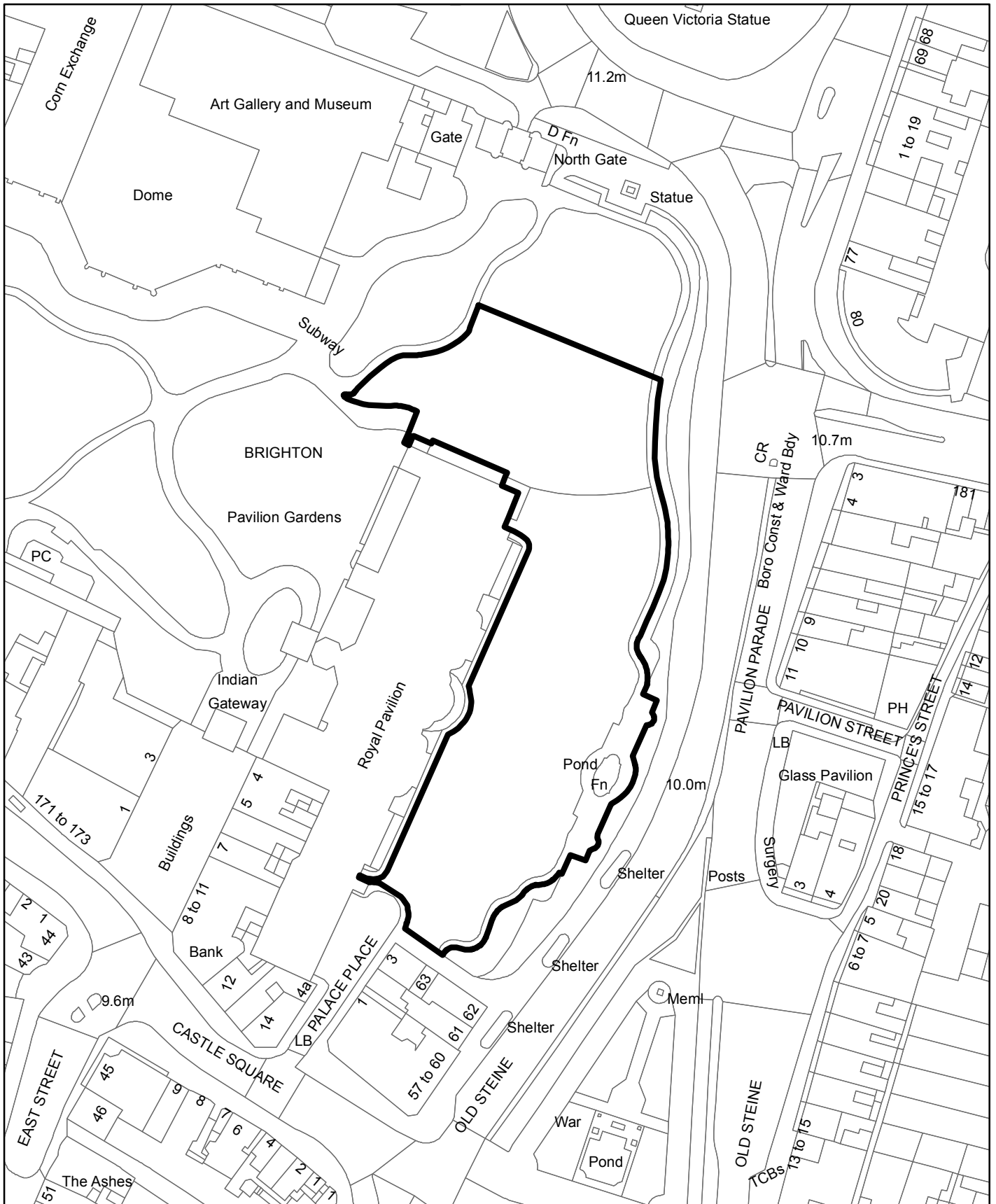
**BH2017/02299**

**Full Planning**

**DATE OF COMMITTEE: 11<sup>th</sup> October 2017**



# BH2017/02299 Royal Pavilion, Pavilion Buildings, Brighton



**Brighton & Hove  
City Council**



**Scale: 1:1,250**



|                                      |  |                            |   |
|--------------------------------------|--|----------------------------|---|
| <b><u>No:</u></b>                    | <b>BH2017/02299</b>  | <b><u>Ward:</u></b>        | <b>St. Peter's And North Laine Ward</b> |
| <b><u>App Type:</u></b>              | <b>Full Planning</b>   |                            |   |
| <b><u>Address:</u></b>               | <b>Royal Pavilion Pavilion Buildings Brighton BN1 1EE</b>  |                            |   |
| <b><u>Proposal:</u></b>              | <b>Temporary ice rink on Royal Pavilion Eastern Lawns annually during winter months. Structure to include ancillary buildings for a restaurant, cafe, toilet facilities, skate hire, learner's ice rink and associated plant and lighting. (6 year consent).</b> |                            |   |
| <b><u>Officer:</u></b>               | <b>Sonia Gillam, tel: 292265</b>   | <b><u>Valid Date:</u></b>  | <b>12.07.2017</b>                       |
| <b><u>Con Area:</u></b>              |  | <b><u>Expiry Date:</u></b> | <b>11.10.2017</b>                       |
| <b><u>Listed Building Grade:</u></b> |  | <b><u>EOT:</u></b>         | <b>18.10.2017</b>                       |
| <b><u>Agent:</u></b>                 |  |                            |   |
| <b><u>Applicant:</u></b>             | <b>Laine Ltd 31 North Road Brighton BN1 1YB</b>  |                            |   |

## 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.

| <b>Plan Type</b>     | <b>Reference</b>                      | <b>Version</b>         | <b>Date Received</b> |
|----------------------|---------------------------------------|------------------------|----------------------|
| Floor Plans Proposed | BIR-170615                            |                        | 7 July 2017          |
| Elevations Proposed  |                                       |                        | 12 July 2017         |
| Location Plan        | BIR-170510                            |                        | 7 July 2017          |
| Block Plan           | BIR-170615                            |                        | 7 July 2017          |
| Method Statement     | PROTECTION<br>STONE STEPS             |                        | 7 July 2017          |
| Site Layout Plan     | BHIRRB/03                             | Tree<br>Protecti<br>on | 7 July 2017          |
| Tree Survey          | SCHEDULE<br>TREES                     |                        | 7 July 2017          |
| Other                | CHILLER<br>TECHNICAL<br>INFORMATION   |                        | 7 July 2017          |
| Lighting scheme      | EXTERIOR<br>LIGHTING<br>SPECIFICATION |                        | 7 July 2017          |

- 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 use hereby permitted shall be permanently discontinued and the land restored to its condition immediately prior to the use commencing, on or before 23rd March 2023.  
**Reason:** The use and buildings hereby approved are not considered suitable as a permanent form of development, to safeguard the setting of the Royal Pavilion and its Estate, to protect the character and appearance of the Valley Gardens conservation area and to comply with policies HE3, HE6 and HE11 of the Brighton & Hove Local Plan.
- 4 The use hereby permitted shall only take place between 31 October in each given year of operation and 17 January the following year. The ice rink and associated buildings/structures hereby permitted shall be removed from the site on or before 23 January in each given year of operation. The land shall be restored to its condition immediately prior to the buildings being situated on the land, within two months of 23 January in each given year of operation.  
**Reason:** The use and buildings hereby approved are not considered suitable as a permanent form of development, to safeguard the setting of the Royal Pavilion and its Estate, to protect the character and appearance of the Valley Gardens conservation area and to comply with policies HE3, HE6 and HE11 of the Brighton & Hove Local Plan.
- 5 The ice rink hereby permitted shall not be open to customers except between the hours of 10.00 and 22.15.  
**Reason:** To safeguard the amenities of the locality and to comply with policies SU9, SU10 and QD27 of the Brighton & Hove Local Plan.
- 6 The café hereby permitted shall not be open to customers except between the hours of 10.00 and 00.30 each day.  
**Reason:** To safeguard the amenities of the locality and to comply with policies SU9, SU10 and QD27 of the Brighton & Hove Local Plan.
- 7 The total number of people on the ice rink at any one time shall not exceed 315.  
**Reason:** To ensure provision of an appropriate amount of ancillary facilities, and to protect the amenity of its users and neighbouring residents in compliance with policies TR7, SU9 and QD27 of the Brighton & Hove Local Plan.
- 8 The main floodlighting illuminating the rink hereby permitted shall be switched off between the hours of 23.00 and 09.00 the following day.  
**Reason:** To safeguard the amenities of the locality and to comply with policies SU9, SU10 and QD27 of the Brighton & Hove Local Plan.
- 9 Noise associated with plant and machinery incorporated within the development shall be controlled such that the Rating Level measured or calculated at 1-metre

from the façade of the nearest existing noise sensitive premises, shall not exceed a level 5dB below the existing LA90 background noise level. The Rating Level and existing background noise levels are to be determined as per the guidance provided in BS 4142:2014.

**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.

- 10 The development hereby permitted shall not be open to customers in any given year of operation until the measures proposed to protect the steps leading to the eastern elevation of the Royal Pavilion (specified in the Method Statement received on the 7 July 2017) have been fully implemented. The steps shall thereafter be protected at all times for the duration of the development including during removal of the ice rink and buildings from the site.

**Reason:** To ensure the satisfactory preservation of the listed building and to comply with policy HE1 of the Brighton & Hove Local Plan.

- 11 No development shall commence in any given year of operation until the fences for the protection of the trees during construction and dismantling have been erected in accordance with the submitted drawing Tree Protection Block Plan BHIRRB/03 received on the 7th July 2017. The fences shall be erected in accordance with BS5837 (2012) and shall be retained until completion of the construction period in any given year. The fencing shall be re-erected prior to the commencement of dismantling of the ice rink and related structures and shall be retained for the duration of those works in any given year. 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 and dismantling 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 City Plan Part One.

- 12 The development hereby permitted shall not be brought into use in any given year of operation 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 staff and visitors and shall be removed from the site on or before 23 January in each given year of operation.

**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.

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 It is advised that a formal application for connection to the water supply is required in order to service this development. The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary

sewerage infrastructure required to service this development. The applicant/developer should contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk)

## **2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1 The application site relates to the eastern lawns within the grounds of the Royal Pavilion Estate. The site is adjacent to the Grade I Listed Royal Pavilion and is within the Royal Pavilion Estate, which is a registered Garden of Special Historic Interest.
- 2.2 The site is located within the Valley Gardens Conservation Area. Old Steine/Pavilion Parade, the main north-south vehicular route into the city lies immediately to the east of the site. The nearest residential properties are in Palace Place to the south of the site and there are also flats on the opposite side of Pavilion Parade.
- 2.3 Planning permission is sought for a temporary ice rink on Royal Pavilion Eastern Lawns during the winter between 31 October and 23 January for six seasons, commencing in 2017. Included would be ancillary buildings for a restaurant, cafe, toilet facilities, skate hire and associated plant.
- 2.4 The rinkside and roadside structures would have aluminium frames and glass walls. There is no cover for the rink. Other than the toilet block and kitchen, the other areas would have transparent PVC roof sails.
- 2.5 It is proposed that the opening hours of the rink will be 10:00 to 22.15. There would be a maximum of 315 people on the rink at any one time and up to 315 people waiting to go onto the rink. The café will offer seating for up to 130 people and would be open from 09.30am to 12.30am.
- 2.6 The application is virtually identical to the approved 2016 scheme; however there are some minor changes to the scheme:
- A narrow viewing platform with decking to be located next to the beginners' ice rink so parents can watch their children
  - The café and bar opening hours 9.30am - 12.30am to bring it into line with the licence (previously 10.00-midnight).
  - The maximum number of skaters on the ice at any one time would be reduced to 315 (previously 330).
  - Size of the Ice Machine pad reduced from 6m x 5m (previously 8m x 5m)

## **3. RELEVANT HISTORY**

**BH2016/02379** Temporary ice rink on Royal Pavilion Eastern Lawns annually during winter months. Structure to include ancillary buildings for a restaurant, cafe, toilet facilities, skate hire, learner's ice rink and associated plant and lighting. (1 year consent). Approved 09.11.2016.



**BH2011/02303** Temporary ice rink on Royal Pavilion Eastern Lawns during winter for a five year period. Structure to include ancillary buildings for a restaurant, cafe, toilet facilities, skate hire and associated plant. Approved 17/10/2011

**BH2010/02344** Temporary ice rink on the Royal Pavilion Eastern lawns. Structure to include ancillary buildings for a restaurant, crèche, café, toilet facilities and skate hire. Proposed dates are 26th October 2010 to 23rd January 2011 including set up and break down, with resurfacing to be completed by 23rd February 2011. Approved 03/11/2010.

**BH2009/02089** Temporary ice rink on the Royal Pavilion eastern lawns. Structure to include ancillary buildings for a café, toilet facilities and skate hire. Proposed dates are 1st November 2009 to 23rd January 2010 including set up and break down. Approved 11/11/2009. This permission was not implemented.

No other relevant planning history on this site, although there have been many applications over the years affecting the Royal Pavilion Estate.

#### **4. REPRESENTATIONS**

4.1 None received.

#### **5. CONSULTATIONS**

5.1 **External**

5.2 **Historic England:** No objection. The scheme remains harmful to the setting of the Pavilion however mindful of the temporary nature of the proposal, that harm has been minimised and that it delivers public benefits in the form of the additional income to the Royal Pavilion.

5.3 **Ecology:** No objection

5.4 **Southern Water:** No objection

5.5 **Scottish Gas Networks:** No objection

5.6 **UK Power Networks:** No objection

5.7 **Sussex Police:** No objection

5.8 **County Archaeologist:** No objection

5.9 **Brighton and Hove Archaeology Society:** No objection

5.10 **Sussex Gardens Trust:** No objection

5.11 **Internal:**

- 5.12 **Heritage:** No objection The harm to the setting of the listed buildings, to the character of the registered park and garden itself and to the appearance of the conservation area, has been mitigated as far as possible.
- 5.13 **Environmental Health:** No Comment
- 5.14 **Arboriculture:** Verbal comment: No objection subject to tree protection measures.
- 5.15 **Tourism and Leisure:** No objection The scheme positively enhances the City's leisure facilities throughout the winter months both for residents and tourists.
- 5.16 **Economic Development:** No objection The proposal will provide an added annual attraction for the city and create temporary employment opportunities.
- 5.17 **Sustainability Team:** No objection subject to submission of an energy statement
- 5.18 **Planning Policy:** No objection. Subject to a temporary permission and the full re-instatement of the Pavilion Gardens each year.
- 5.19 **Sustainable Transport:** No objection subject to a condition relating to cycle parking provision.

## 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);
- 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)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development  
CP2 Sustainable economic development  
CP5 Culture and tourism  
CP9 Sustainable transport  
CP10 Biodiversity  
CP11 Flood risk  
CP12 Urban design  
CP15 Heritage  
CP16 Open space  
CP17 Sports provision  
CP18 Healthy city

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

TR7 Safe Development  
TR14 Cycle access and parking  
SU9 Pollution and nuisance control  
SU10 Noise Nuisance  
QD16 Trees and hedgerows  
QD18 Species protection  
QD25 External lighting  
QD26 Floodlighting  
QD27 Protection of amenity  
HE1 Listed buildings  
HE3 Development affecting the setting of a listed building  
HE6 Development within or affecting the setting of conservation areas  
HE11 Historic parks & gardens

Supplementary Planning Documents:

SPD06 Trees & Development Sites  
SPD09 Architectural Features  
SPD11 Nature Conservation & Development  
SPD14 Parking Standards

**8. CONSIDERATIONS & ASSESSMENT**

**8.1 Principle of development**

The City has a long history of ice skating facilities. From 1935 to 1965 the Sports Stadium Brighton in West Street had a full size ice rink which was open to the public and held regular Ice Spectaculars. It was also the home of The Brighton Tigers, one of Europe's leading ice hockey teams at the time. It was demolished to make way for the Top Rank Centre which had a much smaller rink and proved to have inadequate provisions. It closed after only five years. Another small rink was created in Queen Square, however this closed in 2003. Regrettably, at the present time the City has no permanent ice rink. Therefore the skating facilities in the City are not as well-provided as they were previously.

8.2 Policy CP17 promotes the increased participation in sports and physical activity; the aim is to safeguard, expand, enhance and promote access to Brighton & Hove's sports services. The proposal would enhance both sporting and

recreation facilities within the City. The site is centrally located and has good pedestrian and cycle links. It is well served by public transport.

8.3 The principle of a temporary ice rink in the Royal Pavilion grounds was established in 2010, again in 2011 for 5 years, and for one season in 2016 with some updates to the previous scheme based on the benefit of the previous years' experience. The operation took place for the temporary period permitted and no significant concerns were raised. This application is again for a temporary seasonal ice rink for a period of six years.

#### 8.4 **Design and appearance**

##### *Principal of the design*

The setting of a listed building is often an essential part of the building's character, especially if the gardens or grounds have been laid out to complement its design. The Royal Pavilion grounds are Grade II listed and a designated Registered Park of Special Historic Interest. The Royal Pavilion is a Grade I listed building. The site lies within the Valley Gardens Conservation Area.

8.5 It has been established from previous years that the structures block clear views of the Royal Pavilion's eastern elevation and that the public are restricted from walking on the Eastern Lawns. The development substantially obscures a large part of the east elevation which greatly compromises the setting of the grade I listed building and the enjoyment of the many visitors who come to Brighton specifically to see it.

8.6 The particular architectural and historic importance of the Royal Pavilion, its extensive setting and that the significance of views of the main east elevation should not be underestimated. However, given the height and scale of the Pavilion compared to the proposed structures, and the fact that existing views of the Pavilion are already affected by trees and bus shelters (from the south-east) it has been previously considered that the overall sense of scale and visual dominance of the Pavilion would remain, particularly in regards to its distinctive onion domes and roofline. Regard was also given to the fact that the period of operation of the ice rink would be the shortest days of the year.

8.7 Siting an ice rink and ancillary buildings in this location does inevitably block some views of the Royal Pavilion. However, it is considered that the general design of the proposed development, with the open rink, glass walls, and siting of the ancillary structures minimises, as far as possible, the impact on the views of the Grade 1 listed Royal Pavilion and its grounds.

#### 8.8 *Heritage Concerns*

The 2016 application was approved for one year only as the scale of the ice rink operation had increased from previous years, with a larger main rink and a separate, additional beginners' rink, as well as a larger skate exchange building, together with increased height of lighting trusses.

8.9 There was concern over the combined physical and visual impact of the proposal, arising from its increased scale and extent. The one year consent

enabled this impact to be assessed in situ and in operation. Arising from this assessment, the main issue of concern was considered to be the increased length of the skate exchange structure, which extended 2.5m further to the east than the previous permission. This means it is no longer in line with the café structure on the eastern boundary making this structure, with its gable roof end, more visually intrusive.

- 8.10 The applicant has made clear that, to maintain the proposed capacity, the skate exchange structure could only be reduced in length by putting in place separate structures to house either the box office or the toilets. Both of these options would result in a greater overall footprint of development and greater visual clutter. The applicant has also made clear that a decrease in capacity would not be viable for the continuing operation of the rink.
- 8.11 Options to reduce the visual impact of the skate exchange structure have therefore been explored by the applicant, such as reducing its roof form at the east end, which houses the toilets. These options included a lower, 'pagoda' style structure at the east end; an extension of the flat-roofed cellar store at the east end; a single bespoke flat roof module at the east end; or flat roofed toilet trailers at the east end. It is accepted that none of these options have proved practical or feasible for various reasons.
- 8.12 The only other option would be to move the entire skate exchange structure 2.5m further westwards, but this would take it inside the 5m gap left between the structures and the Royal Pavilion that is considered necessary to enable safe working at high level and avoid the risk of damage to the Pavilion during set-up and de-rig.
- 8.13 *Mitigation*  
The entrance to the Pavilion and views of its western elevation would be unaffected by the proposal. The western gardens are used far more intensively than the eastern lawns. The scheme proposes the provision of complimentary public access to the Pavilion's eastern lawns and to the ice rink's viewing platforms and café terrace so that any visitor to Brighton can enjoy a largely unobstructed view of the Pavilion. Therefore although there will be an impact on people who are visiting the City for a chance to view the Royal Pavilion, it is considered that this is far outweighed by the number of people enjoying skating with views of the Pavilion.
- 8.14 The proposed temporary ice rink will generate income both directly through the hire fee and ticket sales and indirectly by increased visitors to the Pavilion which will be of financial benefit to the Royal Pavilion and Gardens and help with upkeep and maintenance of the Pavilion Estate. In addition, the cost of the reinstatement and repair of the eastern lawns will also be provided by the operator. The presence of the ice rink's on-site security also helps to prevent vandalism to the Royal Pavilion during this period when there are longer hours of darkness.
- 8.15 The structure is temporary during the winter period and there will be no physical harm to the listed building. An acceptable method statement has been

submitted in regards to protecting the Pavilion steps to the eastern elevation which is the closest part of the listed building to the rink. A condition can be applied so that the trees and shrubs are protected.

8.16 Overall it is considered that the harm to the setting of the listed buildings, to the character of the registered park and garden itself and to the appearance of the conservation area, has been mitigated as far as possible. Given the above and that the facility will create jobs and attract many visitors and residents to the area over the Christmas period, it is considered that the positive effects of the development outweigh the temporary negative impact upon some views of the listed building.

**8.17 Impact upon neighbouring amenity**

With regards to lighting, there will be 6 no. 4.5 metre towers around the rink with floodlights and LED lights attached. There will also be 1 x 5m scaffold tube on which LED colour lights can be fixed to illuminate the beginners' rink. Other lighting will include LEDs/ Floods to trees/ walkways/ entrance and plant.

8.18 The rink is proposed in a noisy, brightly lit city centre location. The Pavilion is already floodlit each night. The rink, lighting structures and plant would be approximately 25 metres from the nearest residential properties.

8.19 The Council's Environmental Health team has no objections to the scheme. The proposal is therefore considered acceptable in terms of impact upon residential amenity, subject to conditions regarding noise.

**8.20 Transport & Access**

The application site is currently within the City's controlled parking zone (CPZ). The proposal does not propose any car parking facilities, however the site is very close to public transport links.

8.21 Given the nature of the proposals and that it is a temporary facility, the Council's Highways team anticipate that the majority of additional person trips will be linked journeys associated with visits to Brighton city centre. As such the proposed development would not result in substantial impact on highway and transportation networks in this instance.

8.22 Temporary cycle parking stands are being provided to the north of the rink which is considered adequate to meet any additional cycle parking demand.

8.23 With regard to emergency vehicle access, the Pavilion has existing procedures in place. Vehicles can access the site via the William IV Gate to the north of the site, the Indian Gate to the south, and North Road to the west. Emergency workers can also access the site via the Palace Place gate to the south of the rink.

8.24 Visitors and staff will enter the site to the north of the Pavilion. The applicant has stated that the entrance will be clearly signposted. Pedestrian trackway will be laid along the entire entrance path to minimise wear and tear on the grass.

#### **8.25 Arboriculture**

It is important that vegetation within the Pavilion Gardens, which form a key part of the setting of the Royal Pavilion, is protected during the ice rink use and reinstated afterwards. It is clear that the ice rink is to be sited in a position to minimise impact upon trees. Details of tree protection measures have been provided with the application. The Council's Arboriculture Officer has no objection to the scheme provided all relevant trees are protected particularly during the set up and de-rigging of the structures.

#### **9. EQUALITIES**

9.1 Wheelchair access will be provided via ramps at the entrance/ exit and users and the whole site would be fully wheelchair accessible; all doors will be at least 2 metres in width. A disabled toilet and baby change facilities are also being provided.





# **ITEM E**

**Wayland Paddock, 41 Wayland Ave,  
Brighton**

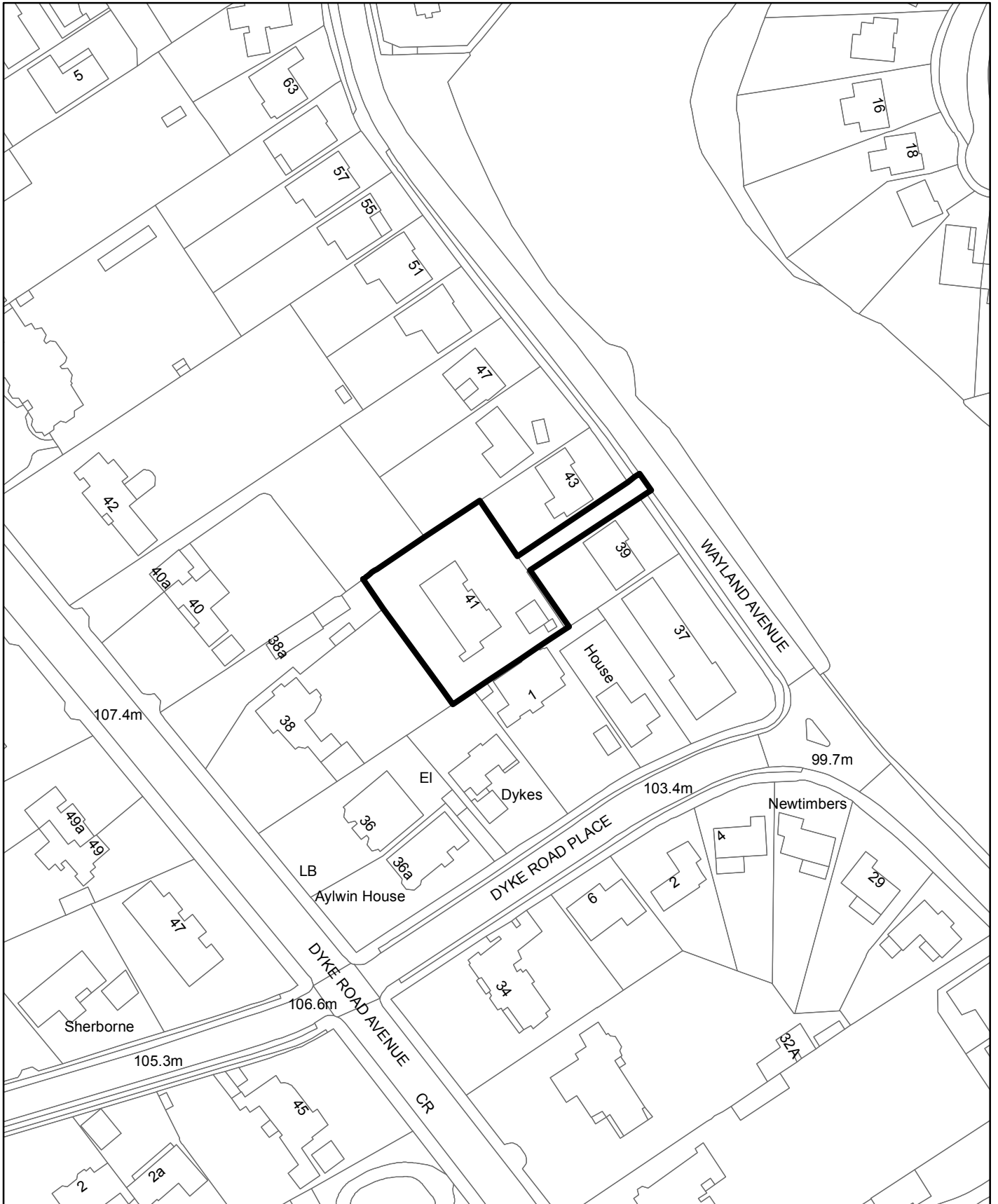
**BH2017/00284**

**Householder Planning Consent**

**DATE OF COMMITTEE: 11<sup>th</sup> October 2017**



# BH2017/00284 Wayland Paddock, 41 Wayland Avenue, Brighton



**Brighton & Hove  
City Council**



**Scale: 1:1,250**



|                                      |   |                            |                      |
|--------------------------------------|---|----------------------------|----------------------|
| <b><u>No:</u></b>                    | <b>BH2017/00284</b>   | <b><u>Ward:</u></b>        | <b>Withdean Ward</b> |
| <b><u>App Type:</u></b>              | <b>Householder Planning Consent</b>                                       |                            |                      |
| <b><u>Address:</u></b>               | <b>Wayland Paddock 41 Wayland Avenue Brighton BN1 5JL</b>                 |                            |                      |
| <b><u>Proposal:</u></b>              | <b>Remodelling and extensions to dwelling including associated works.</b> |                            |                      |
| <b><u>Officer:</u></b>               | Colm McKee, tel: 292549   | <b><u>Valid Date:</u></b>  | 26.01.2017           |
| <b><u>Con Area:</u></b>              | Adjoining Tongdean  | <b><u>Expiry Date:</u></b> | 23.03.2017           |
| <b><u>Listed Building Grade:</u></b> | N/A   | <b><u>EOT:</u></b>         |                      |
| <b><u>Agent:</u></b>                 | Mr Andy Parsons Olivier House 18 Marine Parade Brighton BN2 1TL           |                            |                      |
| <b><u>Applicant:</u></b>             | Mr Christian Pursur Wayland Paddock 41 Wayland Avenue Brighton BN1 5JL    |                            |                      |

This application was deferred from Committee on the 13 September 2017 to allow Members to carry out a Site Visit.

## 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.

| <b>Plan Type</b>        | <b>Reference</b>                 | <b>Version</b> | <b>Date Received</b> |
|-------------------------|----------------------------------|----------------|----------------------|
| Location and block plan | YO-214/0001                      | -              | 26 January 2017      |
| Elevations Proposed     | YO-214/2001<br>(EAST AND WEST)   | -              | 26 January 2017      |
| Elevations Proposed     | YO-214/2002<br>(NORTH AND SOUTH) | -              | 26 January 2017      |
| Sections Proposed       | YO-214/2000 (AA AND BB)          | -              | 26 January 2017      |
| Roof Plan Proposed      | YO-214/1201                      | B - AMENDED    | 24 August 2017       |
| Floor Plans Proposed    | YO-214/1200                      | B - AMENDED    | 24 August 2017       |

- 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 of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):

- a) Samples of all brick, 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 of all hard surfacing materials
- d) Samples of the proposed window, door and balcony treatments
- e) Samples of all other materials to be used externally

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

**Reason:** To ensure a satisfactory appearance to the development and to comply with policy QD14 of the Brighton & Hove Local Plan and CP12 of the Brighton and Hove City Plan Part One.

- 4 No development shall commence until fences for the protection of trees to be retained have been erected in accordance with a scheme which has been submitted to and approved in writing by the Local Planning Authority. The fences shall be erected in accordance with BS5837 (2012) 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 City Plan Part One.

- 5 Prior to first occupation of the development hereby permitted, a scheme for landscaping and compensatory planting shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:

- a) Details of all hard and soft surfacing;
- b) Details of all boundary treatments;
- c) Details of all proposed planting to all communal areas and/or all areas fronting a street or public area, including numbers and species of plant, and details of size and planting method of any trees.

All hard landscaping and means of enclosure shall be completed in accordance with the approved scheme prior to first occupation of the development. All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the first

occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

**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 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. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1 The application site is 'Wayland Paddock', 41 Wayland Avenue. The site is accessed off Wayland Avenue, via a laneway between nos 39 and 43, to the east. There is an existing bungalow on the site.
- 2.2 The site is surrounded to all sides by residential units. To the south is 1Dyke Road Place, to the south west is Cross Dykes. To the west is 38 and 38a Dyke Road Avenue. To the north east is the rear garden of 45 Wayland Avenue, and to the northwest is the rear garden of 40 Dyke Road Avenue.
- 2.3 The site is on the periphery off, but not within the Tongdean Conservation Area. The boundary is to the west of the application site.
- 2.4 The application is for the remodelling and extensions to the existing dwelling including associated works. The dwelling is proposed to be remodelled to include a flat roof, alterations to the fenestration pattern and detached double garage. The property would also be extended to the rear (north west corner) and the side (south) face.
- 2.5 It is noted there is an extant permission for external alterations including the installation of new flat roof, alterations to fenestration, demolition of existing garage and erection of detached double garage and associated works.
- 2.6 The extant approved design is largely similar to the current proposal with the main difference being that the approved scheme does not contain the side and rear extensions, which are proposed in the current scheme.
- 2.7 The proposed extensions are detailed as follows:
- 2.8 **Single storey side extension**  
The proposed additional single-storey side extension would set to the south elevation and would create extra habitable space. The submitted floor plan

details that the area would be used as two bedrooms (the master bedroom includes an ensuite and dressing room) and an office space.  
Single storey rear extension

2.9 **Single storey rear extension**

This extension essentially seeks to extend the living/dining room area of the existing dwellinghouse. The submitted plans indicate the single-storey rear extension would be finished with rotating doors, which would provide access to a pool/decking area.

2.10 Initially, the application proposed to remove all of the trees from the site.

2.11 During the processing of the application and following an objection from Arboriculture, the agent submitted an amended plan proposing to retain some of the existing trees on the site.

3. **RELEVANT HISTORY**

**BH2016/02765:** External alterations including removal of existing roof and installation of new flat roof, alterations to fenestration, demolition of existing garage and erection of detached double garage and associated works. Approved (23.09.2016).

**BH2014/04068:** Application to vary condition 2 of application BH2012/00935 (Demolition of existing bungalow and erection of 2no four bedroom dwelling houses with detached garages) to substitute new drawings for those previously approved in order to provide details of the proposed heights and ground levels of the development in relation to the neighbouring properties, and to remove condition 14 (approval of existing and proposed levels). Approved (07.04.2015).

**BH2014/03036:** Application for Approval of Details Reserved by Condition 14 of application BH2012/00935. Refused (26.11.2014).

**BH2012/00935:** Demolition of existing bungalow and erection of 2no four bedroom dwelling houses with detached garages. Approved (03.07.2012).

**BH2011/01738:** Demolition of existing bungalow and erection of 2no 5 bed detached dwelling houses with detached garages. Refused (17.08.2011) Appeal Dismissed (18.01.2012).

**BH2010/03115:** Demolition of existing bungalow and erection of 2no 5 bed detached dwelling houses with detached garages. Refused (24.02.2011).

**BH2008/02908:** Outline application for demolition of existing house and proposed development for 3 no. three bedroom houses. Refused (26.01.2009).

**BH2006/01047:** Outline application for 4 No. new houses on site of existing bungalow. Refused (16.06.2006).



#### **4. REPRESENTATIONS**

- 4.1 As originally submitted, 4 letters of objection and 1 letter of support were received in respect of the proposed scheme.
- 4.2 Following amendments, a total of 5 letters have been received objecting to the proposed development on the following grounds:
- Loss of light.
  - Amenity impact
  - Design grounds
  - The lack of retention of landscaping in the current proposal would result in a more visually prominent development and related privacy impacts
- 4.3 One (1) letter has been received supporting the proposed development. The reason stated for supporting the application is summarised as follows:
- The proposal is less intrusive as compared to applications previously approved on the site.
- 4.4 Councillors Nick Taylor, Ken Norman and Ann Norman object to the application, copies of the letter are attached.

#### **5. CONSULTATIONS**

- 5.1 **Arboriculture** Initial Comment Refuse:
- 5.2 Due to the substantial increase in the building footprint and the loss of trees and shrubs to the plot the Arboriculture Team recommend that consent is refused.
- 5.3 Further comment Support:
- 5.4 Following the submission of the amended plans, Arboriculture have confirmed they are content with conditions in relation to additional planting and tree protection.

#### **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);

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)

#### Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

CP10 Biodiversity

CP15 Heritage

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

QD14 Extensions and alterations

QD15 Landscape design

QD16 Trees and hedgerows

QD27 Protection of amenity

HO5 Provision of private amenity space in residential development

HE6 Development within or affecting the setting of Conservation Areas

#### Supplementary Planning Documents:

SPD06 Trees & Development Sites

SPD12 Design Guide for Extensions and Alterations

## 8. **CONSIDERATIONS & ASSESSMENT**

8.1 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, the wider streetscene (including conservation area) and the amenities of adjacent occupiers. In addition the impact on the trees must be given due consideration.

8.2 It is noted this current application follows on from a previous approval for: 'External alterations including removal of existing roof and installation of new flat roof, alterations to fenestration, demolition of existing garage and erection of detached double garage and associated works' (BH2016/02765), granted in September 2016.

### 8.3 **Amenity**

The difference in the extant permission and the current proposal must be given due consideration. As noted previously the current proposal has two distinct additions as compared to the extant permission. These are:

- **Single storey side extension**
- **Single storey rear extension**

- 8.4 As the current application would result in a building with a larger footprint, closer to the neighbouring properties, due consideration must be given to any potential resultant detrimental amenity impacts on the neighbouring properties, as compared with the existing permission.
- 8.5 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.
- 8.6 The two additional extensions are considered individually as follows:
- 8.7 **Single-Storey Side Extension:**  
The most notable difference between the extant permission and the current proposal is the addition of the side extension and as such due consideration must be given to any resultant impacts on the amenity of adjoining properties.
- 8.8 The proposed extension would extend approximately 6.2m towards the southern boundary, shared with 1 Dyke Road. Whilst this would see the footprint of the building move closer towards the shared boundary, it is noted a 2.40m distance would still be maintained between the proposed side extension and the shared boundary, with a total building to building distance being 3.68m.
- 8.9 The letters of objection highlight the concern regarding this aspect and the potential resultant impacts on daylighting and privacy - specifically the windows facing the site on no.1 Dyke Road Place.
- 8.10 The windows that would be in proximity to the proposed extended end of the dwelling are 2no ground floor kitchen windows, a landing window and bathroom window.
- 8.11 There are no concerns regarding the landing and bathroom window as these are not habitable rooms. Further, the bathroom window has obscure glazing and is screened by the boundary treatment.
- 8.12 Turning to the kitchen windows, at present the kitchen windows on this side of the dwelling face onto a 1.9m (approximate) wall. The wall has a split level and at one point is 1.70m however there is trellising of approximately 0.25m on the lower section. There is also some planting on the wall.
- 8.13 When viewed internally from the kitchen of no.1 Dyke Road Place, the outlook is largely restricted by the boundary screening of the wall, trellising and planting. It is acknowledged that undoubtedly the proposal would be visible from the kitchen, and to that extent could be considered to have negative impact on the outlook, however, the impact would not be significant enough to warrant a refusal of the application. It is also noted there is an additional southern aspect kitchen window that would not be impacted by the development.

- 8.14 In order to demonstrate there would not be a significant impact on the neighbouring property, the agent has provided a survey drawing applying the '25 degree rule'. This is a standard test applied where there is a window opposite the development or extension. The centre of the lowest habitable room window should be used as the reference point for the test. If the whole of the proposed development falls beneath a line drawn at 25 degree from the horizontal, then there is unlikely to be a substantial effect on daylight and sunlight. If the proposed development goes above the 25 degree line, it does not automatically follow that daylight and sunlight levels will be below standard. However, it does mean that further checks on daylight and sunlight will normally be required.
- 8.15 In this instance, the proposed development falls beneath the 25 degree line and as such it is unlikely that there will be an effect on daylight or sunlight to the kitchen.
- 8.16 Due to the screening and ground levels, there are not any privacy concerns. There would not be any direct window to window views between the properties and the garden ground of the application site would be well screened by the boundary treatments.
- 8.17 Regarding overshadowing and direct sunlight, due to the orientation of the sun, there would not be any impacts caused by the proposed remodelling.
- 8.18 Furthermore, the proposed single-storey side extension would have a maximum height of approximately 3.7m, which is therefore considered acceptable in scale and relationship to the shared boundary.
- 8.19 **Single-Storey Rear Extension:**  
Due to its location within the plot, this extension would not result in any amenity impacts on the neighbouring dwellings.
- 8.20 On balance, and accepting there may be a modest impact on the outlook from the kitchen of the adjacent property to the south, this is not significant enough to warrant a refusal. Considering the existing situation (boundary treatments) and the additional 25 degree diagram supplied by the agent, there are no objections to these elements of the proposal.
- 8.21 The proposals suitable additions to the building that would not harm its appearance or that of the wider area, in accordance with policy QD14 of the Brighton & Hove Local Plan and SPD12 guidance.
- 8.22 **Design and Appearance:**  
The style of the current scheme matches that of the extant permission. The contemporary style has previously been accepted and continues to be accepted.
- 8.23 In terms of design, the overall scheme is considered suitable and it would not harm the building or that of the wider area, in accordance with policy QD14
- 8.24 **Impact on the setting of the Conservation Area:**

As noted previously, the site is adjacent the Tongdean Conservation Area. The site is screened from the public domain and any proposal would not have a negative impact on the setting of the Conservation Area. Further, although contemporary, the design is considered appropriate and is considered an improvement to the existing dwelling which is lacking in architectural merit.

**8.25 Arboriculture:**

Initially, Arboriculture objected to the proposal due to the substantial increase in the building footprint and the loss of trees and shrubs to the plot. Following the submission of an amended landscaping scheme, the objection has been removed subject to conditions in relation to additional planting and protection of trees within and adjacent the site.

**9. EQUALITIES**

9.1 None identified.



17th February 2017

Dear Ms Hobden,

**RE: BH2017/00284 Wayland Paddock, 41 Wayland Avenue**

I wish to object to the above planning application in Withdean ward.

Having studied the plans carefully I am very concerned about the impact this development would have on neighbouring properties particularly for 1 Dyke Road Place. The proposed South Elevation comes to within three feet of the boundary with the existing property of 1 Dyke Road Place no more than a few feet to the boundary wall. The proximity of this I believe will cause a significant loss of amenity under QD27 of the Local Plan.

I would also like to point out that the window in the plans will also cause significantly overlooking onto this property. It is not clear to me whether this will be glazed to obscure overlooking which again would cause loss of amenity.

The proposed depth of the extension will also extend for the length of windows with the boundary with 1 Dyke Road Place causing a very likely loss of daylight which I believe will be considerable and unbearable.

I also feel that the building materials does not match the characteristics of the neighbourhood which I believe conflicts with QD 14 of the Local Plan.

Lastly I would also ask the if the officer recommendation is to grant or minded to grant that this matter be referred to full planning committee for consideration.

Yours sincerely,



Cllr. Nick Taylor  
Conservative Councillor for Withdean





Dear Ms Gillam,

**Re. Application number: BH2017/00284, Wayland Paddock, 41, Wayland Avenue, Brighton**

We are writing on behalf of Withdean residents who live adjacent to the application site to oppose the Planning Application as detailed above. We have visited the application site as well as neighbouring properties and do not consider that this application complies with various aspects of the Brighton and Hove Local Plan 2005 as listed below.

- QD1: Design – Quality of development and design statements  
a) Scale and height of development
- QD2: Design – key principles for neighbourhoods  
a) Height, scale, bulk and design of existing buildings
- QD27: Protection of amenity  
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 or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.

We note the very close proximity of the south eastern end of the proposed development to the neighbouring property 1 Dyke Road Place and that the height and width of the development will have a severe impact on the amenity and light on all lower level windows on the rear elevation of 1 Dyke Road Place. We do not believe that the portion of the roof line being brought back in line with the wall will make any significant effect on the available light that will be available to the kitchen/living space of 1 Dyke Road Place. Also, the whole length of that end of the proposed development will be almost as high as the current ridge line of 41 Wayland Avenue therefore reducing even more the available light to 1 Dyke Road Place. We also have serious reservations regarding the external finish which is to be grey which will further reduce available light to the neighbouring property.

We request that a copy of this letter be included on the agenda for the appropriate meeting of the Planning Committee and should you be minded to recommend approval we ask that the decision be taken by members of the full Planning Committee.

Yours sincerely

Councillor Ken Norman Councillor Ann Norman



# **ITEM F**

**17 Barnfield Gardens, Brighton**

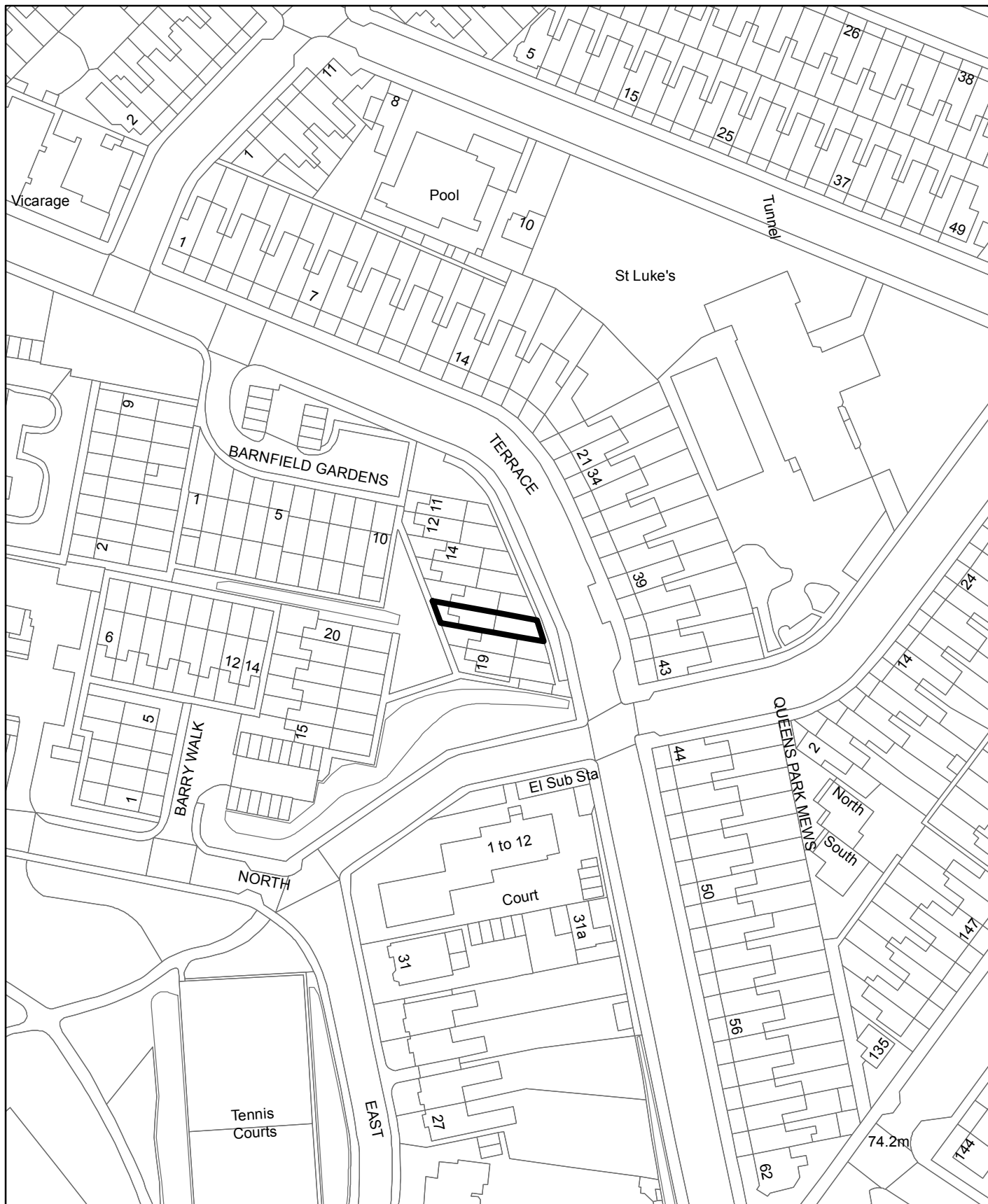
**BH2017/00128**

**Householder Planning Consent**

**DATE OF COMMITTEE: 11<sup>th</sup> October 2017**



# BH2017/00128 17 Barnfield Gardens, Brighton



**Brighton & Hove  
City Council**



**Scale: 1:1,250**



|                                      |   |                            |                          |
|--------------------------------------|---|----------------------------|--------------------------|
| <b><u>No:</u></b>                    | <b>BH2017/00128</b>   | <b><u>Ward:</u></b>        | <b>Queen's Park Ward</b> |
| <b><u>App Type:</u></b>              | <b>Householder Planning Consent</b>   |                            |                          |
| <b><u>Address:</u></b>               | <b>17 Barnfield Gardens Brighton BN2 0HQ</b>  |                            |                          |
| <b><u>Proposal:</u></b>              | <b>Erection of part single part two storey rear extension with associated alterations</b> |                            |                          |
| <b><u>Officer:</u></b>               | Jack Summers, tel: 296744   | <b><u>Valid Date:</u></b>  | 23.01.2017               |
| <b><u>Con Area:</u></b>              | (Adjacent to Queen's Park)  | <b><u>Expiry Date:</u></b> | 20.03.2017               |
| <b><u>Listed Building Grade:</u></b> | n/a   | <b><u>EOT:</u></b>         | 20.09.2017               |
| <b><u>Agent:</u></b>                 | n/a   |                            |                          |
| <b><u>Applicant:</u></b>             | Mr & Mrs Albert Ginart 17 Barnfield Gardens Brighton BN2 0HQ                              |                            |                          |

Councillor Barford has requested this application is determined by the Planning Committee.

This application was deferred from Committee on the 13 September 2017 to allow Members to carry out a Site Visit.

## 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.

| <b>Plan Type</b> | <b>Reference</b>   | <b>Version</b> | <b>Date Received</b> |
|------------------|--------------------|----------------|----------------------|
| Location Plan    |                    |                | 19 January 2017      |
| Block Plan       |                    |                | 19 January 2017      |
| Other            | DRAWING NO. 3096/1 |                | 19 January 2017      |

2. The development hereby permitted shall be begun before the expiration of three years from the date of this permission;  
**Reason:** In accordance with the provisions of Section 91 of The Town and Country Planning Act 1990 as amended by Section 51 of The Planning and Compulsory Purchase Act 2004.
3. Access to the flat roof over the extension hereby approved shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area.

**Reason:** In order to protect adjoining properties from overlooking and noise disturbance and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

- 4 The external finishes of the development hereby permitted shall match in material, colour, style, bonding and texture those of the existing building.

**Reason:** To ensure a satisfactory appearance to the development in the interests of the visual amenities of the area and to comply with policies QD14/HE6 of the Brighton & Hove Local Plan and CP12/CP15 of the 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's attention is drawn to particulars of the Party Wall Act 1996.

**2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1 The application site lies on the west side of Queens Park Terrace and southeast of Barnfield Gardens communal car parking. The host building is a two-storey semi-detached/ linked dwellinghouse with brick walls and tile roof. To the north and south of the site are nos. 16 (the attached dwelling) and 18 (the linked dwelling) Barnfield Gardens; to the east of the site is an access footway and then a high retaining wall. There is shallow landscaped forecourt and an amenity garden to the rear. The site lies to the west of (though not within the boundary of) the Queens Park conservation area and the proposed extension would face towards this area.
- 2.2 Planning permission is being sought for a part single/part two storey rear extension. The single-storey section will have a flat roof, whilst the two-storey section has a pitched, tiled roof matching the style and materials of the host dwelling. The extension has a proposed depth of approximately 3 metres from the rear wall of the original dwellinghouse.

**3. RELEVANT HISTORY**

- 3.1 None

**4. REPRESENTATION**

- 4.1 Three letters have been received (from one address) objecting to the scheme on the following grounds:
  - Loss of light to rear of property and subsequent effect on physical health
  - Anti-social behaviour and loss of the ability to monitor this
  - Out-of-character design



- Damage to existing flint wall on boundary with Queens Park Road
- Damage to existing foliage and green space
- Site traffic causing congestion and loss of parking
- Lack of space on site for building materials and tools

4.2 Councillor Karen Barford objects to the application, a copy of the letter is attached to the report.

## 5. CONSULTATIONS

### 5.1 **Arboriculture:** Support

The existing garden is quite small and currently supports a number of mixed shrubs plus a Torbay Palm and a very young Eucalyptus tree. These plants are of very limited amenity and their retention or otherwise should not be considered to be a material consideration when determining this application. Nothing of any public amenity value from an Arboricultural perspective will be lost to facilitate the development and therefore the Arboricultural Section has no objection to these proposals.

## 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);

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)

Paragraphs 2 (decisions in accordance with the development plan)

Paragraphs 7 & 11 (sustainable development)

Paragraphs 56 & 57 (design)

### Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

CP2 Sustainable economic development

CP12 Urban design

CP13 Public streets and spaces

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

QD14 Extensions and alterations

QD27 Protection of amenity

## **8. CONSIDERATIONS & ASSESSMENT**

8.1 This application was deferred at the Committee meeting on 13th September 2017 in order to allow for a site visit to be undertaken.

8.2 The main considerations in the determination of this application relate to:

- Design and Appearance
- Impact on Amenity

### **8.3 Design and Appearance:**

The proposed single storey element of the proposal would have a flat roof and is utilitarian in appearance. Although a pitch roof would better complement the host building, the current proposal is at the rear and is not highly visible from the streetscene given the sunken site topography in relation to Queens Park Terrace, as well as a 2m flint boundary wall. The only public highway from which the proposal will be visible is a public footpath running along the southern boundary of no.19 from Queens Park Terrace.

8.4 The proposed two storey element would have double-pitched roof, mimicking the main roof of the existing dwelling; the ridge height of the two storey element would be 0.3m lower than the ridge of the host building and the proposal would therefore be subservient to the existing dwelling.

8.5 The proposed extension would be: (i) attached to east/ rear wall and right against side boundary with no. 18 Barnfield Gardens (at both ground and first floors); (ii) right against side boundary with no. 16 Barnfield Gardens (at ground floor) and set-in from that side boundary with no. 16 by 1.8m (at first floor).

8.6 The proposal is considered to disrupt the uniformity of the rear of the terrace but considering the low visibility of the site from any public highway due to the historic flint wall on Queens Park Terrace as well as the staggered nature of the properties, it would not adversely impact on the adjacent conservation area and is considered acceptable on balance.

### **8.7 Impact on Amenity:**

The only property likely to suffer an impact on amenity would be number 16. At ground floor, the proposal projects rearward by 3m along the common side boundary; and at first floor the proposal is set-in from the common side boundary by 1.8m and set against a higher and deeper flank wall of number 18.

8.8 It is considered that the proposal is modest in scale and would be unlikely to seriously affect residential amenities of no. 16 Barnfield Gardens in terms of loss of light, loss of outlook or loss of privacy, especially given the existing rear

conservatory at number 16 extends to a similar depth as the proposal, and the two-storey addition would be seen in the context of a larger flank elevation behind.

- 8.9 The scale of the proposal would still leave remaining, a modest but usable amenity space to the rear of the subject curtilage.

**9. EQUALITIES**

- 9.1 None identified.





PLANNING COMMITTEE LIST  
11<sup>th</sup> October 2017  
COUNCILLOR REPRESENTATION

From: Karen Barford  
Sent: 08 February 2017 14:40  
To: Planning Applications  
Cc: Daniel Chapman

Subject: BH2017/00128 17 Barnfield Gardens Brighton BN2 0HQ  
Planning Application: BH2017/00128 (17 Barnfield Gardens Brighton BN2 0HQ)

Dear Planning Application Team,

Should planning officers be minded to approve the above mentioned application, please can it be referred to planning committee for decision primarily due to overshadowing and loss of light to the attached property at no.16.

Many thanks

Karen

Councillor Karen Barford, Queen's Park Ward  
Lead member for Adult Social Care  
Brighton and Hove City Council



# **ITEM G**

**77 Dyke Road Avenue, Hove**

**BH2016/02080**

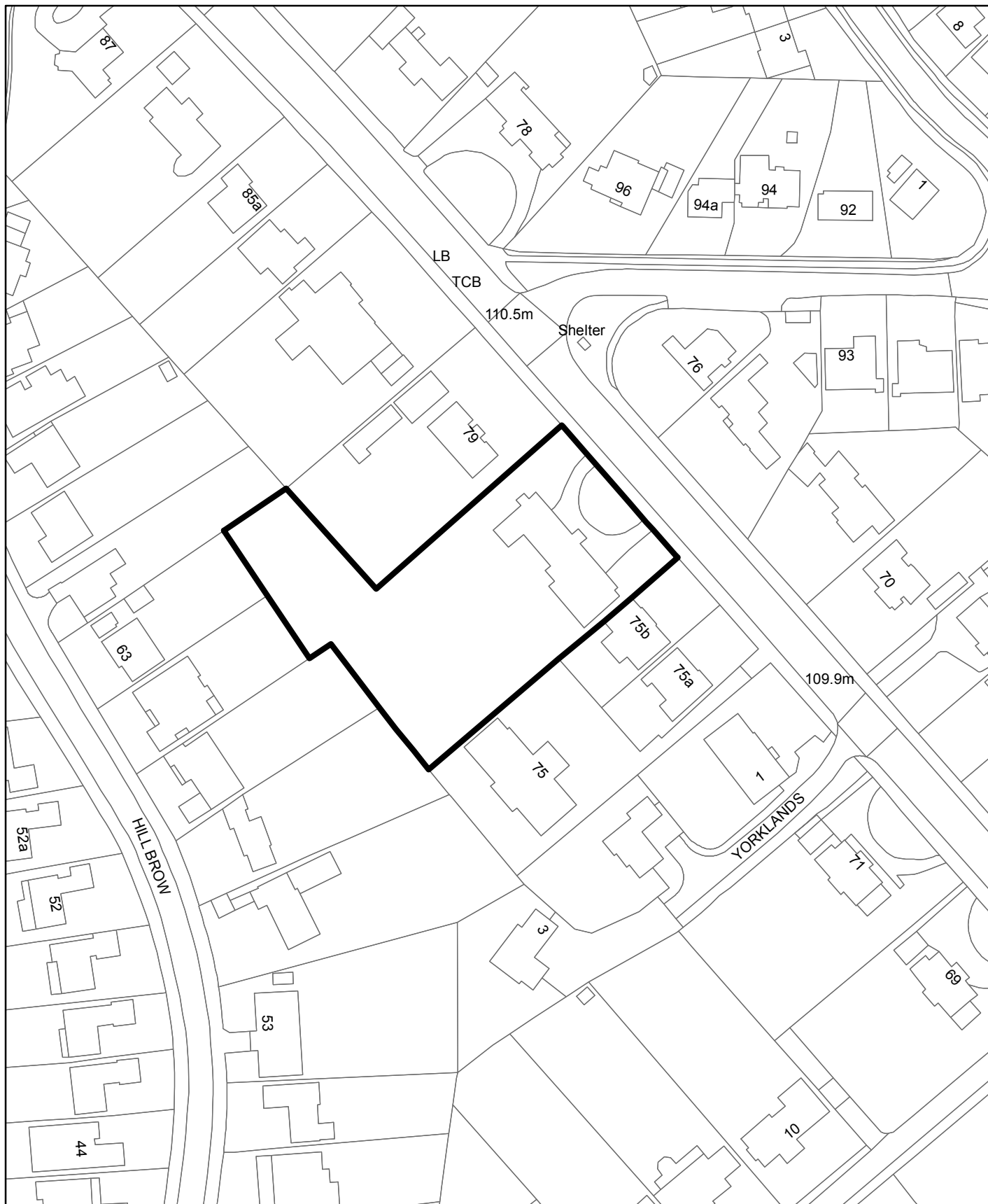
**Full Planning**

**DATE OF COMMITTEE: 11<sup>th</sup> October 2017**





# BH2016/02080 77 Dyke Road Avenue, Hove



**Brighton & Hove  
City Council**



**Scale: 1:1,250**



|                                      |   |                            |                       |
|--------------------------------------|---|----------------------------|-----------------------|
| <b><u>No:</u></b>                    | <b>BH2016/02080</b>   | <b><u>Ward:</u></b>        | <b>Hove Park Ward</b> |
| <b><u>App Type:</u></b>              | <b>Full Planning</b>  |                            |                       |
| <b><u>Address:</u></b>               | <b>77 Dyke Road Avenue, Hove, BN3 6DA</b>   |                            |                       |
| <b><u>Proposal:</u></b>              | <b>Erection of 2no five bedroom dwelling with 2no single storey detached garages.</b> |                            |                       |
| <b><u>Officer:</u></b>               | Helen Hobbs, tel: 293335  | <b><u>Valid Date:</u></b>  | 09.06.2016            |
| <b><u>Con Area:</u></b>              |   | <b><u>Expiry Date:</u></b> | 04.08.2016            |
| <b><u>Listed Building Grade:</u></b> |   | <b><u>EOT:</u></b>         |                       |
| <b><u>Agent:</u></b>                 | Lewis and Co Planning SE Ltd 2 Port Hall Road Brighton BN1 5PD                        |                            |                       |
| <b><u>Applicant:</u></b>             | Mr Jogi Vig 77 Dyke Road Avenue Hove BN3 6DA  |                            |                       |

## 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.

| <b>Plan Type</b>                    | <b>Reference</b> | <b>Version</b> | <b>Date Received</b> |
|-------------------------------------|------------------|----------------|----------------------|
| Floor plans and elevations proposed | 599/01           | B              | 6 June 2016          |
| Elevations and sections proposed    | 599/06           | A              | 6 June 2016          |
| Floor plans and elevations proposed | 599/07           |                | 6 June 2016          |
| Floor plans and elevations proposed | 599/08           |                | 6 June 2016          |
| Location Plan                       |                  |                | 6 June 2016          |
| Block Plan Proposed                 | 599/04           | C              | 6 June 2016          |

- 2 The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

**Reason:** To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

- 3 No development above ground floor slab level of any part of the development hereby permitted shall take place until samples of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):

- a) Samples of all brick, and tiling
- b) Samples of all cladding to be used, including details of their treatment to protect against weathering
- c) Details of all hard surfacing materials
- d) Details of the proposed window, door and balcony treatments
- e) 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 of the Brighton & Hove Local Plan and CP12 of the City Plan Part One.

- 4 No extension, enlargement or other alteration of the dwellinghouses as provided for within Schedule 2, Part 1, Classes A - E 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) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.

**Reason:** The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and for this reason would wish to control any future development to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

- 5 Prior to first occupation of the development hereby permitted a scheme to enhance the nature conservation interest of the site shall have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall accord with the standards described in Annex 6 of SPD 11 and shall be implemented in full prior to the first occupation of the development hereby approved.

**Reason:** To increase the biodiversity of the site, to mitigate any impact from the development hereby approved and to comply with Policy CP10 of the City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

- 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.

- 7 Prior to first occupation of the development hereby permitted, dropped kerbs and tactile paving shall have been installed to the western footway of Dyke Road Avenue to the north and south of the junctions with The Spinney and Tongdean Road.

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

- 8 The new 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.
- 9 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.
- 10 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 City Plan Part One.
- 11 No works shall take place until full details including plans, showing the final siting of the services and soakaways have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented in conjunction with the Vehicular Access Construction Method Statement within the Arboricultural, Horticultural and Ecological Management Report submitted as part of the original application.  
**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 City Plan Part One.
- 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 City Plan Part One.
- 13 None of the residential units hereby approved shall be occupied until each residential unit built has achieved a water efficiency standard using not more than 110 litres per person per day maximum indoor water consumption.  
**Reason:** To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the City Plan Part One.
- 14 Prior to first occupation of the development hereby permitted a plan detailing the positions, height, design, materials and type of all existing and proposed boundary treatments shall have been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be provided in

accordance with the approved details prior to first occupation of the development and shall thereafter be retained at all times.

**Reason:** To enhance the appearance of the development in the interest of the visual and residential amenities of the area and to comply with policies QD15 and QD27 of the Brighton & Hove Local Plan and CP12 of the City Plan Part One.

- 15 Before any equipment, materials or machinery are brought onto the site for the purposes of development, a pre-commencement site meeting between the Tree Officer, Arboricultural Consultant and Site Manager shall take place to confirm the protection of trees on and adjacent to the site in accordance with the Arboricultural Impact Appraisal and Method Statement prepared by R W Green Limited ref RWG-NDJ-LPDR. The tree protection shall be positioned as shown on the Tree Protection Plan, R W Green Limited ref: RWG-NDR-16-24 dated April 2016, before any equipment, materials or machinery are brought onto the site for the purposes of the development. The tree protection shall be retained until the development is completed and nothing shall be placed within the fencing, nor shall any ground levels be altered or excavations made without the written consent of the Local Planning Authority. This condition shall not be discharged until an arboricultural supervision statement, the contents of which are to be discussed and agreed at the pre-commencement meeting, is submitted to and approved in writing by the Local Planning Authority on completion of development.

**Reason:** As this matter is fundamental to protecting the trees which are to be retained on the site and protected species that may be present during construction works in the interest of the visual amenities of the area and to comply with policies QD16 and QD18 of the Brighton & Hove Local Plan and CP10 and CP12 of the City Plan Part One.

- 16 No works or development shall take place until a scheme of supervision for the arboricultural protection measures has been submitted to and approved in writing by the local planning authority. This scheme will be appropriate to the scale and duration of the works and will include details of:

- a) Induction and personnel awareness of arboricultural matters
- b) Identification of individual responsibilities and key personnel
- c) Timing and methods of site visiting and record keeping, including updates
- d) Procedures for dealing with variations and incidents.
- e) The scheme of supervision shall be carried out as agreed.
- f) The scheme of supervision will be administered by a qualified arboriculturist instructed by the applicant and approved by the local planning authority. The development shall be implemented in strict accordance with the approved details.

**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 City Plan Part One.

- 17 No works shall take place until full details including plans, showing the final siting of the services and soakaways have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented in conjunction with the Vehicular Access Construction Method Statement within the Arboricultural, Horticultural and Ecological Management Report submitted as part of the original application.

**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 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 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 to be constructed under licence from the Head of Asset and Network Management. The applicant must contact the Streetworks Team (01273 293 366) prior to any works commencing on the public highway.
3. The applicant is advised to contact the Council's Streetworks team (permit.admin@brighton-hove.gov.uk 01273 293366) and obtain all necessary highway approval from the Highway Authority prior to any works commencing on the adopted highway to satisfy the requirements of condition 8.
4. 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.
5. The water efficiency standard required under condition 13 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.

## **2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1 The application site relates to land rear of a large two-storey dwellinghouse located on the west side of Dyke Road Avenue. The dwelling is detached and includes a hardstanding to the front with a vehicular exit and entrance from Dyke Road Avenue. The site includes a large 'L' shaped rear garden which goes around the rear of 79 Dyke Road Avenue. The garden slopes down from the rear of the house. The site includes a significant number of trees and bushes. In the front garden, there is a group of Beech trees that are covered by a Tree Preservation Order. The surrounding area is predominately comprised of large detached houses set within substantial grounds.

## **3. RELEVANT HISTORY**

**BH2014/03811** Erection of 2no five bedroom dwelling with 2no single storey detached garages. Refused 20/05/2015 for the following reasons:

- 1) The development, by virtue of the proposed footprint and resulting scale and mass, would harmfully alter the character of the backland location and would appear unduly prominent and incongruous in views from the surrounding area. The proposal therefore fails to emphasise and enhance the positive qualities of the local neighbourhood. This harm outweighs the benefit provided by the additional dwellings. The proposal is therefore contrary to policies QD1, QD2 and QD3 of the Brighton & Hove Local Plan.
- 2) The development would be clearly visible from surrounding properties and would appear dominant and overbearing additions in close proximity to the boundaries. The scheme would result in an unneighbourly form of development, a loss of outlook and an increased sense of enclosure for adjacent residential properties. The proposal therefore results in a loss of amenity and is contrary to policy QD27 of the Brighton & Hove Local Plan.
- 3) The site has potential to provide roosting, commuting and / or foraging habitat for bats. A bat survey is therefore required to assess the impact of the development on protected bats. In the absence of this information the proposal is contrary to policy QD18 of the Brighton & Hove Local Plan.

**BH2005/00162/OA:** Outline application for erection of 3 no detached dwellings. Approved 23/02/2007.

**BH2003/01057/OA:** Outline application for erection of 3 No. detached dwellings. Refused 23/06/2004 for the following reason:

- 1) The proposed means of access would result in damage to or destruction of trees subject to a Tree Preservation Order contrary to policies EC20 of the Hove Borough Local Plan and QD16 of the Brighton and Hove Local Plan Second Deposit Draft.



A subsequent appeal against this decision was dismissed 08/06/2005.

#### **4. REPRESENTATIONS**

4.1 Eleven (11) letters have been received objecting the proposed development for the following reasons:

- Access to Dyke Road
- Impact on tress
- Impact on wildlife
- Overlooking
- Loss of privacy
- Scale of dwelling
- Overbearing
- Noise
- Increase in parking/traffic

#### **5. CONSULTATIONS**

5.1 **Ecology:** No Comment

Provided mitigation measures are implemented, the proposed development is unlikely to have any significant impacts on biodiversity and can be supported from an ecological perspective. The site offers opportunities for enhancement that will help the Council address its duties and responsibilities under the NPPF and NERC Act, these should be required by condition.

5.2 **Environmental Health:** No Comment

5.3 **Sustainable Transport:** Comment

Recommended approval as the Highway Authority has no objections to the above application subject to inclusion of the necessary conditions relating to cycle parking and the creation of the new access and dropped kerb.

5.4 **Arboriculture:** Comment

Development will result in the loss of several trees and shrubs within the rear garden but these are of relatively low arboricultural value and only contribute within the context of the wider landscape.

5.5 Overall there is no objection by the Arboricultural Section provided suitable conditions being attached to any planning consent granted.

#### **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);
- 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)

#### Brighton & Hove City Plan Part One

- SS1 Presumption in Favour of Sustainable Development
- CP1 Housing delivery
- CP8 Sustainable buildings
- CP9 Sustainable transport
- CP10 Biodiversity
- CP12 Urban design
- CP14 Housing density

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

- TR4 Travel plans
- TR7 Safe Development
- TR14 Cycle access and parking
- 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

#### Supplementary Planning Documents:

- SPD03 Construction & Demolition Waste
- SPD06 Trees & Development Sites
- SPD11 Nature Conservation & Development
- SPD14 Parking Standards

## 8. **CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations in the determination of this application relate to whether the scheme is appropriate in terms of its design and appearance, its impact on the amenity of adjacent properties, highway considerations, impact on trees and ecology, sustainability and standard of accommodation.
- 8.2 The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. It is against this

minimum housing requirement that the City's five year housing land supply position is assessed annually. The most recent land supply position was published in the 2016 SHLAA Update (February 2017) which demonstrates a 5.6 year supply position. The Council can therefore demonstrate an up to date housing supply position in accordance with the NPPF.

### 8.3 **History of the Site:**

The application site has had a number of recent planning applications. In 2005 an outline application accepted the principle of three detached dwellings on the plot. The 2014 full planning application sought permission for the erection of 2 detached dwellings. This application was refused for the reasons outlined above. The current application is a similar scheme to the 2014 application and the key differences between the 2014 scheme and the current application include;

- Reduction in the scale of the dwellings - reduction in height and removal of a two storey side wing
- Submission of further ecological reports

### 8.4 **Design and Appearance:**

The general design and layout of the site would be similar to that proposed in the 2014 application. The proposed dwellings would face each other to the rear over a new hard landscaped area to provide a parking / turning area. The dwellings would incorporate a large footprint, measuring approximately 16m in length and approximately 14m in width. The dwellings would incorporate a pitched roof with a height of approximately 9m, a reduction of 1.5m from the previously refused scheme. The dwellings would have a traditional appearance with elements of a Mock Tudor and cat slide roofs. There is no objection to the design of the dwellings and a 'traditional' approach is considered appropriate in this location.

8.5 The reduction in height and the alteration of the roof pitch has substantially reduced the mass and bulk at roof level. The removal of the side two storey wing has further reduced the overall scale and mass of the dwellings and whilst they would still form large dwellings, the revised scheme would sit more comfortably within the plot and the reduction in scale has satisfactorily addressed the previous concerns. The dwellings would still be visible from neighbouring properties, however they would no longer appear overly dominant and with the removal of the side wing, the dwellings would be further from southern boundary where the land level is lower.

8.6 The proposal is therefore not considered to significantly harm the character and appearance of the existing site or the surrounding area.

### 8.7 **Impact and Amenity:**

The reduction in height and scale of the proposed dwellings coupled with the separation from the adjoining properties would ensure that the development would not appear overbearing, oppressive or result in a substantial loss of amenity.

- 8.8 Given the location and orientation of the dwellings, the scheme would not result in any direct overlooking of any adjacent properties. Neither of the two houses incorporates side windows which would result in overlooking. Additionally, due to the position of the dwellings, the scheme would not result in any direct loss of light or overshadowing of any adjacent properties. Plot 1 would be approximately 35m from the nearest property to the north, fronting Dyke Road and 28m from the nearest property to the south, fronting Hill Brow. Plot 2 would be approximately 28m from the nearest property to the north, fronting Dyke Road and 44m from the nearest property to the south, fronting Hill Brow.
- 8.9 The scheme includes two garages adjacent to the boundary with Hill Brow properties. The form and scale of the garages would not significantly affect the amenity of any adjacent properties.
- 8.10 The proposal would result in a new side vehicular access which has the potential to result in noise disturbance to adjacent properties. It is though considered that the activity associated with two dwellings, coupled with the relative size of curtilage to nos. 77 and 79 would prevent any harmful levels of noise or disturbance for occupants of these properties.
- 8.11 **Standard of Accommodation:**  
The dwellings would comprise 5 bedrooms, across the first floor and a room in the roof. The rooms sizes are all considered acceptable, and the ground floor living accommodation is sufficient for the potential number of occupiers. All habitable rooms would have sufficient levels of light and outlook.
- 8.12 Both dwellings would be provided with an acceptable level of outdoor amenity.
- 8.13 **Sustainable Transport:**  
A new access will be created on Dyke Road Avenue. The Transport Officer does not object to this new access road. The applicant will be required to apply for a license for the council's Network Coordination team prior to undertaking works on the public highway.
- 8.14 Car parking spaces would be provided for the proposed dwellings and it is not anticipated that substantial overspill parking would be expected. Cycle parking would be provided with the garages. Given the size of these, the nature of the provision is considered appropriate for private dwellings of this nature where the cycle storage is not communal.
- 8.15 The proposals for 2 additional residential units will increase trips above existing levels. However, in order to provide suitable access between the development site and local facilities for users of all abilities, it is recommended that the applicant install dropped kerbs and tactile paving at the junctions of Dyke Road Avenue/Tongdean Road and Dyke Road Avenue/The Spinney. These works will be secured by condition.
- 8.16 **Sustainability:**  
CP8 of the City Plan Part One require new development to demonstrate a high level of efficiency in the use of water and energy. Policy CP8 requires new

development to achieve 19% above Part L for energy efficiency, and to meet the optional standard for water consumption. These standards will be secured by condition.

**8.17 Impact on Trees and Ecology:**

The Arboricultural Section has commented that the Arboricultural report submitted with the application is comprehensive and the Arboricultural Section is in full agreement with its contents. In the front garden of the property and in the vicinity of the proposed new drive way is a group of Beech trees that are covered under G1 of Tree Preservation Order (No 3) 1993.

8.18 The Arboricultural report submitted with the application gives precise and accurate detail on how the new access road can be built over the root plates of these Beech trees without causing the trees any damage.

8.19 The Arboricultural Section would ask that the construction of this new access road be made the subject of a condition attached to any consent granted in order to ensure the retention of the trees post-development.

8.20 Should this application be granted consent, several trees and shrubs not covered by the above Preservation Order will be lost. These specimens are unworthy of Preservation Order and the Arboricultural Section would not object to their loss. These trees are primarily in the groups shown as G3 and G4 within the arboricultural report and are largely formed of mature cypress trees. Whilst these losses are to be regretted a number of them show indications of instability at the base and this has been highlighted by the consultant.

8.21 The Arboricultural Section would ask that all trees and hedging that are to remain on site are protected during the course of the development. Overall, the Arboricultural Section has no objection to the proposals in this application subject to suitable conditions being attached to any planning consent granted.

8.22 Policy QD18 of the Brighton & Hove Local Plan relates to species protection. The policy states that where it is evident that a proposal could directly or indirectly affect a species of animal or plant, or its habitat (including feeding, resting and breeding areas) protected under National legislation, European legislation or categorised as 'a declining breeder', 'endangered', 'extinct', 'rare' or 'vulnerable' in the British 'Red Data' books, the applicant will be required to undertake an appropriate site investigation.

8.23 Measures will be required to avoid any harmful impact of a proposed development on such species and their habitats. Where practicable, the developer will be expected to enhance the habitat of the respective species. Where necessary, a condition will be imposed or a planning obligation sought in order to secure these requirements.

8.24 The County Ecologist has commented on the scheme and states that the submitted Extended Phase 1 report is broadly acceptable. There is no certainty over what enhancements will be provided and neither the Design and Access Statement or the Sustainability Checklist make any reference to biodiversity

enhancements. A condition will therefore be attached to sure further measures are secured on site to enhance the biodiversity of the site.

**9. EQUALITIES**

9.1 None identified.

# **ITEM H**

**79 - 81 Ditchling Road, Brighton**

**BH2016/01673**

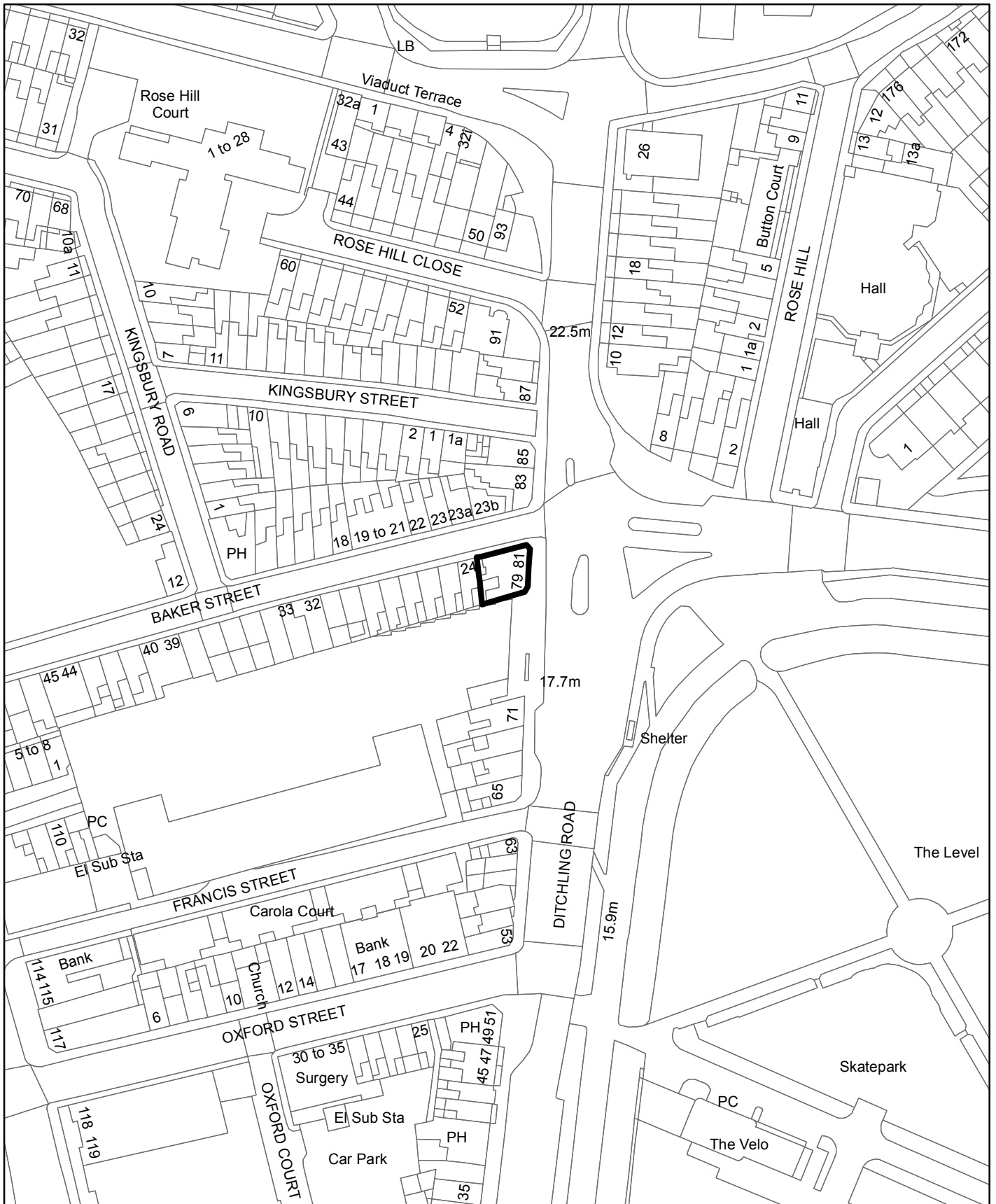
**Full Planning**

**DATE OF COMMITTEE: 11<sup>th</sup> October 2017**





# BH2016/01673 79-81 Ditchling Road, Brighton



**Brighton & Hove  
City Council**



**Scale: 1:1,250**



|                                      |  |                            |   |
|--------------------------------------|--|----------------------------|---|
| <b><u>No:</u></b>                    | <b>BH2016/01673</b>  | <b><u>Ward:</u></b>        | <b>St. Peter's And North Laine<br/>Ward</b> |
| <b><u>App Type:</u></b>              | <b>Full Planning</b>   |                            |   |
| <b><u>Address:</u></b>               | <b>79-81 Ditchling Road Brighton</b>   |                            |   |
| <b><u>Proposal:</u></b>              | <b>Creation of external seating area and associated alterations.<br/>(Retrospective)</b> |                            |   |
| <b><u>Officer:</u></b>               | Wayne Nee, tel: 292132   | <b><u>Valid Date:</u></b>  | 20.10.2016                                  |
| <b><u>Con Area:</u></b>              | VALLEY GARDENS   | <b><u>Expiry Date:</u></b> | 15.12.2016                                  |
| <b><u>Listed Building Grade:</u></b> | N/A  | <b><u>EOT:</u></b>         |   |
| <b>Agent:</b>                        | N/A  |                            |   |
| <b>Applicant:</b>                    | Mr Paul De Souza 79-81 Ditchling Road Brighton BN1 4SD                                   |                            |   |

## 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.

| <b>Plan Type</b>                    | <b>Reference</b> | <b>Version</b> | <b>Date Received</b> |
|-------------------------------------|------------------|----------------|----------------------|
| Location Plan                       | 209/AS/01        |                | 5 October 2016       |
| Existing Floor Plans and Elevations | 209/AS/02        |                | 4 July 2016          |
| Existing Floor Plans and Elevations | 209/AS/03        |                | 4 July 2016          |
| Existing Floor Plans                | N/A              |                | 4 July 2016          |

- 2 The use hereby permitted shall not be open to customers except between the hours of 12.00 and 23.00 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.

### 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.

- 0 The applicant should be aware that whilst the requisite planning permission may be granted this does not preclude the Council from carrying out an investigation under the provisions of either the Environmental Protection Act 1990 and/or the Licensing Act 2003 should any complaints subsequently be received with regards to nuisance.

## 2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1 The site relates to The Druids Public House which is a two storey end of terraced property that is situated on the corner of Ditchling Road and Baker Street. The site is within the Valley Gardens Conservation Area. The public house use is located on the ground floor of the building, and a residential flat is on the first floor. To the south of the site is the recently redeveloped Open Market site.
- 2.2 In between the application building and the Open Market there is an outdoor yard that forms part of a footpath that runs to the rear of the properties on Baker Street and links Ditchling Road to London Road. This area immediately adjoining the public house contains tables and benches and is used as an external amenity area. There is also an existing telecommunication cabinet located within the yard. The yard can be accessed via gates on either end.
- 2.3 The outside space within the boundary of the site is under the freehold ownership of the Council, and is leased to Hyde Housing.
- 2.4 Planning permission is sought for the creation of external seating area and associated alterations. This is a retrospective application.

## 3. RELEVANT HISTORY

**BH2012/03754** Installation of new telecommunications cabinet on pavement - Refused 21/02/2013

### Open Market

**BH2015/00052** Application for Approval of Details Reserved by Condition 41 of application BH2010/03744 - Approved 18/09/2017

**BH2010/03744** Redevelopment of Open Market and Francis Street car park comprising: a new partly covered market with 44 permanent market stalls, 12 B1/A1 (light industrial/retail) workshops, 8 loading bays, central square/market space, public toilets, offices and meeting room, ancillary market accommodation and plant, new gates to Marshalls Row and Ditchling Road entrances and 87 residential units in 3no 1-6 storey blocks, refuse and recycling stores, cycle parking, 5 car ports together with landscaping including alterations to carriageway and footway in Francis Street. Proposals to include a temporary market during construction - Approved 09/03/2011

Condition 41 of BH2010/03744 states:

41. Within 3 months of first occupation, an Acoustic Report shall be provided demonstrating that the predicted internal noise levels in the submitted Anderson Acoustic Report dated October 2010 and associated noise mitigation measures, such as glazing to the residential units and ceiling and wall construction of the loading bay and workshops, has been satisfactorily achieved. The parameters and scope of this Acoustic Report shall be agreed with the Local Planning Authority. If the report shows non-compliance with the predicted noise levels then details of further mitigation measures shall be submitted to and agreed in writing by the Local Planning Authority. The approved further mitigation measures shall implemented.

#### **4. REPRESENTATIONS**

4.1 **Councillor Lizzie Deane** objects to the application and has requested that the application is determined at Planning Committee (comment attached).

4.2 Six (6) letters have been received from 3, 4, 7, 8 & 9 Aster House Ditchling Road, and Hyde Housing objecting to the proposed development for the following reasons:

- Beer garden is close to windows of flats resulting in noise;
- Loud music from within pub until the early hours;
- Door from pub generates further noise;
- The pub do not even own the land of that the beer garden is on;
- Seating placed on street already causes problems with bins and fire hazards.

#### **5. CONSULTATIONS**

5.1 **Environmental Health:** No objection

Initial comments -

After the Open Market re-development and the creation of the flats adjacent to the Druids Arms (Aster House), since 2014 the team has received complaints about noise from customers outside the pub.

5.2 An acoustic report was submitted as part of Open Market re-development (planning app BH2010/03744). It concluded that:

5.3 'The potential noise impacts arising from music events and patrons outside the Druids Arms Public House have also been considered. It is concluded that the provision of triple glazing and the whole house ventilation system will provide adequate attenuation of music and patron noise from the Druids Arms.'

5.4 The report did not specifically assess noise from customers using the external seating area that is the subject of this application as it did not exist at that time.

5.5 However, it did involve a visit to measure noise from the pub on a busy night and this assessment included noise from customers both outside the front and rear of the premises, and I quote, 'at times when there were lots of people outside (circa 45).'

- 5.6 To arrive at the above conclusion, the report also made the following assumptions:
- 1) The windows of the pub will remain closed throughout the night.
  - 2) The first floor layout of the flats nearest to the Druids had been amended to minimise potential noise impacts from the pub (following the second floor layout).
  - 3) The internal noise levels in the flats assume that the windows are triple glazed and remain closed.
- 5.7 With regards to the first point, a condition on the premises licence (issued in accordance with the Licensing Act 2003) for the Druids Arms specifies:
- 1) 'For The Prevention of Public Nuisance: Windows and doors to be kept shut during performance of live music and DJs.'
- 5.8 With regards to points 2 and 3, following complaints about noise from patrons using the new external seating area that is the subject of this application, a late night visit was made to one of the flats nearest to the pub which overlooks the space. While in the flat, it was noted that with the windows closed, the trickle vents in the room were piping through a considerable amount of noise from pub customers using the outdoor area. It is therefore reasonable to assume that the trickle vents in the flat are not acoustically clad or treated.
- 5.9 In January 2015 an Application for Approval of Details Reserved by Condition 41 of application BH2010/03744 was made. The team commented on the application and concluded that there was insufficient information on which to comment.
- 5.10 Since the original visit there have been sporadically received complaints from one particular occupant and have offered dedicated out of hours visits and advised them to call the councils noise patrol service if they are disturbed either on a Friday or Saturday between 10pm and 3am. The team has not yet gathered evidence to substantiate that a statutory noise nuisance exists.
- 5.11 However, even if a noise nuisance in one of the flats was established, when considering the above and the fact that the planning condition regarding the achievement of satisfactory internal noise levels in the flats has still not been discharged, currently it would seem inappropriate to serve a noise abatement notice upon the operators of the pub as the persons responsible.
- 5.12 Therefore, the team do not recommend refusal of this planning application. However, while the applicant has stated hours of opening in their application, it is recommended that these hours are formally restricted by applying a condition.
- 5.13 Further comments - (following the submission of an acoustic report for BH2015/00052 Approval of Details application for Open Market) -

- 5.14 The outdoor seating at the Druids Arms was in use when the music event was measured (BH2015-00052- Condition 41- Acoustic vent)
- 5.15 Specifically, in the acoustic report provide by Acoustic Associates Sussex Ltd, entitled 'Indoor Noise Measurements' it is stated:
- 5.16 'Particularly noticeable in the lounge area of Flat 7, was the generation of people noise from the in-situ beer garden belonging to the Druids Arms. The noise was not entirely anonymous and contained the odd cheering or laughter which drew the listener's attention.
- 5.17 It was noted that the newly installed vents had the function which allowed the resident the choice to have these vents either open or closed. To assess the difference with the vents both open and closed in the lounge, measurements were made and compared. Subjectively, the two wall mounted vents being closed removed the majority of the people noise heard and reduced noise levels considerably. The closed vents according to the data measured improved the LAeq or the averaged noise energy, by 4dB.'
- 5.18 The last complaint my department received with regards to noise from the outdoor seating area of the Druids Arms was in November 2016.
- 5.19 No statutory noise nuisance was established under the provisions of the Environmental Protection Act 1990 and the case is currently closed.
- 5.20 **Licensing: Comment**  
The site was recently visited for a routine licensing inspection. At that inspection, the applicant was advised that they would need to alter the plans of the premises licence once they had established where their smoking area or garden was going to be, as it is not on the current plans.
- 5.21 The Licensing Team have not investigated any complaints since 2014 for Licensing breaches but it is understood that the Environmental Protection team have been investigating noise complaints.
- 5.22 The applicant was also reminded of the Licensing Conditions that the premises must adhere to:
- 5.23 Annex 2 - Conditions consistent with the Operating Schedule:
- 5.24 For the prevention of crime and disorder:
- Outside benches will be cleared away by midnight.
  - At night, an enclosed smoking area that is located away from any local residential areas and accessed through the pub will be used.
- 5.25 For public safety:

- The Designated Premises Supervisor (DPS), or other personal licence holder, will be on the premises during live performance of music and DJs to assess and monitor capacity of premises.
- If personnel are engaged to control or restrict access to the premises - ie act in a 'door supervisory' capacity - they must be registered with the Security Industry Authority (SIA) and hold a current, valid SIA badge.
- A SIA registered door supervisor must operate from the premises on Saturday from 21.00 hours until close
- The premises will become a member of Night Safe or any similar 24 hour emergency response organisation set up to replace this.

5.26 For the prevention of public nuisance:

- Live music performances will end midnight every day
- Amplified sound equipment shall be governed by a sound limiting device set at a level approved by the licensing authority
- Windows and doors to be kept shut during performance of live music and DJs
- Prominent, clear and legible notices at all exits asking customers to respect the needs of local residents and leave the premises and the area quietly.
- DPS or other personal licence holder to monitor outside premises to check sound levels.
- For the protection of children from harm:
- Photographic proof of age will be required to be shown by anyone seeking to purchase alcohol who appears to be under 21.

## **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);

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)



Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

CP12 Urban design

CP15 Heritage

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

TR7 Safe Development

SU9 Pollution and nuisance control

SU10 Noise Nuisance

QD14 Extensions and alterations

QD27 Protection of amenity

HE6 Development within or affecting the setting of conservation areas

**8. CONSIDERATIONS & ASSESSMENT**

8.1 The main considerations in the determination of this application relate to the character and appearance of the property and the wider conservation area, and the effects upon the residential amenity of the neighbouring properties.

**8.2 Design and Appearance:**

Policy QD14 of the Brighton and Hove Local Plan seeks extensions and alterations that are well designed and detailed in relation to the building and adjoining properties and the surrounding areas, among other things, and Policy HE6 is specific to development in conservation areas and is consistent with the requirement of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 that special attention be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

8.3 The proposal is not prominently visible from public view as it is sited between the application building and the north-east building of the Open Market Development. It is also set behind a 2m high metal gate. A physical boundary gate was approved as part of the Open Market development (BH2010/03744) and this replaced a timber fence of a more temporary appearance in 2015.

8.4 The seating area itself consists of wooden picnic tables, benches, and movable plant pots, all underneath a retractable awning on the south wall of the building. The seating area can be accessed via the gates (although according to the applicant these are permanently locked), or more recently via a south elevation door of the public house. The new door has replaced a pre-existing window.

8.5 The seating area is barely visible from the street, and then only to a small degree through the gate. The movable garden furniture (which are not development themselves) and awning are structures that are in keeping with traditional pub garden appearance. The door also has limited visibility from the street and does not visually impact on the more characteristic features of the building to any significant degree.

8.6 It is therefore considered that the seating area and associated alterations are not detrimental to the character and appearance of the property or the street

scene or the wider conservation area, and as such the development is compliant with policies CP12 and CP15 of the City Plan Part One, and QD14 and HE6 of the Local Plan.

**8.7 Impact on Amenity:**

Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.

- 8.8 Policy SU10 states that developments likely to generate significant levels of noise will be permitted only where appropriate noise attenuation measures are incorporated and where necessary, planning conditions will be imposed to secure acceptable noise limits, hours of operation and attenuation measures.
- 8.9 A sitting out area has been informally established at the public house for many years, normally by way of picnic tables and chairs placed either on the street and/or within the yard space. The outside seating area that forms part of this application was within the site boundary of the Open Market development (approved under BH2010/03744). A formal outdoor seating area is not shown on the approved plans, although it is clear from the decision that the intention was for at least part of this space to be used as outdoor seating for the public house. The drawings also indicate that this area should provide access between Ditchling Road and the bin storage further down the yard.
- 8.10 An informative on the decision notice states that 'The developer is advised to liaise with the operators and users of the Druids Arms Public House to seek to secure a satisfactory outcome with regard to a) refuse storage and arrangement for collection, and b) the provision of an area of outdoor space for customers.'
- 8.11 Immediately to the south, above the commercial units, there are first and second floor flats (Aster House). Objections have been received from a number of these adjoining flats, primarily in relation to noise from the outdoor seating area, but also in relation to noise from the pub itself.
- 8.12 It appears that the flats were designed in order for the main habitable windows of the flats to face directly onto Ditching Road, and intentionally away from the public house.
- 8.13 At the time of the 2010 application, the noise impacts of the traffic noise and commercial noise (including that of the pub) were considered in a submitted noise report. The committee report states:
- 8.14 '...the noise report confirms that noise levels from the pub (including when bands play) would not cause undue disturbance to new residents (given type and location of new windows) so the pub's viability should not be compromised.'

- 8.15 The approved application was subject to a condition to secure appropriate soundproofing measure for the flats (Condition 41). An Approval of Details Application was subsequently submitted (under BH2015/0052).
- 8.16 Environmental Health has received complaints of noise from the public house and the outdoor space/street seating, the last of which was received in November 2016. Environmental Health did not identify a statutory noise nuisance and the case is currently closed. Environmental Health highlighted an outstanding issue with regard to the soundproofing of the windows of flats within Aster House. For the recently approved conditions application BH2015/0052, recent building works occurred in March 2017 to retro fit acoustically treated air vents into the flats. An acoustic report dated July 2017 was submitted, which stated:
- 8.17 'Particularly noticeable in the lounge area of Flat 7, was the generation of people noise from the in-situ beer garden belonging to the Druids Arms. The noise was not entirely anonymous and contained the odd cheering or laughter which drew the listener's attention.
- 8.18 It was noted that the newly installed vents had the function which allowed the resident the choice to have these vents either open or closed. To assess the difference with the vents both open and closed in the lounge, measurements were made and compared. Subjectively, the two wall mounted vents being closed removed the majority of the people noise heard and reduced noise levels considerably. The closed vents according to the data measured improved the LAeq or the averaged noise energy, by 4dB.'
- 8.19 The Environmental Health Team were in agreement with the conclusions. The Approval of Details application was approved in September 2017.
- 8.20 Given the proximity of the public house, it is likely that neighbouring residents suffer from some noise disturbance, as outlined within the objections. Some of this noise would be from the on street tables, and also from live/amplified music from within the pub itself, and these noise impacts cannot be considered as part of this application. It is also likely that over time the more formalised seating arrangement has intensified its use. However as this outdoor space has previously been used as a drinking area with tables and chairs available for customers, it is not considered the formalising of this arrangement has led to a significant increase noise and disturbance for occupiers of adjoining properties. A condition to control the hours of use would however be necessary to protect the residential amenity of neighbouring residents from late night disturbance.
- 8.21 The proposed door may also have resulted in increased noise from the inside the pub itself, especially if the door is opened when live/amplified music occurs in the evening. However there is a condition on the premises licence stating that: 'For The Prevention of Public Nuisance: Windows and doors to be kept shut during performance of live music and DJs.'

- 8.22 Notwithstanding the outcome of this planning application, within the pub premises, Environmental Health has powers under the Environmental Protection Act to investigate for statutory noise nuisance.
- 8.23 Given the noise assessment made within BH2015/00052, and given the assessment above, subject to recommended conditions, the proposal is considered to accord with the provisions of Local Plan policies QD14 and QD27 in this regard.

**9. EQUALITIES**

- 9.1 None identified

BH2016/01673 – 79-81 Ditchling Road, Brighton  
Dear Wayne,

I have just been alerted to this application by a local resident, and you will see from the email below the concerns of residents nearby at the proposal of a beer garden at the Druids Arms.

I note that the deadline for comments is today, so I would like to request that this case comes to Committee, and would like to register my request to speak.

I am also going to be in contact with Licensing to ensure that measures can be put in place to minimise noise and disruption to residents. Pending an outcome of conditions that ensure this application complies with the council's Licensing Objectives, I would like, on behalf of local residents, to register my objection to this proposal.

Yours sincerely,

Lizzie

CLLr Lizzie Deane  
Green Party Member for St Peters and North Laine Ward



# **ITEM I**

**BH2017/00535**

**4 Plymouth Avenue, Brighton**

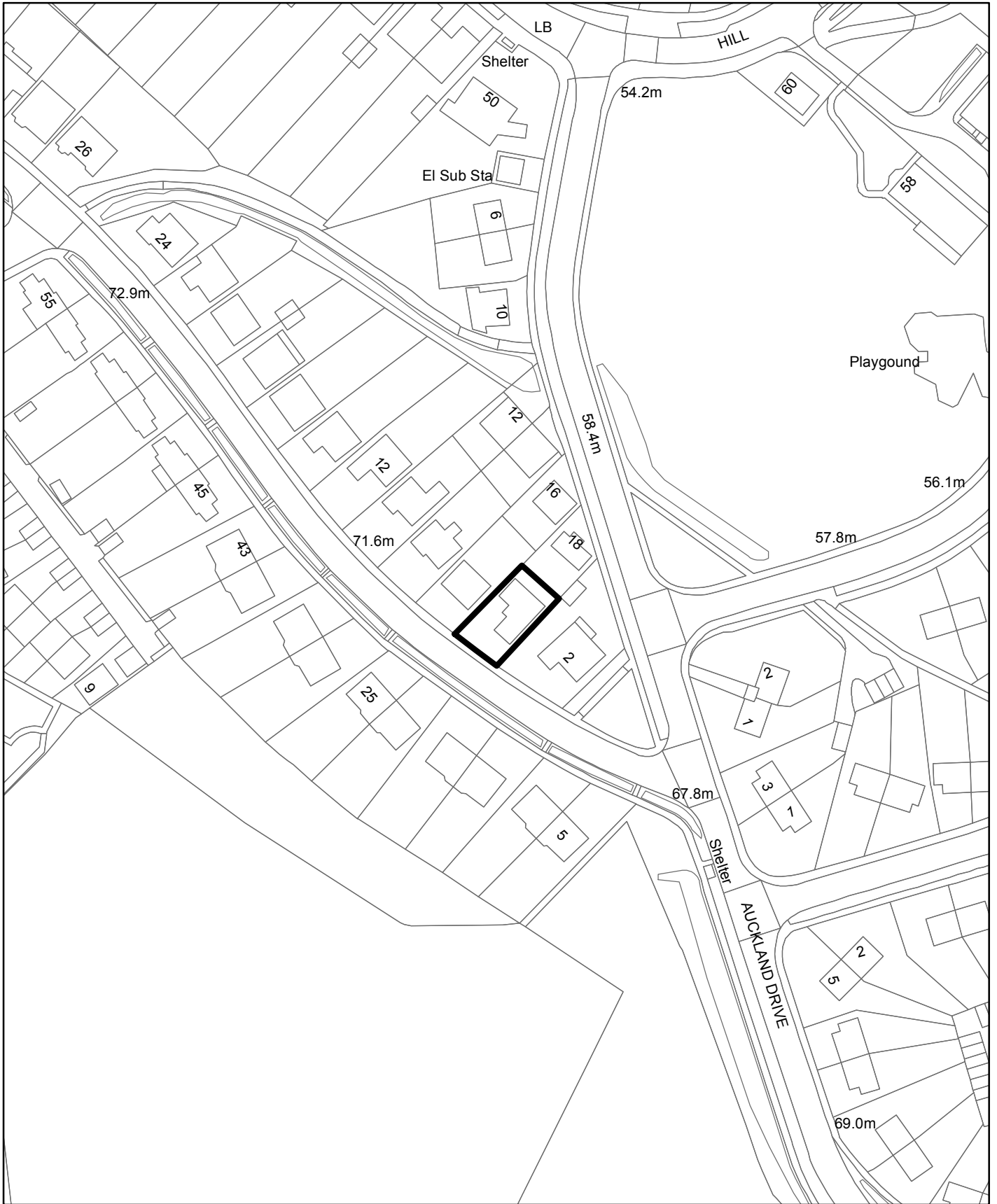
**Full Planning**

**DATE OF COMMITTEE: 11<sup>th</sup> October 2017**





# BH2017/00535 4 Plymouth Avenue, Brighton



**Brighton & Hove  
City Council**



**Scale: 1:1,250**



|                                      |   |                            |  |
|--------------------------------------|---|----------------------------|--|
| <b><u>No:</u></b>                    | <b>BH2017/00535</b>   | <b><u>Ward:</u></b>        | <b>Moulsecomb And<br/>Bevendean Ward</b> |
| <b><u>App Type:</u></b>              | <b>Full Planning</b>  |                            |  |
| <b><u>Address:</u></b>               | <b>4 Plymouth Avenue Brighton BN2 4JB</b>   |                            |  |
| <b><u>Proposal:</u></b>              | <b>Change of use from three bedroom single dwelling (C3) to four bedroom small house in multiple occupation (C4) with associated alterations including erection of a single storey front extension and porch, raising of ridge height and installation of rooflights to rear and side elevations.</b> |                            |  |
| <b><u>Officer:</u></b>               | <b>Laura Hamlyn, tel: 292205</b>  | <b><u>Valid Date:</u></b>  | <b>28.02.2017</b>                        |
| <b><u>Con Area:</u></b>              | <b>N/A</b>  | <b><u>Expiry Date:</u></b> | <b>25.04.2017</b>                        |
| <b><u>Listed Building Grade:</u></b> | <b>N/A</b>  |                            |  |
| <b><u>Agent:</u></b>                 | <b>DPS Sussex Ltd Ms Josie Lawrence 19 Turner Dumbrell North<br/>End Ditchling Hassocks BN6 8GT</b>   |                            |  |
| <b><u>Applicant:</u></b>             | <b>Mr W Mackintosh 49 Tivoli Crescent Brighton BN1 5NB</b>  |                            |  |

## 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.

| <b>Plan Type</b>                    | <b>Reference</b> | <b>Version</b> | <b>Date Received</b> |
|-------------------------------------|------------------|----------------|----------------------|
| Location and block plan             | BWP.001          | C              | 15 February 2017     |
| Floor plans and elevations proposed | BWP.003          | D              | 22 September 2017    |
| Sections Proposed                   | BWP.004          | A              | 22 September 2017    |

- 2 The development hereby approved shall only be occupied by a maximum of five persons.  
**Reason:** To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
- 3 The layout of the living/dining room, kitchen and lower ground store rooms as detailed on the drawing received on 22 Sep 2017 shall be retained as communal spaces at all times and shall not be used as a bedrooms at any time.  
**Reason:** To ensure a suitable standard of accommodation for occupiers to comply with policy QD27 of the Brighton & Hove Local Plan.

- 4 The rooflights in the east and west side elevations 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 QD14 and QD27 of the Brighton & Hove Local Plan.
  
- 5 The development hereby permitted shall not be occupied until the cycle store on the lower ground floor as detailed on the drawing received on 22 Sep 2017 has been made available for use. The cycle store 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.
  
- 6 No extension, enlargement, alteration or provision within the curtilage of the dwellinghouse as provided for within Schedule 2, Part 1, Classes A - E 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) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.  
**Reason:** The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and to the character of the area and for this reason would wish to control any future development to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

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 & APPLICATION DESCRIPTION**

- 2.1 The application relates to a detached bungalow on the north east side of Plymouth Avenue, near the junction with Auckland Drive. The site is located within the Article 4 Direction area which removes permitted development rights to change from a C3 (dwellinghouse) Use to a C4 (House in Multiple Occupation) Use. This Article 4 Direction came into effect from 5 April 2013.
  
- 2.2 Planning permission has already been granted for the change of use of the property to a small HMO (C4); this permission was granted on the 18 October 2016. This permission granted a four-bedroom five-person layout.
  
- 2.3 Planning permission is again sought for a four-bedroom five-person HMO use; on this occasion a revised layout is proposed along with extensions to the property.

### 3. RELEVANT HISTORY

#### Application site, 4 Plymouth Avenue

**BH2016/01740-** Change of use from three bedroom dwelling (C3) to four bedroom house in multiple occupation (C4). Approved 18 October 2016.

#### **Extant planning permissions for change of use from C3 to C4 within 50m radius of application site:**

##### 2 Plymouth Avenue

**BH2017/02138-** Change of use from six bedroom small house in multiple occupation (C4) to nine bedroom house in multiple occupation (Sui Generis) with creation of cycle storage. Under consideration.

**BH2016/06490-** Change of use from small house in multiple occupation (C4) to six bedroom house in multiple occupation (Sui Generis). Withdrawn 17 July 2017.

**BH2015/04017-** Change of use from three bedroom single dwelling (C3) to three bedroom small house in multiple occupation (C4) (retrospective). Approved 3 February 2016.

##### 14 Auckland Drive

No planning history.

#### **Other planning applications for change of use from C3 to C4 within 50m radius of application site:**

##### 8 Plymouth Avenue

**BH2016/02651-** Change of use from single dwelling (C3) to 3no bedroom house in multiple occupation (C4). Refused 28 October 2016.

#### **Planning context of HMO applications to Plymouth Avenue**

##### 34 Plymouth Avenue

**BH2016/05849-** Change of use from three bedroom single dwelling (C3) to three bedroom small house in multiple occupation (C4). Approved 28/04/2017.

##### 61 Plymouth Avenue

**BH2016/05897-** Change of use from 4 bedroom dwelling (C3) to 4 bedroom small house in multiple occupation (C4). Refused 17/05/2017.

##### 51 Plymouth Avenue

**BH2016/01847-** Change of use from three bedroom single dwelling (C3) to three bedroom small house in multiple occupation (C4). Approved 19/09/2016.

##### 70 Plymouth Avenue

**BH2016/05923-** Change of use from two bedroom single dwelling (C3) to four bedroom small house in multiple occupation (C4). Refused 15/09/2017.

**BH2016/05597-** Change of use from two-bedroom dwelling to four-bedroom HMO. Application returned.

#### **4. REPRESENTATIONS**

4.1 **Sixteen (16)** representations have been received, objecting to the proposed development on the following grounds:

- The proposed rooflights would overlook the rear bedroom window of 6 Plymouth Avenue and raising the ridge height would block light to the garden
- Concern around noise during construction
- Excessive concentration of HMOs in the area, at risk of becoming a student enclave
- Local amenities are affected, including loss of doctors, playgroup, nursery, local businesses
- Families are being pushed out
- More noise/music at night
- Inadequate provision of parking
- Waste management issues
- Affordability of property

4.2 Letters have been received from **Councillor Mo Marsh** and **Councillor Anne Meadows** objecting to the proposed development; copies of these letters are attached.

#### **5. CONSULTATIONS**

5.1 **Private Sector Housing:** No comment

5.2 **Planning Policy:** No comment

5.3 **Sustainable Transport:** No objection.

While there would be some additional demand for on-street parking, this would not be of a level that could be deemed to amount to a severe impact on the highway in this location. Any uplift in trip generation would be minor. There appears to be adequate space in the proposed shed for the storage of two cycles, which is acceptable for this type of development.

#### **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 2017).

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)

#### Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development  
 CP9 Sustainable transport  
 CP19 Housing mix  
 CP21 Student housing and Housing in Multiple Occupation

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

TR7 Safe Development  
 TR14 Cycle access and parking  
 SU10 Noise Nuisance  
 QD27 Protection of amenity

#### Supplementary Planning Documents:

SPD14 Parking Standards

## 8. CONSIDERATIONS & ASSESSMENT

8.1 The main considerations in the determination of this application relate to the principle of the change of use, impact upon neighbouring amenity, the standard of accommodation which the use would provide and transport issues. Further considerations relate to the impact of the proposed extensions on the appearance and character of the building and wider streetscene and the amenity of adjacent occupiers.

8.2 This application is a resubmission following the approval of BH2016/01740, which granted permission for the change of use of the property from C3 (dwellinghouse) Use to a C4 (House in Multiple Occupation) Use. The agent has explained that the current proposal has been submitted for the following reasons:

- The applicant listened to the committees concerns over the size of the communal kitchen/living area. In the previous scheme this area was split between a bed room and living area. In the new scheme this bedroom is now in the new loft conversion area.
- The new scheme gives a very good sized communal living area which is separated from the good sized kitchen.
- The other bedroom which was in the semi basement of the existing property, needed internal stairs to access this room. To achieve this there would have been a lot of demolition and excavation works, which would have resulted in a lot of noise disturbance to neighbours. Additionally there would have been

a substantial additional cost involved with the amount of material which was also not good for the environment.

- This bedroom was re-located in the loft conversion and the existing basement area given over to more storage.
- The application details are for the same amount of bedrooms, as the previous approved details, but the changes made are positive and give a much better internal layout and living conditions for the future occupants.

8.3 Amended drawings were received during the course of the application revising the roof design of the proposed front porch, and slightly increasing the size of the bedroom over the living/dining room from 7.4sqm to 7.5sqm.

8.4 **Planning Policy:**

The proposal seeks consent for the change of use from a dwellinghouse (C3) to a dwellinghouse or small house in multiple occupation (C3/C4). This would allow the use to change back and forth between C3 and C4

8.5 The site is located within an Article 4 Direction area (effective from 5th April 2013) which removes permitted development rights under Class L (b) of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015, to change from a C3 (dwellinghouses) Use to a C4 (houses in multiple occupation) Use. As a result of the Article 4 Direction planning permission is required for the use of the properties in this location as HMOs.

8.6 Policy CP21 of the Brighton and Hove Draft 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:

8.7 *'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.'*

8.8 A mapping exercise has taken place which indicates that there are 27 separate residential properties within a 50 metre radius of the site. Two (2) properties have been identified as being in HMO use; these are 2 Plymouth Avenue and 14 Auckland Drive. The percentage of existing HMO's within the designated area is therefore 7.4%.

8.9 Based upon the existing percentage of neighbouring properties in HMO use, which is less than 10%, the proposal to change to a C4 HMO would be in accordance with policy CP21.

8.10 **Standard of accommodation:**



The application proposes to retain the ground floor bedrooms and the kitchen. As a result of the proposed front extension, the living/dining room would be enlarged. Two bedrooms and a shower room are proposed at first floor level under the roof. The lower ground floor room which previously as part of the single dwelling use (C3) of the property has been used as an ensuite bedroom, would under the current proposal be used as a store room.

- 8.11 The living/dining room would be approx. 30.4sqm and the kitchen would be approx. 14.1sqm. This would provide a suitable amount of space for up to five persons for cooking, dining, socialising and relaxing, as well as adequate circulation space.
- 8.12 Whilst the Council does not have adopted minimum room sizes, the Government's 'Technical housing standards - nationally described space standard' (March 2015) provide a useful point of reference in this regard. These standards for new dwellings specify that a single bedroom should have a minimum size of 7.5sqm. The bedroom sizes proposed are 15.6sqm (double bedroom) and 9.7sqm at ground floor and 7.6sqm and 7.5sqm at loft level.
- 8.13 While two of the four bedrooms would be relatively small, this is balanced by the relatively large proposed communal space, and the storage room available at lower ground floor level. Overall the development would result in an acceptable standard of accommodation for future occupants, in accordance with policy QD27.
- 8.14 The Agent for the application has confirmed that the maximum number of occupants proposed is five which corresponds with the one double bedroom and three single occupancy bedrooms. It is recommended that this level of occupancy be restricted by planning condition. It is also recommended that the communal rooms proposed be secured as such by condition so that they could not be converted to additional bedrooms without a further application for planning permission being submitted. It is also recommended that householder permitted development rights be removed by condition.

**Impact on Amenity:**

- 8.15 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.
- 8.16 As set out above, the property already has permission to operate as a four-bedroom five-person HMO. The development now proposed would not result in any increased occupancy over that previously approved. The previous permission remains extant and could be lawfully implemented. As at the time of the previously approved application, it is considered that the occupation of this property by five persons would not result in a significant impact to neighbouring occupiers in regards to noise and disturbance.

- 8.17 In addition to the change of use, the application also proposes to erect a front extension, to raise the ridge height and to install rooflights to the side and rear elevations.
- 8.18 There are no side windows to 6 Plymouth Avenue adjacent to the west that would be affected. Given the position of 6 Plymouth Avenue relative to the application site it is considered that there would be no overbearing impact as a result of the proposed front extension.
- 8.19 Raising the ridge height by approx. 1m and increasing the pitch of the roof would not result in a significant impact on neighbour amenity.
- 8.20 The proposed rooflights could enable some additional overlooking. It is therefore recommended that the side rooflights be obscure glazed, which can be secured by condition.

**Sustainable Transport:**

- 8.21 The proposed change of use would not result in a significant increase in on-street parking pressure or uplift in trip generation. At lower ground floor level, the shed would provide sufficient space for secure, covered cycle parking. It is recommended that the retention of the cycle store is secured by condition.

**Design and Appearance:**

- 8.22 The proposed front extension and the raising of the ridge height would have a limited impact on the wider streetscene, because the property is located on lower ground level than the street and because it is set back from the street. The proposed scheme would have a part pitched part flat roof. This avoids raising the height of the roof further, and does not result in significant harm to the appearance of the building sufficient to warrant refusal of the application. The proposed porch is a subservient addition that would not harm the appearance of the building.

**9. EQUALITIES**

- 9.1 No implications identified.

BH2017/00535 4 Plymouth Avenue, Brighton:

The impact of this HMO on the surrounding residents, community and properties could be significant:

- Potential for noise and other environmental disturbance including waste management issues
- Inadequate provision of parking and consequential impact to on street parking.
- Impact on community resources such as schools and health facilities due to the loss of family accommodation

Please add my objections and the same requests as Cllr Yates regarding coming to committee and speaking on behalf of our residents. Thanks

Kind regards,

Mo Marsh

Labour Councillor for Moulsecomb and Bevendean.



BH2017/00535 4 Plymouth Avenue Brighton BN2 4JB

Change of use from three bedroom single dwelling (C3) to four bedroom small house in multiple occupation (C4) with associated alterations including erection of a single storey front extension and porch, raising of ridge height and installation of roof lights to rear and side elevations.

I am writing to object to the planning application above as it exceeds the 10% rule for Article 4 where it will detract from community cohesion and increase

Regards

Anne Meadows

Councillor for Moulsecoomb & Bevendean Ward



**Information on Pre-application Presentations and Requests 2017**

| <b>Date</b>                 | <b>Address</b>   | <b>Ward</b>             | <b>Proposal</b>   | <b>Update</b>                                  |
|-----------------------------|--|-------------------------|---|--|
| TBC                         | Sackville Trading Estate,<br>Sackville Road,<br>Hove   | Hove Park               | Mixed use development comprising circa 600-650 residential units and 6000sqm of commercial floorspace (office / light industrial / retail / A3).  |  |
| TBC                         | King's House,<br>Grand Avenue,<br>Hove                 | Central Hove            | Part demolition, conversion and construction of new buildings to provide 180 residential units.   |  |
| 20th June 2017              | Land Off Overdown Rise And Mile Oak Road,<br>Portslade | North Portslade         | Outline development with all matters reserved other than access for the erection of 125 dwellings along with associated access, open space, landscaping and parking.  | Application BH2017/02410 submitted 14/07/2017. |
| 20th June 2017              | St Aubyns School,<br>76 High Street,<br>Rottingdean    | Rottingdean Coastal     | Re-development of school campus and part of school playing field.   | Awaiting submission of application.            |
| 11 <sup>th</sup> April 2017 | Former Lectern PH,<br>2-6 Pelham Terrace,<br>Brighton  | Moulsecoomb & Bevendean | Redevelopment to provide student housing scheme comprising circa 228 studio rooms together with ancillary support accommodation at ground floor and 2 commercial units (café and retail) fronting Lewes Road. | Application BH2017/02156 submitted 07/07/2017. |

**NOTE: The Pre Application Presentations are not public meetings and as such are not open to members of the public. All Presentations will be held in Hove Town Hall on the date given after scheduled site visits unless otherwise stated.**

|                                |   |   |   |  |
|--------------------------------|---|---|---|--|
| 7th February 2017              | 189 Kingsway, Hove (former Sackville Hotel)                         | Westbourne  | Construction of 8 storey residential block.   | Application BH2017/01108 submitted 31/03/2017. |
| 7 <sup>th</sup> February 2017  | 60-62 & 65 Gladstone Place, Brighton                                | Hanover & Elm Grove                               | Redevelopment to provide mixed, student and residential scheme.   | Awaiting submission of application.            |
| 10 <sup>th</sup> January 2017  | West Blatchington Primary School, Hangleton Way, Hove               | Hangleton & Knoll                                 | Redevelopment to provide new secondary school and junior school.  | Application BH2017/01891 submitted 14/06/2017. |
| 13 <sup>th</sup> December 2016 | Preston Barracks/Mithras House/Watts Car Park, Lewes Road, Brighton | Hollingdean & Stanmer and Moulsecoomb & Bevendean | Mixed use development comprising research laboratory, student accommodation, University teaching facilities, residential, retail and parking. | Application BH2017/00492 submitted 24/02/2017. |

**NOTE: The Pre Application Presentations are not public meetings and as such are not open to members of the public. All Presentations will be held in Hove Town Hall on the date given after scheduled site visits unless otherwise stated.**



**NEW APPEALS RECEIVED****WARD****BRUNSWICK AND ADELAIDE****APPEALAPPNUMBER**

BH2016/05792

**ADDRESS**

1 Selborne Road Hove BN3 3AJ

**DEVELOPMENT DESCRIPTION**

Erection of extension to second floor level and installation of glazed balustrade to roof terrace.

**APPEAL STATUS**

APPEAL IN PROGRESS

**APPEAL RECEIVED DATE**

23/08/2017

**APPLICATION DECISION LEVEL**

Delegated

**WARD****HANGLETON AND KNOLL****APPEALAPPNUMBER**

BH2017/01483

**ADDRESS**

60 Hangleton Way Hove BN3 8EQ

**DEVELOPMENT DESCRIPTION**

Erection of two storey rear extension with extension of rear terrace and associated works.

**APPEAL STATUS**

APPEAL IN PROGRESS

**APPEAL RECEIVED DATE**

04/09/2017

**APPLICATION DECISION LEVEL**

Delegated

**WARD****HANOVER AND ELM GROVE****APPEALAPPNUMBER**

BH2016/06323

**ADDRESS**

47 Islingword Road Brighton BN2 9SF

**DEVELOPMENT DESCRIPTION**

Change of use from six-bedroom house in multiple occupation (C4) to seven-bedroom house in multiple occupation (Sui Generis) with associated alterations. (Retrospective)

**APPEAL STATUS**

APPEAL IN PROGRESS

**APPEAL RECEIVED DATE**

17/08/2017

**APPLICATION DECISION LEVEL**

Delegated

**WARD****HOLLINGDEAN AND STANMER****APPEALAPPNUMBER**

BH2016/05821

**ADDRESS**

282 Ditchling Road Brighton BN1 6JF

**DEVELOPMENT DESCRIPTION**

Change of use from six-bedroom single dwelling (C3) to eight-bedroom house in multiple occupation (Sui Generis) with associated bicycle storage (Retrospective).

**APPEAL STATUS**

APPEAL IN PROGRESS

**APPEAL RECEIVED DATE**

21/08/2017

**APPLICATION DECISION LEVEL**

Delegated

|  |   |
|--|---|
| <b><u>WARD</u></b>                       | <b>HOLLINGDEAN AND STANMER</b>  |
| <b><u>APPEALAPPNUMBER</u></b>            | BH2016/06022  |
| <b><u>ADDRESS</u></b>                    | 7 Hollingbury Road Brighton BN1 7JB   |
| <b><u>DEVELOPMENT DESCRIPTION</u></b>    | Retrospective change of use from five-bedroom house in multiple occupation (C4) to seven-bedroom house in multiple occupation (Sui Generis). Erection of bicycle storage. |
| <b><u>APPEAL STATUS</u></b>              | APPEAL IN PROGRESS  |
| <b><u>APPEAL RECEIVED DATE</u></b>       | 01/09/2017  |
| <b><u>APPLICATION DECISION LEVEL</u></b> | Delegated   |

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| <b><u>WARD</u></b>                       | <b>HOLLINGDEAN AND STANMER</b>   |
| <b><u>APPEALAPPNUMBER</u></b>            | BH2016/06564   |
| <b><u>ADDRESS</u></b>                    | 16 Hollingbury Place Brighton BN1 7GE  |
| <b><u>DEVELOPMENT DESCRIPTION</u></b>    | Conversion of existing betting shop (A2) and flat (C3) into 3no two bedroom flats (C3) with extensions to front, side, rear and roof including creation of additional storey and associated alterations. |
| <b><u>APPEAL STATUS</u></b>              | APPEAL IN PROGRESS   |
| <b><u>APPEAL RECEIVED DATE</u></b>       | 23/08/2017   |
| <b><u>APPLICATION DECISION LEVEL</u></b> | Delegated  |

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| <b><u>WARD</u></b>                       | <b>HOVE PARK</b>                        |
| <b><u>APPEALAPPNUMBER</u></b>            | BH2017/00183                            |
| <b><u>ADDRESS</u></b>                    | 28 Orchard Avenue Hove BN3 7BL          |
| <b><u>DEVELOPMENT DESCRIPTION</u></b>    | Erection of first floor side extension. |
| <b><u>APPEAL STATUS</u></b>              | APPEAL IN PROGRESS                      |
| <b><u>APPEAL RECEIVED DATE</u></b>       | 25/08/2017                              |
| <b><u>APPLICATION DECISION LEVEL</u></b> | Delegated                               |

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| <b><u>WARD</u></b>                       | <b>HOVE PARK</b>  |
| <b><u>APPEALAPPNUMBER</u></b>            | BH2017/01223  |
| <b><u>ADDRESS</u></b>                    | 19 Shirley Drive Hove BN3 6NQ   |
| <b><u>DEVELOPMENT DESCRIPTION</u></b>    | Erection of first floor side extension over existing garage and a porch to the front elevation and a porch to the side elevation. |
| <b><u>APPEAL STATUS</u></b>              | APPEAL IN PROGRESS  |
| <b><u>APPEAL RECEIVED DATE</u></b>       | 04/09/2017  |
| <b><u>APPLICATION DECISION LEVEL</u></b> | Delegated   |

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| <b><u>WARD</u></b>                | <b>MOULSECOOMB AND BEVENDEAN</b>   |
| <u>APPEALAPPNUMBER</u>            |  |
| <u>ADDRESS</u>                    | 26 Bevendean Crescent Brighton BN2 4RA   |
| <u>DEVELOPMENT DESCRIPTION</u>    | Appeal against   |
| <u>APPEAL STATUS</u>              | APPEAL IN PROGRESS   |
| <u>APPEAL RECEIVED DATE</u>       | 13/09/2017   |
| <u>APPLICATION DECISION LEVEL</u> | Not Assigned   |
| <b><u>WARD</u></b>                | <b>MOULSECOOMB AND BEVENDEAN</b>   |
| <u>APPEALAPPNUMBER</u>            |  |
| <u>ADDRESS</u>                    | 4 Hornby Road Brighton BN2 4JL   |
| <u>DEVELOPMENT DESCRIPTION</u>    | Appeal against enforcement notice - grounds (a)  |
| <u>APPEAL STATUS</u>              | APPEAL IN PROGRESS   |
| <u>APPEAL RECEIVED DATE</u>       | 16/08/2017   |
| <u>APPLICATION DECISION LEVEL</u> | Not Assigned   |
| <b><u>WARD</u></b>                | <b>MOULSECOOMB AND BEVENDEAN</b>   |
| <u>APPEALAPPNUMBER</u>            |  |
| <u>ADDRESS</u>                    | 76 Barcombe Road Brighton BN1 9JR  |
| <u>DEVELOPMENT DESCRIPTION</u>    | Appeal against   |
| <u>APPEAL STATUS</u>              | APPEAL IN PROGRESS   |
| <u>APPEAL RECEIVED DATE</u>       | 23/08/2017   |
| <u>APPLICATION DECISION LEVEL</u> | Not Assigned   |
| <b><u>WARD</u></b>                | <b>NORTH PORTSLADE</b>   |
| <u>APPEALAPPNUMBER</u>            | BH2016/05908   |
| <u>ADDRESS</u>                    | Land Off Overdown Rise And Mile Oak Road<br>Portslade  |
| <u>DEVELOPMENT DESCRIPTION</u>    | Outline application for the erection of up to 125 dwellings with associated access, landscaping and informal open space and approval of reserved matter for access only. |
| <u>APPEAL STATUS</u>              | APPEAL IN PROGRESS   |
| <u>APPEAL RECEIVED DATE</u>       | 05/09/2017   |
| <u>APPLICATION DECISION LEVEL</u> | Planning (Applications) Committee  |
| <b><u>WARD</u></b>                | <b>PRESTON PARK</b>  |
| <u>APPEALAPPNUMBER</u>            | BH2016/05641   |
| <u>ADDRESS</u>                    | 9 Old Shoreham Road Brighton BN1 5DQ   |
| <u>DEVELOPMENT DESCRIPTION</u>    | Change of Use from single dwelling house (C3) to 7no bedroom House in Multiple Occupation (Sui generis). (Retrospective)   |
| <u>APPEAL STATUS</u>              | APPEAL IN PROGRESS   |
| <u>APPEAL RECEIVED DATE</u>       | 30/08/2017   |
| <u>APPLICATION DECISION LEVEL</u> | Delegated  |

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| <b><u>WARD</u></b>                | <b>PRESTON PARK</b>   |
| <u>APPEALAPPNUMBER</u>            | BH2017/00571  |
| <u>ADDRESS</u>                    | 83 Ditchling Rise Brighton BN1 4QP  |
| <u>DEVELOPMENT DESCRIPTION</u>    | Erection of single storey rear extension. Roof alterations incorporating rear dormer and rooflights to front and rear. Alterations to fenestration. |
| <u>APPEAL STATUS</u>              | APPEAL IN PROGRESS  |
| <u>APPEAL RECEIVED DATE</u>       | 25/08/2017  |
| <u>APPLICATION DECISION LEVEL</u> | Delegated   |

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| <b><u>WARD</u></b>                | <b>REGENCY</b>                       |
| <u>APPEALAPPNUMBER</u>            |                                      |
| <u>ADDRESS</u>                    | 22C Sillwood Street Brighton BN1 2PS |
| <u>DEVELOPMENT DESCRIPTION</u>    | Appeal against                       |
| <u>APPEAL STATUS</u>              | APPEAL IN PROGRESS                   |
| <u>APPEAL RECEIVED DATE</u>       | 16/08/2017                           |
| <u>APPLICATION DECISION LEVEL</u> | Not Assigned                         |

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| <b><u>WARD</u></b>                | <b>ROTTINGDEAN COASTAL</b>  |
| <u>APPEALAPPNUMBER</u>            | BH2016/05530  |
| <u>ADDRESS</u>                    | Land South Of Ovingdean Road Brighton   |
| <u>DEVELOPMENT DESCRIPTION</u>    | Outline planning application with appearance reserved for the construction of 45 no one, two, three, four and five bedroom dwellings with associated garages, parking, estate roads, footways, pedestrian linkages, public open space, strategic landscaping and part retention/reconfiguration of existing paddocks. New vehicular access from Ovingdean Road and junction improvements. |
| <u>APPEAL STATUS</u>              | APPEAL IN PROGRESS  |
| <u>APPEAL RECEIVED DATE</u>       | 16/08/2017  |
| <u>APPLICATION DECISION LEVEL</u> | Planning (Applications) Committee   |

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| <b><u>WARD</u></b>                | <b>ROTTINGDEAN COASTAL</b>                        |
| <u>APPEALAPPNUMBER</u>            | BH2017/01011                                      |
| <u>ADDRESS</u>                    | 23A Arundel Street Brighton BN2 5TG               |
| <u>DEVELOPMENT DESCRIPTION</u>    | Installation of front rooflights and rear dormer. |
| <u>APPEAL STATUS</u>              | APPEAL IN PROGRESS                                |
| <u>APPEAL RECEIVED DATE</u>       | 17/08/2017  |
| <u>APPLICATION DECISION LEVEL</u> | Delegated   |

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| <b><u>WARD</u></b>                       | <b>ROTTINGDEAN COASTAL</b>   |
| <b><u>APPEALAPPNUMBER</u></b>            | BH2017/01199   |
| <b><u>ADDRESS</u></b>                    | Land To The Rear Of 74 And 76 Greenways<br>Brighton BN2 7BL  |
| <b><u>DEVELOPMENT DESCRIPTION</u></b>    | Erection of 4no semi-detached dwellings with<br>associated new access driveway and parking.  |
| <b><u>APPEAL STATUS</u></b>              | APPEAL IN PROGRESS   |
| <b><u>APPEAL RECEIVED DATE</u></b>       | 23/08/2017   |
| <b><u>APPLICATION DECISION LEVEL</u></b> | Delegated  |
| <b><u>WARD</u></b>                       | <b>ST. PETER'S AND NORTH LAINE</b>   |
| <b><u>APPEALAPPNUMBER</u></b>            | BH2017/00439   |
| <b><u>ADDRESS</u></b>                    | 11 Kensington Place Brighton BN1 4EJ   |
| <b><u>DEVELOPMENT DESCRIPTION</u></b>    | Erection of a two storey rear infill extension, single<br>storey glass studio to rear, installation of rear<br>rooflight and associated works. |
| <b><u>APPEAL STATUS</u></b>              | APPEAL IN PROGRESS   |
| <b><u>APPEAL RECEIVED DATE</u></b>       | 23/08/2017   |
| <b><u>APPLICATION DECISION LEVEL</u></b> | Delegated  |
| <b><u>WARD</u></b>                       | <b>ST. PETER'S AND NORTH LAINE</b>   |
| <b><u>APPEALAPPNUMBER</u></b>            | BH2017/00531   |
| <b><u>ADDRESS</u></b>                    | 7 Windsor Street Brighton BN1 1RJ  |
| <b><u>DEVELOPMENT DESCRIPTION</u></b>    | Change of use from a three bedroom single<br>dwelling (C3) to a three bedroom small house in<br>multiple occupation (C4). (Retrospective)      |
| <b><u>APPEAL STATUS</u></b>              | APPEAL IN PROGRESS   |
| <b><u>APPEAL RECEIVED DATE</u></b>       | 01/09/2017   |
| <b><u>APPLICATION DECISION LEVEL</u></b> | Delegated  |
| <b><u>WARD</u></b>                       | <b>WESTBOURNE</b>  |
| <b><u>APPEALAPPNUMBER</u></b>            | BH2017/00415   |
| <b><u>ADDRESS</u></b>                    | 25 Rutland Road Hove BN3 5FF   |
| <b><u>DEVELOPMENT DESCRIPTION</u></b>    | Erection of first floor rear extension   |
| <b><u>APPEAL STATUS</u></b>              | APPEAL IN PROGRESS   |
| <b><u>APPEAL RECEIVED DATE</u></b>       | 01/09/2017   |
| <b><u>APPLICATION DECISION LEVEL</u></b> | Delegated  |

**WARD****APPEALAPPNUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****WISH**

BH2017/00758

387 Portland Road Hove BN3 5SG

Change of use from a 6 bedroom small house in multiple occupation (C4) to a 7 bedroom house in multiple occupation (Sui Generis).

APPEAL IN PROGRESS

30/08/2017

Delegated

**WARD****APPEALAPPNUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****WISH**

BH2017/01084

50 Braemore Road Hove BN3 4HB

Removal of existing conservatory, utility store, out-house and partial removal of garage to facilitate the erection of a two storey rear and side extension and single storey rear extension with rooflights. Alterations to roof, including hip to barn end roof extension and rooflights. Erection of raised patio with glass balustrade to the rear.

APPEAL IN PROGRESS

23/08/2017

Delegated

**WARD****APPEALAPPNUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****WITHDEAN**

BH2016/02731

15 Withdean Road Brighton BN1 5BL

Demolition of existing house and erection of 5no new 4 bedroom residential houses.

APPEAL IN PROGRESS

23/08/2017

Delegated

**WARD****APPEALAPPNUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****WITHDEAN**

BH2017/00289

176 Surrenden Road Brighton BN1 6NN

Erection of a two storey detached out building with rooflights to replace existing single storey workshop.

APPEAL IN PROGRESS

06/09/2017

Delegated

**WARD****APPEALAPPNUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****WITHDEAN**

BH2017/00589

44 North Road Preston Brighton BN1 6SP

Erection of single storey side extension and associated works.

APPEAL IN PROGRESS

15/08/2017

Delegated

**WARD****APPEALAPPNUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****WITHDEAN**

BH2017/01021

31 Harrington Road Brighton BN1 6RF

Roof alterations including hip to gable roof extension, rear dormer, rooflights to front, side and rear elevations, removal of 1no chimney.

APPEAL IN PROGRESS

15/08/2017

Delegated

**WARD****APPEALAPPNUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****WITHDEAN**

BH2017/01397

12 Colebrook Road Brighton BN1 5JH

Demolition of existing detached garage and erection of a detached two storey annexe with rooflights and Juliet balcony.

APPEAL IN PROGRESS

23/08/2017

Delegated





**INFORMATION ON HEARINGS / PUBLIC INQUIRIES**

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**This is a note of the current position regarding Planning Inquiries and Hearings**  
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|                          |   |
|--------------------------|---|
| Planning Application no: | BH2016/01961  |
| Description:             | Demolition of existing Buildings and erection of a 3 Storey building containing 44 assisted living apartments for older persons with associated communal facilities, parking and landscaping. |
| Decision:                | Awaiting decision from PINS   |
| Type of Appeal           | Public Inquiry against Non-Determination  |
| Date:                    | 13 <sup>th</sup> to 16 <sup>th</sup> June 2017, Brighton Town Hall  |
| Site Location:           | 46-54 Old London Road, Brighton   |

|                          |  |
|--------------------------|--|
| Planning Application no: | BH2016/05908   |
| Description:             | Outline application for the erection of up to 125 dwellings with associated access, landscaping and informal open space and approval of reserved matter for access only. |
| Decision:                |  |
| Type of Appeal           | Public Inquiry against refusal   |
| Date:                    | tbc  |
| Site Location:           | Land Off Overdown Rise And Mile Oak Road Portslade   |



**APPEAL DECISIONS**

|  | <b>Page</b> |
|--|-------------|
| <b>A – 28 ELRINGTON ROAD, HOVE – HOVE PARK</b>   | <b>197</b>  |
| <p>Application BH2016/05434 – Appeal against refusal to grant planning permission for the construction of the proposed extensions and alterations.<br/><b>APPEAL ALLOWED</b> (delegated decision)</p>  |             |
| <b>B – 23 TRECROFT ROAD, HOVE – HOVE PARK</b>  | <b>201</b>  |
| <p>Application BH2017/01049 – Appeal against refusal to grant planning permission for a first floor roof extension with associated alterations.<br/><b>APPEAL DISMISSED</b> (delegated decision)</p>   |             |
| <b>C – 34 HILLSIDE, BRIGHTON – MOULSECOOMB &amp; BEVENDEAN</b>   | <b>203</b>  |
| <p>Application BH2017/00434 – Appeal against refusal to grant planning permission for a flat roofed rear extension to the existing two storey dwelling.<br/><b>APPEAL ALLOWED</b> (delegated decision)</p>   |             |
| <b>D – 37 SHIRLEY DRIVE, HOVE – HOVE PARK</b>  | <b>205</b>  |
| <p>Application BH2016/06497 – Appeal against refusal to grant planning permission for the construction of a 1.78m high wall to front boundary of existing house.<br/><b>APPEAL DISMISSED</b> (delegated decision)</p>                                    |             |
| <b>E – 161 ELM DRIVE, HOVE – HANGLETON &amp; KNOLL</b>   | <b>207</b>  |
| <p>Application BH2016/05889 – Appeal against refusal to grant planning permission for the erection of one 2 bedroom dwelling (C3) incorporating new access crossover on land rear of 161 Elm Drive.<br/><b>APPEAL DISMISSED</b> (delegated decision)</p> |             |





## Appeal Decision

Site visit made on 30 August 2017

**by Elizabeth Lawrence BTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 5<sup>th</sup> September 2017**

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### **Appeal Ref: APP/Q1445/D/17/3175314**

### **28 Elrington Road, Hove, BN3 6LG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs G Docherty against the decision of Brighton & Hove City Council.
  - The application Ref BH2016/05434, dated 26 September 2016, was refused by notice dated 21 March 2017.
  - The development proposed is described as revised planning application for the construction of the proposed extensions and alterations.
- 

### **Preliminary matter**

1. The Council's decision letter does not include a reason for refusing the planning application the subject of this Appeal. This appears to be an administrative error rather than deliberate. Notwithstanding this, the Council's report clearly sets out various concerns relating to the scheme.

### **Decision**

2. The appeal is allowed and planning permission is granted for the construction of the proposed extensions and alterations at 28 Elrington Road, Hove, BN3 6LG in accordance with the terms of the application, Ref BH2016/05434, dated 26 September 2016, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 511/024/00 and 511/024/20 U.
  - 3) The external materials to be used in the construction of the extensions hereby permitted shall match those of the host dwelling and will include the smooth white render of the external walls of the resultant dwelling.

### **Main Issue**

3. The main issue is the effect of the scheme on the character and appearance of the host property and the surrounding area.

### **Reasons**

4. Elrington Road is characterised by a diverse range of two storey detached family dwellings, with a mixture of uniform and staggered front and rear building lines. The
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- dwellings are set back from the street scene behind varied sized front gardens that are typically enclosed by a combination of low walls and hedges. These hedges, together with the soft landscaping in the front and rear gardens and the trees within the highway verges partially screen the dwellings and contribute to the verdant, suburban character and appearance of Elrington Road.
5. The Appeal dwelling is consistent with the above pattern of development. It comprises an asymmetrical two storey family dwelling with a fully hipped roof and a catslide roof feature to the front. It is set behind a soft landscaped front garden that is enclosed by a hedge and has a spacious rear garden. The Appeal dwelling is located close to the northern boundary of the site, where it sits alongside the dwelling at 34 The Droveaway (No.34), which projects both to the front and rear of the Appeal dwelling. Currently there is an open gap between the Appeal dwelling and the dwelling to the south at 26 Elrington Road (No.26), which also projects beyond the rear building line of the Appeal dwelling.
  6. Amongst other things policy CP12 of the Brighton and Hove City Plan Part One (City Plan) expects all new development to raise the standard of architecture and design in the city and to respect the diverse character and urban grain. Policies QD14 & QD27 of the Brighton and Hove Local Plan 2005 (Local Plan) require extensions to be well designed, sited and detailed in relation to the host and nearby properties. They should take account of the spacing around buildings, the character of the area and should not have a materially adverse impact on the living conditions of the occupiers of nearby dwellings.
  7. These policies are consistent with the National Planning Policy Framework (NPPF). It states that new development should respond to local character and history, reflect the identity of local surroundings and materials and provide a good standard of amenity for all existing and future occupants of land and buildings.
  8. The Council's Supplementary Planning Document 12: *Design Guidance on Extensions and Alterations* (SPD) advises that greater care should be taken in designing two storey side extensions. This is because they can upset the rhythm of spaces between dwellings and can over-extend buildings in a disproportionate and unbalanced manner. Such extensions should be subservient to the host dwelling and generally set back from the front building line and ridge line. It goes on to advise that the roof form and pitch of extensions should respect that of the host dwelling.
  9. Planning permission has already been granted for the proposed side extension and dormer extension above the existing garage. Both of these extensions respect the character and appearance of the host dwelling and a reasonable sized gap would be retained between the side extension and the dwelling at 26 Elrington Road (No.26). As such they would respect the character and appearance of street scene and the spatial characteristics of the locality.
  10. Having regard to the mixture of building materials found within Elrington Road, the replacement of the existing rough rendered walls with smooth render would be readily assimilated into the street scene. Similarly, due to its modest form and siting, the proposed open front porch would be visually subservient and would respect the character and appearance of the host dwelling.
  11. To the rear the proposed first floor extension would be very modest in depth and the proposed windows would reflect the existing first floor windows. Its flat roof would be set behind a low pitched roof whose pitch and materials would match those of the existing dwelling. The roof of this extension would be visually discrete due to its modest depth and siting between the projecting hipped roof of the bedroom to the south and the flank wall of the dwelling at No.34.

12. The proposed single storey rear extension would be some 5.2 metres deep and would range between 4.2 and 6.83 metres in width. Whilst it would exceed half the width and depth of the original dwelling, it would be located on the northern side of the dwelling and partially alongside the rear projecting flank wall of No.34. Its tapered shape would ensure that the extension respected the proportions of the host dwelling and was not dominant in views from the south and east. Its materials and overall detailing would respect that of the host dwelling.
13. For these reasons, whilst the rear extensions would cover a significant proportion of the rear elevation of the original dwelling, together with the proposed side extension, they would nonetheless respect the character and appearance of the host dwelling and its setting.
14. The Council has suggested the imposition of conditions relating to the use of matching materials and adherence to the submitted drawings. These conditions are necessary to ensure that the extension blends in appropriately with the host dwelling and in the interests of certainty.
15. I conclude on the main issue that the proposal would blend in appropriately with the character and appearance of the host dwelling and the locality. It would therefore comply with policy CP12 of the City Plan policies QD14 and QD27 of the Local Plan, the SPD and the NPPF.

#### **Other matters**

16. The front and rear building lines of the dwellings at No.34 and No.26 would project beyond the building lines of the proposed upper floor extensions. In addition, the proposed rear ground floor extension would be partially screened from the dwellings at No.34 by boundary fencing and planting. Accordingly the proposed extensions would not have a materially adverse impact on the living conditions of the occupiers of No. 34 and No.26 due to visual impact or loss of daylight or sunlight.

#### **Conclusion**

17. Having regard to the conclusion on the main issue and other matters the Appeal is allowed.

*Elizabeth Lawrence*

INSPECTOR







## Appeal Decision

Site visit made on 30 August 2017

**by Elizabeth Lawrence BTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 6<sup>th</sup> September 2017**

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### **Appeal Ref: APP/Q1445/D/17/3177153**

### **23 Tredcroft Road, Hove, BN3 6UH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Robert Mercer against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/01049, dated 24 March 2017, was refused by notice dated 31 May 2017.
  - The development proposed is for a first floor roof extension with associated alterations.
- 

### **Decision**

1. The appeal is dismissed.

### **Main Issue**

2. The main issue is the effect of the scheme on the living conditions of the occupiers of 8 Benett Drive (No.8), with particular regard to visual impact, daylight and sunlight.

### **Reasons**

3. The Appeal site is located within an established suburban residential area which is characterised by detached bungalows and dormer bungalows situated on land which rises steeply to the north. The Appeal property comprises a dormer bungalow with a fully hipped roof. It has a projecting wing with a pitched roof to the front and a full width, flat roofed extension to the rear, both of which run adjacent to the boundary with No.8.
  4. Policy QD27 of the Brighton and Hove Local Plan 2005 (Local Plan) aims to ensure that new development does not cause material nuisance and loss of amenity to the occupiers of adjacent dwellings. The National Planning Policy Framework (NPPF) seeks to secure high quality design and a good standard of amenity for all existing and future occupiers of land and buildings.
  5. No.8 is a corner property which fronts both Tredcroft Road and Benett Drive and has a series of modest sized terraced private gardens to the southwest and west. This includes a small lower sitting out area situated between the dwelling at No.8 and the Appeal dwelling. The dwelling at No.8 has a number of windows and a glazed door which face the Appeal site and which serve the dwelling's study, kitchen and dining room/lounge.
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6. The roof of the existing dwelling on the Appeal site is dominant in views from the study and clearly results in some loss of sunlight. Conversely in views from the kitchen and dining room windows the existing roof is plainly evident, but not over-dominant. Also, the existing roof of the Appeal dwelling does not result in a material loss of daylight or sunlight within those rooms.
7. Whilst the proposed extension would not be as deep as the previously refused scheme, it would nonetheless dominate the outlook from the kitchen and the dining area windows. The associated loss of sunlight would add to its overbearing visual impact. At the same time the proposed roof extension would totally dominate and add further to the level of overshadowing within the recessed paved garden area between the two houses. As a consequence it would be visually overbearing and would unacceptably detract from the quality of the garden area.
8. Regarding privacy, the steeply sloping topography results in a material level of inter-looking between properties. Whilst the proposal would improve privacy levels within the rear garden of the Appeal property, the proposed extension would result in some loss of privacy for the occupiers of the dwellings to the west and south. This could be minimised through the imposition of conditions which require some of the windows to be obscure glazed and to have restricted opening. As such this does not add to my concerns regarding the proposal.
9. Overall, the visual harm that would be caused to the living conditions of the occupiers of No.8 would outweigh the benefits for the Appellant and his family that would result from the increased living space. In addition, this is not a matter that could be adequately dealt with by condition.
10. I conclude that the proposed extension would unacceptably harm the living conditions of the occupiers of 8 Benett Drive due to its overbearing visual impact and associated loss of daylight and sunlight. Accordingly the proposal would conflict with policy QD27 of the Local Plan and the NPPF.

*Elizabeth Lawrence*

INSPECTOR



## Appeal Decision

Site visit made on 21 August 2017

by **S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6<sup>th</sup> September 2017

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**Appeal Ref: APP/Q1445/D/17/3174967**

**34 Hillside, Brighton BN2 4TA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2: Part 1, Paragraph A.4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mrs Sanjana Kaura against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/00434, dated 25 January 2017, was refused by notice dated 9 March 2017.
  - The development proposed is a flat roofed rear extension to the existing two storey dwelling.
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### Decision

1. The appeal is allowed and prior approval is granted under the provision of Article 3 and Schedule 2: Part 1, Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for a flat roofed rear extension to the existing two storey dwelling at 34 Hillside, Brighton BN2 4TA, in accordance with the details submitted pursuant to Article 3 and Schedule 2, Part 1, Paragraph A4(2) of the GPDO.

### Procedural Matter

2. The GPDO states that an extension which projects between 3m and 6m beyond the rear wall of the original dwellinghouse is permitted development. However, this is subject to the conditions of Paragraph A.4 of the GPDO which requires the local planning authority to notify adjoining owners or occupiers of the proposal.
3. Where any owner or occupier of the adjoining premises objects to the proposal then prior approval is required. The GPDO requires the local planning authority to assess the proposed development solely on the basis of its impact on the amenity of all adjoining premises, taking into account any representations received. I have determined the appeal in the same manner.

### Main Issue

4. The main issue is effect of the proposed extension on the living conditions of the adjoining occupiers.

### Reasons

5. No 34 is a semi-detached properties set in a well-proportioned plot. It is paired with No 36. Approval is sought for a flat-roofed single storey extension which

would project 5m from the rear elevation of the existing dwelling. The extension would provide two additional bedrooms so that the house could accommodate up to six students.

6. The Council received objections from occupants of two properties in The Avenue who share a common boundary with No 34. They were primarily concerned with the use of the enlarged dwelling as a House in Multiple Occupation (HMO) by students. The house is currently used to accommodate four students and neighbours appear to have experienced noise and disturbance as a consequence. However, there was no substantive evidence to indicate the extent or frequency of these problems. I am therefore not persuaded that two additional occupants at No 34 would result in an increase in noise and disturbance that would be materially harmful to the amenity of the neighbours.
7. When the need for prior approval is triggered by a relevant representation, the effects of the proposal on the amenity of all the adjoining premises can be taken into consideration, even those who did not make representations. In this case the Council were concerned that the proposal would appear overbearing from No 36, even in the absence of an objection from the occupants.
8. There is currently a concrete patio at the rear which projects further than 5m from the house. Beyond the patio steps lead down to the remainder of the garden which is on land that falls away towards the rear boundaries on Nos 29 and 31 The Avenue. No 36 has a window that is close to the shared boundary with No 34. The outlook from this window is already restricted by extensive vegetation and semi-mature trees growing along and close to the boundary fence. However, there is an open outlook over the remainder of the garden which widens out a little towards the rear of the plot. In this context, I consider that a flat roofed extension of the height and depth proposed would not appear overbearing for the occupants of No 36.

### **Conclusion and Conditions**

9. For the reasons set out above I conclude that the proposal would not give rise to material harm to the amenity of any adjoining occupiers. The appeal should therefore be allowed and prior approval granted.
10. The planning permission granted for the extension under Article 3 and Schedule 1, Part 1, Class A is subject to the following conditions: A.4(13), (14) and (15) which specify that the development shall be completed on or before 30th May 2019, that the developer shall notify the local planning authority in writing of the completion of the development as soon as reasonably practicable after completion, and such notification shall include the name of the developer; the address or location of the development, and the date of completion.

*Sheila Holden*

INSPECTOR



## Appeal Decision

Site visit made on 21 August 2017

by **S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6<sup>th</sup> September 2017

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**Appeal Ref: APP/Q1445/D/17/3179477**

**37 Shirley Drive, Hove BN3 6UA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr James Grant against the decision of Brighton & Hove City Council.
  - The application Ref BH2016/06497, dated 15 December 2016, was refused by notice dated 12 April 2017.
  - The development proposed is construction of a 1.78m high wall to front boundary of existing house.
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. A wall has already been constructed which appeared to be similar to that which has been applied for. Nevertheless, I have dealt with the appeal on the basis that permission is sought for the wall shown on the submitted plans.

### Main Issue

3. The main issue is the effect of the wall on the character and appearance of the area.

### Reasons

4. Shirley Drive is a tree-lined residential street with a wide grass verge. It is characterised by detached dwellings set back from the road in good-sized plots. Many of the houses are enclosed by boundary walls. Although these vary in height most are low, constructed of brick and part covered by planting. Some incorporate hedges which provide the houses with increased enclosure.
5. The height of some of the walls arises from their function as retaining walls as the houses and front gardens are above road level. This is not the case with No 37 where the wall would enclose a small front garden which is predominantly hard surfacing and there is no vegetation to soften its appearance. The boundary treatments on the eastern side of Shirley Drive in the immediate vicinity of the appeal site are largely constructed of brick. Most are lower than the wall I saw at No 37.
6. Whilst the wall, with its white render, would reflect the contemporary style of the host property, it would not relate well to the boundary treatments that characterise the street as a whole. Its height, colour and stark form would

result in an alien and incongruous feature that would erode the open and softer appearance of the surrounding street scene. From what I saw on my site visit there were no boundary walls that were directly comparable with the appeal scheme, which I have assessed on its individual planning merits.

7. I conclude that the boundary wall would be harmful to the character and appearance of the area. It would therefore conflict with saved Policy QD14 of the Brighton & Hove Local Plan, which requires development to be well designed and detailed in relation to the adjoining properties and the surrounding area. It would also fail to comply with the advice of the Council's Supplementary Planning Document 12: *Design Guide for Extensions and Alterations*, which states that the design and height of boundary walls (including pillars), railings and gates should relate to the character of the surrounding area.
8. For this reason, I conclude that the appeal should be dismissed.

*Sheila Holden*

INSPECTOR



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## Appeal Decision

Site visit made on 15 August 2017

by **J Ayres BA Hons, Solicitor**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8<sup>th</sup> September 2017

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**Appeal Ref: APP/Q1445/W/17/3174854**  
**161 Elm Drive, Hove, East Sussex BN3 7JA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Ms Thalia Liebig against the decision of Brighton & Hove City Council.
  - The application Ref BH2016/05889, received by the Council on 27 October 2016, was refused by notice dated 15 March 2017.
  - The development proposed is the erection of one 2 bedroom dwelling (C3) incorporating new access crossover on land rear of 161 Elm Drive.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

### Reasons

3. The rear garden of 161 Elm Drive lies adjacent to Laburnum Avenue. The garden is long, and this is representative of the row of houses along Elm Drive at this point, and also appears to be replicated opposite the appeal site. The length of the rear gardens creates a welcome sense of space in an otherwise built up area. This is contributed to by the single storey bungalow to the rear of the properties as it is sited slightly lower, and is served by mature vegetation. The result is a significant break in substantial built form, contributing positively to the character of the area, before the development recommences in a rather sporadic manner along Laburnum Avenue.
4. The proposal would require the subdivision of the rear garden of No 161, and the dwelling would occupy a significant part of the subsequent plot. It would be sited in a relatively central position within the plot, surrounded on all sides by a small strip of amenity space. The modest size of the plot, taken with the relatively central positioning of the dwelling, would result in a house that would appear cramped and essentially squeezed into the space, rather than sitting comfortably as part of the surrounding area. The result would be an awkward and incongruous development.
5. The subdivision of No 161 would significantly reduce the area associated with the host property. I accept that the area would remain suitable in terms of

functional amenity space. However it would visually be a stark contrast to the neighbouring gardens. The proposal would significantly erode the valuable sense of openness that the garden currently enhances within this area. The built form would be seen in close proximity to No 161, and this would diminish the visual gap and the break in built form that the site currently contributes to. This subdivision and the additional dwelling would, in my view, be a visual overdevelopment of the site to the detriment of the character and appearance of the area.

6. I have been referred to a number of sites that the appellant considers comparable to the appeal scheme. The adjacent bungalow is situated to provide space around it in a similar style. However it is a far more generous plot and the area to the front and rear is quite substantial, which allows the bungalow to sit comfortably within the space. I do not consider the proposal to respond to its surroundings in the same way and is materially different.
7. I accept that there are developments in the area which have comparable amenity space overall. However, I am concerned that the subdivision of the garden as proposed would not actually achieve a layout of the site that would allow the dwelling to physically sit comfortably within its surroundings. As a result it would detract from the pleasant character of the site as it is currently set out. The presence in the area of dwellings which provide a limited amount of amenity space does not, in my view, justify further development which would detract from the character and appearance of the area. In any event I have determined this appeal on the merits of the proposal before me.
8. I note that the appellant has amended the scheme to address the concerns of the council with regards to elements of the design of the proposal; furthermore the materials would match those of No 161. These factors weigh in favour of the proposal. However, I do not consider them to attract a level of weight that would overcome the harm that I have found to the character and appearance of the area with regards to what would be, in my mind, an overdevelopment of the site.
9. As such, I find that the proposal would appear as a cramped, overdevelopment of the rear garden of No 161. It would not take into account the characteristics of the surrounding area and would therefore conflict with the design principles of Policy CP12 of the Brighton and Hove City Plan Part One (2016).

### **Conclusion**

10. For the reasons set out above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

*J Ayres*

INSPECTOR