




Brighton & Hove  
City Council

# Planning Committee

Title:	<b>Planning Committee</b>
Date:	<b>5 December 2018</b>
Time:	<b>2.00pm</b>
Venue	<b>Council Chamber, Hove Town Hall</b>
Members:	<b>Councillors:</b> Cattell (Chair), Gilbey (Deputy Chair), C Theobald (Opposition Spokesperson), Mac Cafferty (Group Spokesperson), Bennett, Hyde, Inkpin-Leissner, Littman, Miller, Moonan, Morgan and O'Quinn  <b>Co-opted Members:</b> Conservation Advisory Group Representative
Contact:	<b>Penny Jennings</b> Democratic Services Officer 01273 291065 planning.committee@brighton-hove.gov.uk

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## AGENDA

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**71 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.*

**72 MINUTES OF THE PREVIOUS MEETING**

**1 - 34**

Minutes of the meeting held on 7 November 2018 (copy attached)

**73 CHAIR'S COMMUNICATIONS**

**74 PUBLIC QUESTIONS**

## PLANNING COMMITTEE

To consider any questions received by the deadline of 12 noon on 29 November 2018.

### 75 **PROTOCOL FOR PUBLIC REPRESENTATIONS AT PLANNING COMMITTEE** 35 - 40

Report of the Executive Lead, Corporate Governance and Law (copy attached)

Contact Officer: Hilary Woodward Tel: 01273 291514  
Ward Affected: All Wards

### 76 **TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS**

### 77 **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 **BH2018/02607 - Greater Brighton Metropolitan College, Pelham Street, Brighton - Full Planning** 41 - 80

Hybrid planning application comprising: Full Planning application Site A (West of Pelham Street): External alterations and internal refurbishment to the existing college building and redevelopment of the existing car park to provide 3 storey extensions to the existing college (D1 use), disabled parking spaces with new vehicular access, cycle parking spaces, open space and landscaping. Outline Application Site B (East of Pelham Street): Demolition of York, Trafalgar and Cheapside Buildings and the erection of up to 135 residential units (C3 use) at maximum 6 storeys with associated new and relocated vehicular accesses, car and cycle parking (with all matters reserved except access, layout and scale).

#### **RECOMMENDATION – MINDED TO GRANT**

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

### B **BH2018/01973 -Former Peter Pan Playground, Madeira Drive, Brighton - Full Planning** 81 - 128

Erection of outdoor swimming pool (25m x 12.5m) and changing/plant rooms (D2 use), flexible events space (D2 use) and 1-3 storey relocatable modular buildings with first floor deck to provide mixed leisure/retail/food/drink/office uses (D2/A1/A3/A4/A5/B1 uses) including second floor place markers and lifeguard observation unit, with associated cycle parking, refuse storage, landscaping, boundary treatment and retractable beach mat. Temporary (meanwhile use) for 5 years.

#### **RECOMMENDATION – MINDED TO GRANT**

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*Wards(s)Affected: East Brighton/ Queen's Park*

### MINOR APPLICATIONS

- C BH2018/01894 - 1A Marmion Road, Hove - Variation of Conditions 129 - 146**
- Application under S73a for variation of condition 2 of BH2015/01278 (Demolition of existing warehouse (B8) and erection of 4no two/ three storey residential dwellings (C3) and offices (B1).) (allowed on appeal) to allow amendments to the approved drawings. (part retrospective)
- RECOMMENDATION – GRANT**
- Ward Affected: Wish*
- D BH2018/02918 -Portslade Sports Centre, Chalky Road, Portslade -Full Planning 147 - 156**
- Replacement of existing artificial grass surface and associated works including replacement floodlights, fencing, hard standing areas and installation of equipment storage.
- RECOMMENDATION – MINDED TO GRANT**
- Ward Affected: North Portslade*
- E BH2018/02525 - 2 Sackville Gardens, Hove - Full Planning 157 - 168**
- Demolition of existing garage and erection of 1no semi-detached two storey dwelling house (C3).
- RECOMMENDATION – REFUSE**
- Ward Affected: Westbourne*
- F BH2018/02219 -Media House, 26 North Road, Brighton-Variation of Conditions 169 - 178**
- Variation of condition 1 of application BH2017/01596 (Change of use of the Coach House from office (B1) to 1no three bedroom residential dwelling (C3) with associated erection of a single storey side extension and revised fenestration) to allow amendments to approved drawings.
- RECOMMENDATION – GRANT**
- Ward Affected: Withdean*
- G BH218/0184, 97 Hornby Road, Brighton -Full Planning 179 - 190**
- Change of use from three bedroom single dwelling (C3) to six bedroom small house in multiple occupation (C4) with alterations to fenestration and provision of cycle storage.
- RECOMMENDATION – GRANT**
- Ward Affected: Moulsecoomb & Bevendean*
- H BH2018/01160, 10 Selham Close, Brighton - Full Planning 191 - 202**
- Change of use from residential dwelling to 6no bedroom small House in Multiple Occupation (C4) incorporating revised

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fenestration, sound proofing, cycle stands and associated works.

### **RECOMMENDATION – GRANT**

*Ward Affected: Hollingdean & Stanmer*

#### **I BH2018/01118- 103 Norwich Drive, Brighton - Full Planning 203 - 214**

Change of use from three bedroom dwelling house (C3) to six bedroom small house in multiple occupation (C4) with alterations to fenestration.

### **RECOMMENDATION – GRANT**

*Ward Affected: Moulsecoomb & Bevendean*

#### **78 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**

#### **79 INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS 215 - 218**

(copy attached).

#### **80 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE 219 - 230**

(copy attached).

#### **81 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES 231 - 232**

(copy attached).

#### **82 APPEAL DECISIONS 233 - 262**

(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>

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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### **FURTHER INFORMATION**

For further details and general enquiries about this meeting contact Penny Jennings, (01273 291065, 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, 27 November 2018

**BRIGHTON & HOVE CITY COUNCIL**

**PLANNING COMMITTEE**

**2.00pm 7 NOVEMBER 2018**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors Cattell (Chair), Gilbey (Deputy Chair), C Theobald (Opposition Spokesperson), Mac Cafferty (Group Spokesperson), Bennett, Daniel, Hyde, Littman, Miller, O'Quinn and Robins

**Co-opted Members:** Mr Roger Amerena (Conservation Advisory Group)

**Officers in attendance:** Nicola Hurley, Planning Manager, Stewart Glassar, Principal Planning Officer; Jonathan Puplett, Principal Planning Officer; Luke Austin, Senior Planning Officer; David Farnham, Development and Transport Assessment Manager; Lesley Johnston, Principal Planning Officer, Policy, Projects and Heritage; Hilary Woodward, Senior Lawyer and Penny Jennings, Democratic Services Officer

**PART ONE**

**60 PROCEDURAL BUSINESS**

**60a Declarations of substitutes**

60.1 Councillor Daniel declared that she was present in substitution for Councillor Moonan. Councillor Robins declared that he was present in substitution for Councillor Morgan.

**60b Declarations of interests**

60.2 Councillor Cattell, the Chair, referred to Applications A & B, BH2018/00868 and BH2018/00869, King's House, Grand Avenue, Hove explaining that one of the speakers was known to her however, she remained of a neutral mind and would therefore remain present during consideration and determination of the application. Councillor Cattell stated that she had also received e mail correspondence in respect of applications D, BH2018/01894, 1A Marmion Road, Hove and E BH2018/00433, 28A Crescent Road, Brighton stating that she had not expressed any opinion in respect of either of those applications, remained of a neutral mind and would remain present during consideration and determination of both of those applications.

60.3 Councillor Mac Cafferty also referred to applications A & B, BH2018/00868 and BH2018/00869, King's House, Grand Avenue, Hove stating that he had received correspondence in his capacity as neighbouring Ward Councillor. He had expressed no view in respect of the applications before the Committee for determination,

remained of a neutral mind and would therefore remain present during consideration and determination of the application.

- 60.4 Councillor Littman stated that he had held responsibility for the Council's property portfolio when the decision had been made to sell King's House, applications A & B, BH2018/00868 and BH2018/00869, King's House, Grand Avenue, Hove. He had had no involvement with, nor expressed an opinion in respect of either application, remained of a neutral mind and would therefore remain present during consideration and determination of the applications.
- 60.5 Councillor Hyde referred to application C, BH2018/02404, Varndean College, Surrenden Road, Brighton by virtue of the fact that her grandson attended the Sixth Form there. She had not expressed any view in respect of the application, remained of a neutral mind and would therefore remain present during consideration and determination of the application.
- 60.6 Councillor Daniel referred to, applications A & B, BH2018/00868 and BH2018/00869, King's House, Grand Avenue, Hove stating that one of the speakers was known to her. Also, to application C, BH2018/02404, Varndean College, Brighton explaining that her stepson was a student at the college. She had not however discussed any of the applications, nor expressed an opinion in respect of either of them, remained of a neutral mind and would therefore remain present during consideration and determination of those applications.
- 60.7 Councillors O'Quinn and Robins also referred to applications A & B, BH2018/00868 and BH2018/00869, King's House, Grand Avenue, Hove, also confirming that one of the speakers was known to them, neither had discussed the applications with her, both remained of a neutral mind, and would therefore remain present during consideration and determination of those applications. It was also noted that Members of the Committee had received lobbying e mails in relation to application BH2018/02638, 4 The Park, Rottingdean.

#### **60c Exclusion of the press and public**

- 60.8 In accordance with Section 100A of the Local Government Act 1972 ("the Act"), the Planning Committee considered whether the public should be excluded from the meeting during consideration of any item of business on the grounds that it is likely in view of the business to be transacted or the nature of the proceedings, that if members of the public were present during it, there would be disclosure to them of confidential information as defined in Section 100A (3) of the Act.
- 60.9 **RESOLVED** - That the public are not excluded from any item of business on the agenda.

#### **60d Use of mobile phones and tablets**

- 60.10 The Chair requested Members ensure that their mobile phones were switched off, and where Members were using tablets to access agenda papers electronically ensure that these were switched to 'airplane mode'.



**61 MINUTES OF THE PREVIOUS MEETING**

- 61.1 Councillor Hyde had notified the Democratic Services Officer of amendments she wanted to be made to the minutes in respect of comments attributed to her. These corrections had been made to the published minutes and to the set for signature by the Chair. The corrections were as follows:

Paragraph (27): (reference to Stanley Deason Leisure Centre to be removed, first line now to read: "Councillor Hyde stated her preference would be for money to be provided to a local charity PARC which provided play equipment locally and improvements at St Margaret's, which...")

Paragraph (29): First line to be deleted: Paragraph to begin "Councillor Hyde also referred to the provision of "live time" boards..."

Paragraph (35): Third sentence should read "The scheme would provide much needed housing for local people *on the free market* and would provide..."

- 61.2 Notification had been received from CAG that they wished Paragraph (30) on page 10 of the minutes to read as follows:

Paragraph (30): Mr Gowans CAG suggested that the proposed bin store in front of the south wing of the listed school building could be better designed and that some relief to the proposed blank wall fronting the High Street could be introduced. The Principal Planning Officer, Policy, Projects and Heritage, Tim Jefferies, suggested that an additional condition be added requiring larger scale details of the proposed store to be approved by officers and noted that the proposed store was slightly smaller than the existing garage.

- 61.3 **RESOLVED** – That the Chair be authorised to sign the minutes of the meeting held on 10 October 2018 as a correct record subject to the additions and amendments set out above.

**62 CHAIR'S COMMUNICATIONS**

- 62.1 Councillor Cattell, the Chair, referred to application BH2017/02680, St Aubyn's School, 76 High Street, Rottingdean which had been considered and determined at the meeting of the Committee held on 10 October 2018. The application had been approved **Minded to Grant** subject to the Secretary of State deciding not to call the application in for determination. Confirmation had been received subsequently that the Secretary of State would not be calling the application in as it did not fall within the criteria for doing so.

- 62.2 **RESOLVED** – That the position be noted.

**63 PUBLIC QUESTIONS**

- 63.1 There were none.

**64 TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS**

64.1 There were none.

## 65 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

### A BH2018/00868 - King's House, Grand Avenue, Hove-Full Planning

Demolition of existing office building (B1) fronting Grand Avenue. Conversion of existing (B1) building fronting Queens Gardens to 69no dwellings (C3) with associated alterations and extensions. Erection of a 10 storey building over basement carpark comprising of 72 flats on Grand Avenue and erection of a 6 storey building comprising of 28 flats on Second Avenue. Associated underground parking, landscaping, cycle storage, bins and recycling points. (Amended Description)

It was noted that this application had formed the subject of a site visit prior to the meeting.

#### Officer Presentation

- (1) The officer presentation covered the planning and listed building applications. Reference was also made to the proposed amended report wording, additional representations received and alterations to conditions which were set out in Late/Additional Representations List.
- (2) The Principal Planning Officer, Jonathan Puplett and Senior Planning Officer, Luke Austin introduced the application and gave a detailed presentation by reference to drawings, elevational drawings, site plans, floor plans, photographs and visuals showing the proposals from various aspects in order to show its context within the neighbouring street scheme, also by use of aerial views showing the site in its broader context.
- (3) It was noted it that the building had originally been built as a terrace of 7 houses between 1871 and 1874 with the westernmost houses converted soon after to the Princes Hotel and latterly as the Headquarters of the South Eastern Electricity Board; and then the City Council. The modern northern extension to Kings House had been built in the 1980s. While of significant townscape merit within The Avenues Conservation Area, in more recent years the building had been further eroded of original features, most notably windows, entrances, balconies and a 2 storey wing formerly fronting Grand Avenue, all of which affect the significance of the building.
- (4) The application site is 0.53 hectares and currently contained Kings House to the south part fronting onto Queens Gardens with Kingsway beyond and Kings Lawns beyond that; the modern 1980s extension to the west part fronting onto Grand Avenue with its open gardens; ground-level open car park to the east part fronting onto Second Avenue. The design of the application scheme had evolved during pre-application discussions and during the course of the application, in light of the response from the Design Review Panel, officer advice, pre-application advice from Members, and as a result of various consultee responses especially the Heritage Officer. The application proposed demolition of the modern northern extension and link building, conversion of the main building of Kings House to residential dwellings, alterations to the listed

building including upward extensions of the three historic outriggers, and the erection of two new blocks of flats. This represented a site-wide change of use from B1 office use to C3 residential for the provision of 169 dwellings. The proposed 10-storey building fronting Grand Avenue would contain 72 dwellings. The proposed 6-storey building fronting Second Avenue would contain 28 dwellings. Both buildings would be of similar in style making use of locally distinct yellow gault brick for the main elevations with more contemporary grey panel accents. Balconies would be formed of steel and glass balustrades. To Kings House, two additional storeys (plus roof terraces) were proposed to each of the three rear outriggers. Only visible from Second Avenue, the first level of each additional storey would be of matching brickwork with the second additional storey formed of dark grey metal cladding in a mansard-roof form. Small dormers are proposed to the rear main roof slope with conservation rooflights to the front. All fenestration would be returned to historically appropriate timber sash format. The existing below ground car park was proposed to be extended to provide a total of 80 car parking spaces including 11 disabled spaces accessed via the existing basement ramp. The basement would also provide access to cycle spaces for residents (the final number and location of which to be secured by condition), refuse and recycling storage. Cycle spaces are proposed to the front and rear of the development which would provide visitor cycle parking. A new low level glazed link building would provide a public entrance to the development on Grand Avenue. Landscape areas to the rear of Kings House and between the proposed two new buildings would form a communal garden and courtyard area incorporating areas of coastal planting, seating and hard landscape circulation.

- (5) Amended drawings had been received in August 2018 and a new public consultation had been undertaken which had expired on the 2 November 2018. New balcony details had been proposed as well as other details to address initial objections by the Heritage Officer. In regard to affordable housing, the original application submission stated that no affordable housing could be provided. However, following discussions with the applicant, and an independent viability assessment, it had been determined that the development could provide affordable housing in the form of 15 rent units and 13 shared ownership, and a contribution of £265,492 towards off-site provision, without threatening the viability of the scheme. This is now proposed; the affordable units would be delivered in the proposed Second Avenue block.
- (6) The main considerations in determining this application related to the principle of the development including the total loss of the B1 office use, the proposed market and affordable housing units, the impact of the conversion of the listed King's House on its significance the impact of the design on the character and appearance of the conservation area and setting of surrounding listed buildings, impact on the street scene and wider views, neighbouring amenity, impacts on the street scene and wider views, sustainable transport impacts including parking demand, landscaping, ecology/biodiversity and the contribution made in respect of other objectives of the development plan.
- (7) The proposed development would provide 169 residential units including a provision of 28 affordable units with a policy compliant tenure mix. The standard of accommodation the proposed units would provide would be good in most cases and acceptable in all cases. The majority of the units would benefit from external amenity space, a communal garden area, basement car parking and cycle parking. The proposed

building and associated landscaping were considered to represent an appropriate redevelopment of the site which would introduce a contemporary building into the street scene and would have a positive visual impact whilst paying respect to the Grade II Listed Building.

- (8) The proposed development considered acceptable in transport, sustainability and ecological terms, and conditions / s106 requirements were recommended to secure
- Disabled parking and cycle parking provision, and travel plan measures;
  - Details / method statements of the refurbishment of the listed building;
  - Compliance with energy and water consumption standards and access standards;
  - Solar photovoltaic panel array and solar thermal heating system;
  - Ecological improvements;
  - Contributions towards educational provision, open space/sports provision, and the Council's Local Employment Scheme.
- (9) Whilst the office use of the site would be lost, which was regrettable, the potential of the site for ongoing employment use was limited by the costs involved in refurbishment of the buildings to an appropriate standard, the implications of the historic layout of the listed building for modern office and a lack of interest from potential occupiers as an employment use. It was recognised that the proposed new buildings would cause some harm to the setting of the historic listed building, although substantial heritage benefits would also be delivered. The proposed new buildings would have some negative impact upon neighbouring amenity, however the resultant scenario would be in keeping with the pattern of development in the immediate area and overall the harm which would be caused did not warrant the refusal of planning permission.
- (10) Overall, whilst the proposed scheme would result in some harm, and the loss of office space was of concern in the current climate, it was considered that the scheme would deliver substantial benefits including; a significant delivery of housing including on site affordable housing, in addition to significant public realm improvements and restoration of the Grade II Listed Building. Overall, therefore approval of planning permission was recommended subject to the conditions and s106 requirements set out in the report and as amended in the Late/Additional Representations List.

### **Public Speakers**

- (11) Ms Robinson and Ms Barrett spoke on behalf of objectors to the scheme detailing their representations. Ms Robinson spoke representing residents of 2 Second Avenue and Ms Barrett spoke representing residents of 1 Grand Avenue. It was explained that two well attended public meetings had taken place and whilst the proposed use was welcomed in principle this scheme was considered unacceptable as it was too high and not in keeping with the neighbouring villas and would have a detrimental impact on the closest neighbouring dwellings. The potential loss of light to some of the existing neighbouring properties infringed their rights to light, would result in overlooking, loss of amenity and noise disturbance due to the location of some of the balconies and loss of views. Whilst there was no legal right to a view, there were rights to light and the proposals as put forward would have a serious impact by virtue of their height and bulk and their very close proximity to some of the adjacent buildings. The impact of this scheme would be far greater than when the building was in use as an office building.

- (12) Councillor Robins enquired regarding references which had been made to “Rights to Light” and the Legal Adviser to the Committee, Hilary Woodward, responded explaining that this was a private matter between neighbours. As it was a private matter, the existence of a right to light was not a consideration that could be taken into account by the Planning Committee. A right to light was separate to an assessment of the impact of any loss of light which could be taken into account as part of determining a planning application.
- (13) Councillors Moonan and Wealls spoke in their capacity as Local Ward Councillors setting out their objections to the proposed scheme. Both referred to the several detailed letters of objection which they had submitted and were in agreement that whilst they supported conversion of the site to residential use the scheme as currently devised was in their view too high and would be overbearing on neighbouring buildings and overly dominant in the street scene by virtue of its scale, height and massing. The scale of the new blocks to be constructed to the north of the original listed building and their impact on the amenity of the neighbouring properties at One Grand Avenue and in Second Avenue was of concern. There would be significant negative impact on access to light and it was considered that the proposed new buildings had little architectural merit on such a key site in a conservation area. The 10 storey block proposed on Grand Avenue would be significantly higher than the norther tower of the retained listed building and would therefore have a significant negative impact on the retained listed building and the amenity of neighbouring residents. The six storey block in Second Avenue was also not in keeping with the existing villas in the conservation area which had been reduced in height the nearer they were to the sea. It was considered that this block should be two storeys lower and should be set further back from the street. There were also concerns regarding the level of parking which notwithstanding that there would be on site provision was considered to be inadequate. The proposed development was situated in Zone N and it was suggested that a condition be imposed to prevent residents of the new development from being entitled to on-street CPZ parking permits. Access to the on-site parking from Second Avenue would also increase traffic flow along a residential street, this would also have a negative impact on the amenity of neighbouring residents.
- (14) Mr Dowsett and Mr Wagner were in attendance on behalf of the applicants and spoke in support of the application and responded to Members in relation to questions on which it was more appropriate for them to provide clarification. It was explained that the application before the Committee that day was the result of months of intense work with officers following the initial pre-application process to come forward with a scheme which was viable and would provide an active frontage.
- (15) In answer to questions by Councillor Miller regarding the building line at the pre-application stage and currently it was explained that this had been set back in response to discussions which had taken place and to address some of the issues of concern which had been raised. Councillor Miller also referred to the number of 1 and 2 bedroom units to be provided, there was an identified need for 3 bedroom units. It was explained that the type of units put forward had guided by the viability assessments carried out including the configuration of mix of affordable units to be provided. In answer to further questions it was explained that a number of issues had been taken into account including the views of the District Valuer and the discussions which had taken place in December 2017, the application being submitted in March

2018 and the work which had taken place subsequently in order to bring it to Committee.

- (16) Councillor Mac Cafferty referred to the fact that the basement area of King's House had been subject to flash flooding in July 2014. He wished to know whether a full risk assessment had been carried out in that respect and what mitigation measures if any were to be put in place. It was explained that a series of improvements were proposed to address this issue. Councillor Mac Cafferty also referred to the landscaping/planting treatments proposed enquiring whether species had been chosen which were suited to survival in a marine environment. Councillor Mac Cafferty also referred to the fact that a condition had been applied to other applications where the developer had undertaken to replace trees/planting provided if it did not flourish, for a period of 5 years following completion of a development, enquiring whether a similar condition could be applied in this instance. Councillor Mac Cafferty referred to the proposed parking arrangements and to the concerns expressed by residents and the Local Ward Councillors at the impact which could arise as a result of additional vehicles and vehicular movements, and, whether consideration could be given to making the development car free or converting some of the existing bays to "Pay and Display". It was explained that the proposed development did not meet the criteria for being car free or for "Pay and Display" to be invoked. It had been assessed that if a maximum of 15 residents were to be issued with permits that a harmful situation would not result and it was recommended that a condition be applied to any permission granted to ensure that was the case.
- (17) Councillor Mac Cafferty enquired regarding the materials and finishes proposed which would be associated with a prominent development within the conservation area. It was explained that as a result of the discussions which had taken place it had been considered to provide a building which was complimentary to rather than a pastiche of its neighbours.
- (18) Councillor Hyde referred to the height of the proposed buildings, as this appeared to be one of the main issues of concern, she sought clarification regarding whether if the number of units were to be reduced the scheme would remain viable. The Legal Adviser to the Committee, Hilary Woodward, stated that the application needed to be determined as put forward.

### **Questions of Officers**

- (19) Councillor Daniel also asked regarding the mix of units and access arrangements to the site and whether it would be possible to provide all of the parking on-site. It was confirmed that the scheme before the Committee had been prepared following detailed discussions and was considered to present the best mix of what could be provided overall.
- (20) Councillor Littman referred to the external amenity space (communal garden) asking whether that would be exclusively for use by those living in the development and it was confirmed that was so. Councillor Littman stated that it was clear that a number of challenging issues had needed to be addressed in order to bring the application forward.

- (21) Councillor Robins referred to the lightwell which had been referred to seeking further clarification. It was confirmed that this was a scenario which was common across the city and that the depth of the light wells was considered sufficient to allow acceptable light and outlook and would provide external amenity space for the future occupiers. In respect of cycle storage arrangements revised details were required to ensure that an adequate standard was required
- (22) Mr Amarena, CAG, referred to the objections which had been put forward by CA, detailed comments had been submitted regarding the sensitive and significant character of this part of the seafront, not all of which appeared to have been taken up in the officer report He was concerned that the Conservation Officer may not have considered the Impact on Second Avenue as it was not included in the officer summary. He sought confirmation regarding the issues considered. The Planning Manager, Applications, Nicola Hurley, responded explaining that whilst details of the areas considered were summarised in the report issues were looked in depth including the responses received from the consultation process.
- (23) Councillor C Theobald asked to see drawings and plans indicating the location of the frontage of the building and the degree of set back and the gaps between them in relation to the neighbouring dwellings. Councillor Theobald also referred to the open spaces and works proposed to the railings asking for clarification of how the s106 monies would be spent. The Legal Adviser to the Committee, Hilary Woodward, confirmed that the criteria for allocation of s106 monies and the amounts which could be used were set out in the s106 Technical Guidance but would be allocated following the appropriate consultations.
- (24) Councillor O'Quinn sought more information regarding the potential impact of overlooking from balconies and the materials proposed including those for rails and balustrades and the location of obscure glazing if any was to be provided.
- (26) Councillor Mac Cafferty referred to the viability of the scheme and sought confirmation regarding why energy efficiency/energy saving measures had not been maximised. It was explained that as that would need to be taken up under the maintenance charging arrangements, this had not been considered appropriate especially in relation to the affordable units.
- (27) Councillor Mac Cafferty referred to the open space arrangements/planting, referring to the wind tunnel effect which could occur in that location asking that full consideration be given to the impact that could have. Councillor Mac Cafferty asked if that could be revisited to ensure that it was suitably robust.
- (28) Councillor Mac Cafferty reiterated his concerns regarding the level of parking to be provided by the scheme, enquiring whether this issue could be revisited in future, stating that his preference would be for the development to be car free and residents to be unable to hold parking permits as he was aware that had been used in connection with other schemes. The Legal Adviser to the Committee, Hilary Woodward, stated that it was not possible to do so and that the development did not meet the test for being car free and that the requirement that eligibility would be limited to 15 permits had been recommended as a condition of grant. The Development Transport Assessment

Manager, David Farnham, also confirmed in relation to the removal of pay and display arrangements that none of the thresholds had been met.

- (29) Councillor Miller sought clarification of how the parking would be allocated and whether/how that would be allocated between the affordable and market units.
- (30) Councillor Mac Cafferty also referred to the conditions relating to glazing particularly in relation to the balconies which would be located closest to the neighbouring residential properties; details of this and the proposed finishes were provided and it was confirmed that Condition 12 could be amended should Members wish to do so.
- (32) Councillor Gilbey asked whether as the percent of affordable housing proposed was lower than would usually be required whether a commuted sum could be sought and it was confirmed it could not. Councillor Gilbey also asked whether the block fronting Second Avenue would be at an angle to its neighbours and it was confirmed it followed the building line.
- (33) It was confirmed that the expenditure of the s106 contributions would be agreed in consultation with the relevant Ward Councillors and relevant officers.

#### **Debate and Decision Making Process**

- (34) Councillor Miller stated that whilst loss of the office was regretted he was persuaded on balance that this would represent a good use of the site which would provide much needed housing and he supported it; subject to amendments to Condition 12 which would ensure that materials were agreed in consultation with the Chair, Deputy Chair and Opposition Spokespersons, to include the balcony treatments.
- (35) Councillor C Theobald concurred in that view, whilst she would have preferred more on-site parking, overall the scheme was acceptable and would provide much needed housing.
- (36) Councillor Littman considered that on balance the benefits of the scheme outweighed any potential harm and although he would have preferred the blocks to be lower in height he would support the officer recommendation.
- (37) Councillor Mac Cafferty stated that it was clear that a lot of work had been undertaken in bringing the scheme to its current point and that officers had pushed very hard. He was disappointed in respect of some elements of scheme which he regarded as a missed opportunity but provided that the amendments suggested were agreed he was willing to support the proposal.
- (38) Councillor Hyde agreed with all that had been said, not least that she would have preferred the buildings to be lower in height but was prepared to support the officer recommendation.
- (39) Councillors Gilbey and Robins confirmed that they would be voting in support. Councillor Gilbey stated that the scheme brought to Committee now was significantly improved on that which had originally been put forward at the pre-application stage.



- (40) Councillor O'Quinn stated that she supported the application, although she had some reservations regarding the close proximity to neighbouring blocks of some elements of the scheme which would result in a degree of overshadowing. She also had doubts regarding how "affordable" the affordable element of the scheme would be.
- (41) Councillor Bennett, whilst concurring with much of what had been said, had concerns regarding the height of the blocks and the potential for overlooking and loss of light to some of the existing properties stating that she would therefore abstain.
- (42) Councillor Cattell, the Chair, commended the scheme and the hard work which had been put in by officers in helping to progress the scheme. There were a number of constraints and challenges and it was pleasing to see that there was now an affordable element to the scheme where originally there had been none; she would be voting in support of the officer recommendation.
- (43) A vote was taken and on a vote of 10 with 1 abstention the 11 Members present when the vote was taken voted that minded to grant planning approval be given in the terms set out below.

65.1 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves that it is **Minded to Grant** planning permission subject to a s106 Planning Obligation and to the conditions and informatives also set out in the report and to the amended and additional conditions set out in the Late/Additional Representations List; save that should the s106 Planning Obligation not be completed on before 27 February 2019, the Head of Planning is authorised to refuse planning permission for the reasons set out in section 9 of the report. This included the requirement that officers be required to consult with Members at a Chair's meeting on material including those to be used for the balcony treatments.

## **B BH2018/00869 - King's House, Grand Avenue, Hove - Listed Building Consent**

Demolition of existing office building (B1) fronting Grand Avenue. Conversion of existing (B1) building fronting Queens Gardens to 69no dwellings (C3) with associated alterations and extensions. Erection of a 10 storey building over basement carpark comprising of 72 flats on Grand Avenue and erection of a 6 storey building comprising of 28 flats on Second Avenue. Associated underground parking, landscaping, cycle storage, bins and recycling points. (Amended Description)

- (2) A vote was taken and the 11 Members who were present when the vote was taken voted unanimously that listed building consent be granted.

65.2 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** Listed Building Consent subject to the Conditions and Informatives also set out in the report.

## **C BH2018/02404- Varndean College, Surrenden Road, Brighton- Full Planning**

Relocation of 2no modular classroom blocks and erection of a two storey Science, Technology, Engineering and Mathematics (STEM) centre with associated cycle parking and landscaping alterations (part retrospective).

### **Officer Presentation**

- (1) The Planning Officer, Stewart Glassar, introduced the application and gave a detailed presentation by reference to photographs, site plans and elevational drawings detailing the proposed scheme. It was noted that the application was seeking permission for the relocation of 2no modular classroom blocks and the erection of a specialist two storey Science, Technology, Engineering and Mathematics (STEM) building including 4 science labs and 6 teaching classrooms, with associated cycle parking and landscaping alterations. The objective was to provide fit for purpose permanent teaching space.
- (2) The main considerations in determining this application related to the principle of the scheme, design and visual impact, impact on neighbouring amenity, highways and ecology issues. In terms of visual impact there was no objection to the relocation of the temporary classrooms to the east of the site. As the potential increase in student numbers was up to 20 it was not considered that the development would result in significant noise disturbance above that already existing, nor was it considered that the fact that the relocated temporary classrooms would be slightly closer to properties in Friar Walk and Friar Crescent that that would cause significant nuisance in terms of increased activity and noise. The proposed STEM building represented the first phase in the delivery of a wider masterplan proposal to provide improved permanent teaching accommodation, enabling the removal of the existing cluster of temporary teaching space on site, much of which was now coming to the end of its functional life. Longer term masterplan proposals on site would seek the provision of a new 'horseshoe-shaped' building to complete the masterplan and enable the removal of temporary buildings from the site. However it is uncertain when this application will be forthcoming as it is dependent on future funding.
- (3) The main considerations in determining this application related to the principal of the scheme, design and visual impact, impact on neighbour amenity, highways, sustainability and ecology issues. Whilst generally, loss of open space was to be resisted, due to its typography the area which would be lost comprised as well as the clusters of temporary classrooms, a grassed area which due to its sloping nature was at a lower level than the adjoining playing field. This area of the school grounds also appeared predominantly to consist of pathways between the main building and the temporary classrooms themselves. The relocated temporary classrooms would bring the temporary buildings slightly closer to the properties in Friar Walk and Friar Crescent. However, given that they were still in excess of 40m from the boundary of the rear gardens of these properties, it was not considered that they would cause a significant nuisance in terms of increased activity and noise. A minimal (potentially up to 20) increase in student numbers was proposed; therefore it was considered that the development should not result in significant noise disturbance above that already existing.
- (4) The Council's Highways team had no objections to the scheme in principle. Access to the site would remain unchanged; no additional car parking spaces had been included;

and extra cycle parking provision was proposed, all of which is deemed acceptable. The Highways team had recommended however that a trip generation assessment was resubmitted based on the increase in floor space, to accommodate potential future increases in students; This had been requested and additionally the report recommended that an updated travel plan was requested as a condition of permission being granted. Also, that there needed to be a financial contribution for transport. Overall, the proposals were considered to be acceptable and approval was therefore recommended.

### **Public Speakers**

- (5) Mr J Davies of “Keep Varndean Green” and Mr Muzio spoke on behalf of neighbouring residents setting out their objections to the scheme. In the view of objectors the proposed STEM building would encroach on the area for which Asset of Community Value status had been applied. No decision on this application should be taken until that had been decided. It was not considered that sufficient information had been provided in that the Design and Access Statement was not sufficiently detailed and that no further applications should be determined until the college had submitted a Masterplan which stakeholders could comment upon. They were in agreement that the application was contrary to the city plan and did not agree that the space on which the temporary structures had been located was unusable space, that notification of the application had not been sent to adjoining residences as it should have been and that it represented unnecessary expansion by the college.
- (6) The Democratic Services Officer, Penny Jennings, read out a statement on behalf of Councillor Taylor one of the Local Ward Councillors for Withdean who was unable to be present setting out his objections to the scheme. Councillor Taylor stated that whilst recognising the important contribution made by the college he considered that the strategic importance of the college needed to be carefully balanced with the needs and concerns of the local community. The green space provided was very important and for many months the local community had led an application for parts of the field to be listed as an Asset of Community Value. This development was just one part of the jigsaw and needed to be carefully considered in a full strategic way. The huts this space replaced would otherwise have been green space, this would now be permanently lost. As there were two other applications being made in respect of the site he considered that they needed to be considered in a more holistic way. He considered that the application should be refused due to loss of open space CP10 and CP16 and due to the ridge height of the proposed building.
- (7) Mr Harland, the Principal of Varndean College, spoke on behalf of the applicants in support of their application. He explained that the proposals were the next stage in the college’s plans to improve its facilities and that they were intended particularly in relation to the new STEM block to update and improve the current outdated facilities but would not result in significant increases to current student numbers nor would they generate additional numbers.
- (8) Councillor Hyde sought clarification regarding use of the of public access to the space and it was confirmed that the area adjacent to the college was not public space but that the public were permitted access to it. The location of the proposed new structures and their distance from the nearest residential dwellings was confirmed. It was also

confirmed that when the college building works had been completed all temporary structures would be removed.

### **Questions of Officers**

- (9) Clarification was sought of the area of the application site which could be impacted by the application site of the Asset of Community Value Status. The Legal Adviser to the Committee, Hilary Woodward, explained that the ACV nomination had not yet been determined so was not capable of being a material planning consideration. In any event it was noted that that part of the application needed to be considered on its planning merits and it would not be appropriate for it to be delayed pending any future decision on the ACV nomination.
- (10) In answer to questions by Councillor Littman it was confirmed that no trees in residential roads nearby and the accompanying planning application confirmed that no trees on site would be effected by works to the roadway which was located to the north of the site.
- (11) In answer to further questions of the Chair regarding the status of the green space at the college it was confirmed that it was open space in the ownership of the college to which the community were permitted access.

### **Debate and Decision Making Process**

- (12) Councillor Miller stated that the proposals which would improve the facilities available to students attending the college were welcomed. He did not consider in view of the gradient of the site that they would have a detrimental impact on neighbouring residential properties. He hoped that further funding would be forthcoming in order to enable all of the intended works to be completed.
- (13) Councillor C Theobald expressed her support for the scheme which would enhance the facilities currently available to students.
- (14) Councillor Hyde, supported the scheme considering that it might be appropriate for public access to be revisited.
- (15) Councillor O'Quinn supported the scheme but hoped that it would be possible for the public to continue to have use of the green space surrounding the college.
- (16) Councillor Gilbey, welcomed the scheme stating that she considered that it was vitally important that the existing facilities and STEM building were updated as proposed.
- (17) Councillor Cattell, the Chair, welcomed the scheme stating that there was an identified need for the improvements proposed. Given the location of the proposed building and the fact that it would be located in a dip she did not consider that it would have a detrimental impact, including in respect of the open space; noting that it was intended that all of the temporary buildings on site were eventually to be removed.

(18) A vote was taken and the 10 Members of the Committee who were present when the vote was taken voted unanimously that Minced to Grant Planning Permission be granted.

65.3 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and are **MINDED TO GRANT** planning permission subject to the completion of a s106 planning obligation to secure a transport contribution of £19, 522 and to the conditions and Informatives also set out in the report.

**Note:** Councillor Mac Cafferty was not present at the meeting during consideration or determination of the above application.

#### **D BH2018/01894- 1A Marmion Road, Hove- Full Planning**

Application under S73a for variation of condition 2 of BH2015/01278 (Demolition of existing warehouse (B8) and erection of 4no two/ three storey residential dwellings (C3) and offices (B1).) (allowed on appeal) to allow amendments to the approved drawings (part retrospective).

#### **Officer Presentation**

- (1) The Principal Planning Officer, Stewart Glassar, introduced the application and gave a presentation by reference to photographs, site plans and elevational drawings detailing the proposed scheme.
- (2) It was noted that this represented an application under S73 a for variation of condition 2 of BH2015/0278 (allowed on appeal) to allow amendments to the approved drawings (part retrospective). The development had been constructed with various deviations from the approved plans. Following a Planning Enforcement investigation, the applicant was seeking to regularise those amendments. It had been explained by the applicant that there appeared to be a discrepancy between the Ordnance Survey and the topographical survey drawings in relation to the neighbouring property 1a Marmion Road in that the 1:200 block plan as taken from the O.S. map did not show the canopy or projecting bay window and rather, showed the house frontage flat on the forward line following its gable roof. This was considered to be a reasonable explanation and that any slight deviation (if any) was very minor and did not impact on the acceptability of the scheme in general and approval was therefore recommended.

#### **Public Speakers**

- (5) Councillor Nemeth spoke in his capacity as a Local Ward Councillor setting out his objections to the proposed amendments to the scheme. Councillor Nemeth displayed photographs which in his view indicated that the development had not been built in compliance with the permission, and that what was now on site extended beyond the agreed footprint. In consequence the development was cramped and in consequence of that the trees originally proposed could not be accommodated and would not have survived. The development had been permitted on appeal and he did not feel that the requirements imposed by the Planning Inspector as a condition of grant of planning permission had been respected, which was very disappointing. For example use of

yellow brick had been stipulated but the dwellings erected on site had been constructed of red brick.

- (6) The Democratic Services Officer, Penny Jennings had received a statement submitted on behalf of the applicants in support of their scheme. However, this was not read out to the Committee as Members decided to defer consideration of the application in the absence of the applicant/agent who having been unable to attend were unable to answer any questions they had relating to the present form of the development now erected on site.

### **Questions of Officers**

- (7) Councillor Bennett sought confirmation whether the dwellings were now occupied and Councillor Nemeth confirmed that he was aware that some of them were.
- (8) Councillor Littman, considered that it appeared that the buildings erected on site may have been located in too close proximity to the site boundaries and that the driveways were too long; it would be helpful for those matters to be clarified.
- (9) Councillor Miller stated that if the situation was as indicated it was regrettable that this had not been picked up an earlier stage. He was of the view that there would be merit in deferring further consideration of the application in order to assess whether what had been built on site complied with or contravened the conditions imposed by the Planning Inspector and whether/how any errors could be addressed.
- (10) Councillor Cattell, the Chair, stated that she was also minded to recommend that consideration of the application be deferred in order to ascertain whether the development had been built in accordance with the agreed plans and for members to have the opportunity to ask questions of the applicant/agent. The Legal Adviser to the Committee, Hilary Woodward, advised that if Members were of the view that they required additional information or for issues to be clarified in order to determine an application then it was appropriate for it to be deferred. It appeared that Members required clarification that what had been built accorded with the submitted plans. Councillor Cattell stated that in her view it would be beneficial to establish whether the footprint of the building had "shifted" and whether it had been erected in the correct position. It was important for the enforcement team to establish what had been approved by the Planning Inspector and to what extent the Ward Councillors assertions were correct regarding the scheme as built.

### **Decision to Defer Consideration of Application**

- (11) Members had further discussions in consequence of which Members were in agreement that consideration of the application be deferred in order for a site visit to take place and for the Committee to be provided with greater clarity on whether the buildings have been built correctly.
- (12) Members also requested greater clarity regarding why the previous application had been refused and what the Inspector said in upholding the application on appeal with conditions. Also, greater detail regarding possible differences between what had been approved and what had been built, details of distances from edge of the pavement to

the buildings (distance of car park area), the total length of the building and the total site length. Input by the Principal Planning Officer with responsibility for enforcement would also be beneficial.

- (13) A vote was taken and the 10 Members present when the vote was taken voted unanimously that consideration of the application be deferred pending resolution of the matters they had raised.

65.4 **RESOLVED** – That consideration of the above application be deferred in order to enable the matters raised and information sought by the Committee to be clarified and confirmed as set out above.

**Note:** Councillors Inkpin – Leissner (who did not attend the Committee) and Mac Cafferty were not present at the meeting during consideration or voting in respect of the above application.

## **E BH2018/00433 -28A Crescent Road, Brighton - Full Planning**

Variation of condition 1 of application BH2016/00862 (Part demolition and conversion of existing commercial buildings and erection of two new buildings to provide 4no two bedroom houses (C3) with associated landscaping) to allow amendments to approved drawings

### **Officer Presentation**

- (1) The Principal Planning Officer, Jonathan Puplett, introduced the application and gave a presentation by reference to drawings, plans and elevational drawings which detailed the proposed scheme. Plans and drawings were shown highlighting the differences between the scheme for which there was extant permission and the amended scheme as now proposed.
- (2) It was noted that the principle of part demolition and conversion of the existing commercial building and erection of two new buildings to provide 4no two bedroom houses (C3) with associated landscaping on the site had already been established by the previous consent BH2016/00862. The main considerations in determining this application related to the acceptability of the variation of condition 1 of application BH2016/00862 to allow amendments to the approved drawings. Additionally, it was necessary to take into account any changes since the approved scheme in respect of policy or other material considerations. The revisions proposed were considered acceptable overall and it was not considered that they would result in loss of amenity, overlooking or loss of privacy due to the boundary treatment proposed. It was not considered that the proposal to add additional bedrooms to create 4no 3 bedroom dwellings would result in an excessive increase in noise or disturbance or an over intensification of the site. The proposed changes would not alter the comments and recommended conditions made with the original application and approval was therefore recommended.

### **Questions of Officers**

- (3) Councillor Hyde sought clarification of the location of the proposed window openings and sought confirmation regarding any overlooking of neighbouring buildings which might occur. The differences between the previous and proposed scheme were explained and it was confirmed that there would be no harmful impact to neighbouring properties and no significant changes to the exterior appearance of the proposed buildings overall. The aspect onto Belton Road remained unchanged, three windows had been removed and relocated elsewhere within the scheme.
- (4) Councillor Cattell, the Chair, sought clarification that the bathrooms, which would be smaller than under the previously approved scheme would meet building control regulations. The Chair stated that she was pleased to note that the proposals would result in three-bedroom units of which it was acknowledged that there needed to be greater provision.
- (5) Councillor Littman referred to the conditions of the extant permission and it was confirmed that a number of these had already been discharged, including Condition 12. Councillor Littman also sought confirmation as to whether if the proposed scheme had been submitted as a new application it would have been considered acceptable and it was confirmed that it would.

#### **Debate and Decision Making Process**

- (6) Councillor Miller stated that whilst he was concerned that some of the bedrooms would fall below recommended minimum standards, overall he considered that the proposed scheme was acceptable. He accepted that there were limitations to the access arrangements which could be put in place in view of the gradient of the site.
- (7) A vote was taken and the 5 Members of the Committee who were present when the vote was taken voted unanimously that planning permission be granted.

65.5 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to grant planning permission subject to the Conditions and Informatives also set out in the report.

**Note:** Councillors Bennett, Daniel, Gilbey, Inkpin-Leissner (who did not attend the meeting), Mac Cafferty, O'Quinn and Robins were not present at the meeting during consideration of the above application and during the voting thereon.

#### **F BH2018/01687- Garage North East of 28 Holland Mews, Hove- Full Planning**

Demolition of existing garage and erection of 1 no two bedroom dwelling.

#### **Officer Presentation**

- (1) The Principal Planning Officer, Stewart Glassar, introduced the application and gave a detailed presentation by reference to photographs, site plans and elevational drawings detailing the proposed scheme. It was noted that the application site related to a single storey garage in a predominantly residential street within the Brunswick Town Conservation Area. Although the building was not listed within its own right, it lay to the rear of 29 Lansdowne Place (listed grade II). The application sought planning



permission for demolition of the existing garage and the erection of a two bedroom, three-storey dwelling with two rear dormers in the loft space. Although the roof space was indicated as use for storage it would be reasonable to assume that the addition of two rear dormers would enable its use as an additional bedroom, resulting in a three bedroom dwelling.

- (2) It was noted that the main considerations in determining this application related to the loss of the existing garage, the design of the proposed building and its impact on the character and appearance of the Brunswick Town Conservation Area, on neighbouring amenity, the standard of accommodation provided by the proposal and sustainability. The principle of redevelopment of the site had already been accepted by the Local Planning Authority when permission to erect a new building had been granted in 2016. There had been no changes in circumstance since that previous approval to indicate that the principle of a dwelling was no longer acceptable. The Heritage Team had confirmed that in their view the original historic fabric of the building had been lost when it had been converted to a garage in the 1920's/30's and that the historic significance of the garage had been negatively impacted as a result.
- (3) The proposal would result in replacement of a single storey building with a two storey building. However, it was not considered that the additional height of the building would result in any significant harm in terms of loss of light, outlook or an overbearing impact as it would adjoin buildings of a similar height and depth. The rear addition would be sufficiently screened from the properties to the south by the boundary wall. Given the height of the boundary as well as the fact that the bulk of the dwelling had been set back from the shared boundary, it was considered that any impact would not be significant, nor lead to loss of amenity. Whilst there would be some overlooking as some mutual overlooking already occurred within the immediate vicinity it was considered that there would no significant harm to the amenity of neighbouring properties, in addition, permitted development rights had been removed to protect neighbouring amenity/privacy and approval was therefore recommended.

#### **Questions of Officers**

- (4) Councillor C Theobald asked if the proposed development would be located in the garden of the neighbouring house, also asking to see photographs of the neighbouring street scene in order to ascertain the appearance of those buildings with particular reference to the roof scape. In answer to further questions it was confirmed that although 29 Lansdowne Place was grade two listed this was not and fell outside its curtilage. Whilst it was understood that the existing building had once formed part of 29 Lansdown Place it had become separated from it some time ago and the parcel of land on which it stood was now completely detached from it.
- (5) Councillor Hyde asked for confirmation that approval was already in place for demolition of the existing building and it was confirmed that it was.
- (6) Mr Amarena, CAG, asked for clarification that this was the last remaining building of its period located in the Mews, asking to see photographs of it and the brickwork used in its the construction in the context of the other buildings located in Holland Mews. The Principal Planning Officer, Stewart Glassar, explained that as this building had become detached from the host building to which it had originally been subservient some time ago and had also been much altered a number of years previously it was not

considered of sufficient merit to be retained as those earlier modifications had altered it such that its original appearance had been lost.

- (7) Councillor Miller sought further clarification in regard to the sub-division of the original plot with which the application site had been associated, enquiring whether the listing of the original host building could also include this one. The Legal Adviser to the Committee, Hilary Woodward, stated that was not the case as the application site was not within the building's curtilage.

### **Debate and Decision Making Process**

- (8) Mr Amarena, CAG, re-iterated the objections received from CAG that this was the last remaining original coach house in Holland Mews which served to illustrate how this mews had once looked. Considering that it was unacceptable that there had been no effort to convert this fine example of equestrian architecture which would now be lost.
- (9) Councillor C Theobald stated that she considered the loss of this building was regrettable and that proposed to replace it was less in keeping with the neighbouring street scene.
- (10) Councillor Hyde was of the view that loss of the existing building had already been established by the earlier planning permission. Councillor Miller concurred in that view.
- (11) A vote was taken and the 5 Members who were present when the vote was taken voted 4 to 1 that planning permission be granted.

65.6 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives also set out in the report.

**Note:** Councillors, Bennett, Daniel, Gilbey, Inkpin-Leissner (who did not attend the meeting), Mac Cafferty, O'Quinn and Robins were not present during discussion or voting in respect of the above application.

### **G BH2018/02638- 4 The Park, Rottingdean, Brighton- Householder Planning Consent**

Remodelling of existing property incorporating a single storey side extension and creation of a first floor.

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.

### **Officer Presentation**

- (2) The Principal Planning Officer, Jonathan Puplett, introduced the report and gave a presentation by reference to photographs, site plans, drawings and elevational drawings detailing the proposed scheme and its constituent elements, views across the site and showing the immediate vicinity were also shown.

- (3) It was noted that several previous submissions had been made in respect of the application site. Under BH2018/00474 a scheme had been proposed which was similar in nature to the current proposal. A two storey appearance with curved features and full height glazing to the rear at ground and first floor was proposed. This scheme was refused on the grounds that the bulk and flat roof form of the dwelling would be out of keeping with the character of the street scene. Furthermore the bulk was considered to cause a harmful impact upon neighbouring amenity along with increased overlooking from the proposed full height glazing. Following that decision, a duplicate application had been submitted, ref. BH2018/01360 which the council had declined to determine as the council had already set out their position in the refusal of the first application, and the applicant had the right of appeal.
- (4) Following that decision, the applicant had engaged in pre-application discussions on a revised proposal which was an improvement over the previous scheme in that it did retain an element of a pitched roof form; however side gables were proposed along with large flat roof block forms at first floor level to front and rear. The concerns raised at the time of the previous application regarding loss of spacing to the side boundaries of the site and impacts upon neighbouring amenity had not therefore been successfully addressed. That advice had not been followed, as the current application returned to the design style of the original proposal, of flat roof two storey form, a design which the council has previously confirmed is not appropriate due to the relationship of the site with neighbouring properties to either side and the character of the wider street scene. Furthermore a significant increase in bulk was still proposed along with full height glazing to the rear of the property which the council had previously confirmed would cause harm to the amenity of neighbouring properties to either side. The rear elevation included large areas of new full height glazing at first floor level and it was considered that the outlook from the full height windows would result in an unacceptable potential for overlooking and consequent loss of privacy to neighbouring properties on The Park, and to a lesser extent properties on Grand Crescent and Lehman Road West. That impact would be increased by the elevated position of the application property relative to the rear gardens of neighbouring houses, and to the houses to the rear.
- (5) The main considerations in determining the application related of the appearance of the proposed development and its impact on the amenity of neighbours. For the reasons set out in the report it was recommended therefore that the application be refused.

### **Public Speakers**

- (6) Councillor Mears spoke in her capacity as a Local Ward Councillor detailing her support for the scheme as set out in her letter which had been circulated with the officer report. Councillor Mears stated that she believed that the proposed development was suitable for the site in terms of size, and that it was in keeping with the surrounding areas, from the green in The Park a mix of different properties could be observed, family homes and bungalows with roof extensions. The application was supported by residents living nearby and she did not consider that it would be out of keeping with developments already given permission in the area which had an art-deco feel. Planning permission was being sought for this development and she considered that works which could be executed under permitted development could have a far more detrimental impact.

- (7) Mr Knight, the applicant spoke in support of his application. Mr Knight explained that he had lived at the property with his family for some three years and that they had now outgrown the existing space but wished to stay in the area. Having looked at various design options, which included re-modelling of the existing building they considered that the option put forward using a modern art deco style would enhance the open space in front of the dwelling houses in The Park, was a positive enhancement and was less intrusive than similar treatments which could be seen in the locality (slides indicating where these were located were shown). There were a number of other two-storey buildings and therefore a degree of mutual overlooking. The proposed development would be set forward from its neighbours in order to address this and advice provided by officers had been heeded and with the height and depth of the balcony reduced to address concerns raised. The proposed design had received a lot of support and praise locally.
- (8) Councillor Hyde asked whether given that a pitched roof seemed to be one of the main areas of contention how the applicant had sought to address that. Mr Knight stated that various options had been pursued which would provide his family with the additional space that they required included a gable rather than a flat roof. This had been rejected and so the current scheme had been devised.
- (9) Councillor Miller asked whether the option of constructing a shallow pitched roof had also been considered. Mr Knight confirmed that it had, but however, that had also been considered unacceptable. Councillor Miller also enquired regarding the differences between what could have been achieved as permitted development and by seeking planning permission. Mr Knight explained that various options had been considered during the application process.
- (10) Councillor Bennett asked whether discussions had taken place with the Planning Department and it was confirmed that they had.
- (11) Councillor Cattell, the Chair, stated that Members were required to consider whether the reasons for refusal attached to the previous application had been overcome, including consideration of how the proposed form of development would sit at this location. This was very similar to the previous refused application and in order for the reasons for refusal to set aside it should be demonstrated that they had been addressed.

### **Questions of Officers**

- (11) Councillor Hyde sought further clarification regarding discussions which had taken place regarding the proposed form of development, the planning history, differences between this scheme and the one which had previously been refused and what would be permitted under permitted development. It was explained that what would be allowed as permitted development was difficult to ascertain as this had not been sought, permitted development would however have applied to a more modest scheme which would have a less significant impact on the neighbouring dwellings than would result from this scheme.
- (12) Councillor Littman also sought confirmation regarding the differences between the current and previous schemes, stating that he was concerned that the differences

between this and the previously refused application appeared to be minimal; the development would be situated very close to the boundaries with the neighbouring properties.

### **Debate and Decision Making Process**

- (13) Councillor's Hyde and Miller stated that in their view the proposals were acceptable given the diverse building styles within the area and did not consider it to out of keeping with the neighbouring street scene where there was no prevailing style as variety of family homes and extended bungalows could be seen. There was a degree of mutual overlooking already and they did not consider that the proposal would worsen that.
- (14) Councillor O'Quinn stated that a similar situation could be observed in parts of her own ward where a variety of building styles could be observed. She did not consider the proposed scheme was unacceptable and would be voting that planning permission be granted.
- (15) Councillor Daniel stated that she had looked at the varied building heights and styles in the vicinity. A number had a similar bulk and height to that proposed and she did not consider that it would have a detrimental impact.
- (16) Councillor Littman stated that whilst sympathetic to the needs of the applicant's growing family he concurred with the view of officers and the parish council that the resulting development would sit too close to the neighbouring properties and that he could not therefore support it.
- (17) Councillor C Theobald stated that she was of the view that the proposed development would be far too cramped on the site and was unacceptable as it would be too close to the boundaries of the neighbouring properties.
- (18) Councillor Gilbey, stated that having carefully considered the proposed development in the context of other developments nearby, on balance she would be voting that planning permission be refused. app
- (19) Councillor Cattell, the Chair, stated that in her view regrettably she did not consider that the previous reasons for refusal had been addressed. Notwithstanding that the proposed development was attractive and of a good design in her view it was not appropriate in its proposed location and would be located far too close to the neighbouring residential developments and would therefore be supporting the officer recommendation that the application be refused.
- (20) A vote was taken and on a vote of 5 to 5, (of the 10 Members present when the vote was taken), the Chair then used her casting vote, stating that she remained of the view that the proposed form of development was unacceptable. Planning permission was therefore refused on the Chair's Casting Vote.
- 65.7 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to refuse planning permission also for the reasons set out in the report.

**Note1:** Councillors Bennett, Daniel, Hyde, Miller and O'Quinn voted that planning permission be granted. Councillors Cattell (Chair), Gilbey, Littman, Robins and C Theobald voted that the application be refused. The Chair used her casting vote and on her casting vote planning permission was refused.

**Note 2:** Councillor Mac Cafferty was not present at the meeting during consideration of the above application or when the vote was taken.

## **H BH2018/00133 - Land Rear of 1-3 Clarendon Terrace, Brighton- Full Planning**

Erection of 1 no single storey two bedroom dwelling (C3), lowering of ground level and associated works.

### **Officer Presentation**

- (1) The Planning Officer, Stewart Glassar, introduced the scheme and gave a detailed presentation by reference to photographs, site plans and elevational drawings. The officer presentation covered the planning and listed building applications. It was explained that the site related to a narrow strip of land situated behind 1-3 Clarendon Terrace which was a Grade II listed building located in the East Cliff Conservation Area. The plot, a grassed area was currently vacant and not in use. Historically it was likely that this area would have formed the garden area associated with the lower ground floor flats at 1-3 Clarendon Terrace, although now separated from those properties by the existing boundary fence. The site was surrounded by six-storey terraced properties and was predominantly residential in character.
- (2) The main considerations in determining the application related to the principle of the development, the visual impact of the development on the character and appearance of the East Cliff Conservation Area and on the wider street scene, the impact upon the adjacent listed building, the standard of accommodation to be provided, any potential impact on the amenities of neighbouring properties, transport and sustainability issues. The current revised scheme had sought to address previous concerns and would be a single storey in height and would be sunken into the site. The height of the dwelling would not exceed the height of the existing boundary fence between the application site and 1-3 Clarendon Terrace. As such the scheme would not result in loss of outlook for 1-3 Clarendon Terrace and had overcome the previous reasons for refusal, the dwelling had also been designed to avoid loss of privacy or overlooking to the adjoining occupants nor, given the height of the existing boundary fence would it result in loss of light to the rear of the adjacent properties; approval was therefore recommended.

### **Questions of Officers**

- (3) Councillor C Theobald enquired regarding the time that it had taken to bring the application forward and regarding the height of the development as currently proposed, notwithstanding that it would be sunk down into the site. Clarification was also sought regarding whether any element of it would be located closer to the site boundary.
- (4) Councillor Miller enquired regarding the materials and finishes proposed and it was confirmed that these were the subject of conditions 10, 11 and 12 as proposed.

- (5) Mr Amarena, CAG, sought details of the fenestration proposed and its location in relation to the neighbouring sites. Elevational drawings were shown indicating their location and that of the sliding doors to the outside patio area.

### **Debate and Decision Making Process**

- (6) There were no further questions and Members indicated that they wished to move straight to the vote.
- (7) A vote was taken and the 5 Members who were present when the vote was taken voted unanimously that planning permission be granted.

65.8 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to grant planning permission subject to the Conditions and Informatives also set out in the report.

**Note:** Councillors, Bennett, Daniel, Gilbey, Inkpin-Lessner (who did not attend the meeting), Mac Cafferty, O’Quinn and Robins were not present during consideration of the above application or when the vote was taken.

### **I BH2018/00134 - Land Rear of 1-3 Clarendon Terrace, Brighton - Listed Building Consent**

Erection of 1no single storey two bedroom dwelling (C3), lowering of ground level and associated works.

- (1) A vote was taken and the 5 Members who were present when the vote was taken voted unanimously that listed building consent be granted.

65.9 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** Listed Building Consent subject to the Conditions and Informatives also set out in the report.

**Note:** Councillors, Bennett, Daniel, Gilbey, Inkpin-Leissner (who dd nt attend the meeting), Mac Cafferty, O’Quinn and Robins were not present during consideration of the above application or when the vote was taken.

### **J BH2018/00659- Blocks E & F Kingsmere, London Road, Brighton - Removal or Variation of Condition**

Variation of condition 2, 3 and 6 of application BH2016/00254 (Application for removal of condition 6 of application BH2015/02713 (Roof extension to Blocks E & F to provide 8no flats each with own private roof garden) which states that the development shall not be occupied until Building Regulations Optional Requirement M4(2) has been obtained.) to allow amendments to approved drawings.

### **Officer Presentation**

- (1) The Principal Planning Officer, Jonathan Puplett, introduced the application by reference to site plans, elevational drawings and photographs detailing the proposals. It was noted that the application sought permission to amend the approved scheme for an additional storey on the blocks. It was proposed to increase the footprint of the roof extension, alter the fenestration and for the extension to be finished in render. In addition to amending the list of drawings (condition 2 of the previous permission), this would also necessitate amending conditions 3 which related to the materials to be used and condition 6 which referred to a previously approved floorplan. The main issues in determining the application were the planning history of the site, the appropriateness of allowing amendments to the approved drawings and the subsequent impact of those amendments on the design and appearance of the host building and wider area as well as the amenity of neighbouring properties. Overall, the proposals were considered acceptable and it was recommended that permission be granted.
- (2) The Committee moved straight to the vote and the 5 Members present when the vote was taken voted 4 to 1 that planning permission be granted.
- 65.11 **RESOLVED** – That the Committee has taken into account and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives also set out in the report. Condition 7 to be amended as set out in the Additional/Late Representations List.

**Note:** Councillors, Bennett, Daniel, Gilbey, Inkpin-Leissner (who did not attend the meeting), Mac Cafferty, O’Quinn and Robins were not present at the meeting during consideration of the above item or when voting in respect of it took place.

**K BH2018/00149 - Block B, The Priory, London Road, Patcham, Brighton- Full Planning**

Erection of additional single storey extension on top of existing building to form 4 no two bedroom flats (C3) with associated roof garden, cycle store and parking spaces.

**Officer Presentation**

- (1) The Senior Planning Officer, Luke Austin, introduced the report and detailed the scheme by reference to plans, drawings, photographs and elevational drawings. It was noted that the application sought consent for the erection of an additional storey to Block B in order to provide four flats each containing two bedrooms and external amenity space. The principle of creating additional residential units through the creation of an additional storey had already been established by earlier extant permissions; overall therefore the scheme was considered acceptable and approval was recommended.

**Debate and Decision Making Process**



- (2) Councillor C Theobald stated that she did not like the design or appearance of this scheme which sought to build an additional floor on top of an existing block and would be voting against it.
- (3) Councillor Miller concurred in that view but considered that as the principle of development was already established that reluctantly he would be voting to approve the application.
- (4) Councillor Cattell, the Chair, agreed with all that had been said, stating that she too did not like the design proposed but would also be voting reluctantly that approval be granted.
- (5) A vote was taken and the 5 Members present when the vote was taken voted by 4 to 1 that planning permission be granted.

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

**L BH2018/02296 - Wish Court, Muriel House, Sanders House and Jordan Court, Ingram Crescent West, Hove - Full Planning**

Replacement of existing timber and metal balcony balustrading with metal balustrading.

**Officer Presentation**

- (1) The Principal Planning Officer, Stewart Glassar, introduced the application and gave a detailed presentation by reference to photographs, site plans and elevational drawings. It was noted that the application site related to several blocks of flats situated on Ingram Crescent West. The main considerations in determining the application related to the impact of the proposal on the character and appearance of the host buildings and wider street scene, as well as the impact on the amenities of local residents.
- (2) The proposal did not include any additional balconies and as such was not considered to have a detrimental impact on the privacy of residents. A site visit had revealed that some of the existing balconies were and it was considered that replacement with robust metal units would return them to a safe standard of use. Aerial views were shown which indicated the location of all of the various blocks located across the site. The height, 1.1m, of the balustrading was acceptable and in accordance with national safety standards. Photographs were also displayed showing the works which had already been carried out at Jordan Court, to illustrate the finished appearance of the proposed treatment. It was explained that it was not considered that use of metal as a material would cause significant light nuisance (through reflection of sunlight or vehicle headlights), and it was considered to be in accordance with policy and approval was therefore recommended.

**Public Speakers**

- (3) Councillor Nemeth addressed the Committee in his capacity as a Local Ward Councillor for Wish Ward in respect of the proposed balcony/balustrade treatment proposed to Ingram Crescent. He was accompanied by Mr Gage, the Major Projects Manager, Housing Programme Team who was on hand to answer questions.
- (4) Councillor Nemeth explained that extensive consultation had taken place with the residents who had supported the original proposals that a galvanised finish be used, they had not responded further as they had not been aware that conditions had been included subsequently which had required a painted finish to be provided. Those living on the estate had confirmed that their preference would be for the original proposal of a no-painted finish to be used. Councillor Nemeth stated that it had been indicated that by using this material as was without further paint treatment could save £2m over the projected life of the product.
- (5) Mr Gage explained that use of the finish proposed by conditions 1, 2 and 3 to be attached to any permission granted was considered onerous and would have additional cost implications, also that the manufacturers had given assurances that the life of treatment being used to replace the existing balconies had a life of 40-50 years without the need for them to be painted.
- (6) Councillor Robins asked whether the applicants had received confirmation in writing from the Institute of Corrosion that this was the case, stating that with the benefit of his expert knowledge he was very dubious that this would be the case or that use of galvanised material although robust would require no further painting or maintenance, particularly given the city's marine environment.
- (7) Councillor C Theobald asked regarding the frequency of maintenance and re-painting required previously when more traditional materials were used, also whether colour applied would change over time and it was explained that was generally programmed in on a five year cycle.
- (8) Mr Gage responded that the treatment being used had been verified by the Galvanisation Association. Councillor Robins stated that whilst he was willing to support the treatment and finish now proposed he disagreed that it would have the lifespan indicated, nor that it removed the need for it be re-galvanised or painted, nor therefore, that the level of savings indicated were realistic or achievable.
- (9) Councillor Miller referred to the observations made by Councillor Robins and enquired why notwithstanding the claims which had been made why non-rusting stainless steel fixings were not proposed. It was explained that such treatment was not considered to be necessary, also that the cost of doing so was considered to be prohibitive.
- (10) Councillor Hyde enquired whether and how the materials used were to be sealed as she was aware that if the edges abutting the building were unsealed this could be problematic. It was confirmed that this would not be the case and that the balconies were purpose made.

### **Questions of Officers**

- (11) Councillor Hyde enquired regarding proposed conditions 1 and 2 and 3 it was confirmed that these had been put forward by officers as they were considered more appropriate than a galvanised, un-painted solution and the applicant had agreed to the imposition of the conditions.
- (12) Councillor Cattell, the Chair, sought clarification regarding the level of consultation which had taken place and it was confirmed that the residents association and groups representing the individual residential blocks had been extensively involved.
- (13) Councillor Miller enquired regarding the status of the works being carried out and it was confirmed that they were part-retrospective as some works had already commenced on site. Photographs of the work carried out at Jordan Court were shown.

### **Debate and Decision Making Process**

- (14) Councillor Cattell, the Chair, stated that it was very unfortunate that the works had commenced without proper advice and guidance having been sought from the Council's own Planning Department first. In planning terms consideration needed to be given to use of the most appropriate design/town planning considerations.
- (15) Councillor Littman considered that there were three potential options: to grant with the conditions proposed, to grant but without the proposed conditions or to refuse the application.
- (16) Councillor Gilbey sought clarification of when the decision to apply brown paintwork had been made and it was confirmed that paintwork of that colour had been deemed the most appropriate at an early stage in the process.
- (17) There was brief discussion regarding whether to defer consideration of the application but it was considered that would not be appropriate.
- (18) The Legal Adviser to the Committee, Hilary Woodward, stated the Committee needed to make a decision based on planning rather than financial considerations. Members needed to consider whether a condition requiring a painted finish was necessary or not. If Members were of the view that it was not necessary to impose it those conditions could be removed and planning permission granted without them.
- (19) In consequence of the discussion which had taken place Councillor Hyde proposed that the planning permission be granted subject to removal of conditions 2 and 3 from any permission granted and that was seconded by Councillor Miller. A vote was then taken and the 7 Members of the Committee who were present when the vote was taken voted unanimously that planning permission be granted.

65.13 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Condition1 and Informatives set out in the report.

**Note:** Councillors Bennett, Daniel, Inkipin-Leissner (who did not attend the meeting, Mac Cafferty and O'Quinn were not present at the meeting during consideration or voting in respect of the above application.

**M BH2018/02359 - 3 Meadow Close, Hove - Full Planning**

Demolition of existing three bedroom bungalow (C3) and erection of 4 bedroom two storey dwelling (C30)

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.

**Officer Presentation**

- (2) The Senior Planning Officer, Laura Hamlyn, introduced the application and gave a presentation by reference to photographs, site plans and elevational drawings detailing the proposed scheme.
- (3) It was noted that the main considerations in determining the application related to the impact of the proposed development on the appearance and character of the wider street scene and the amenities of adjacent occupiers. The current application was a resubmission following approval of BH2016/06188 which had been granted permission for remodelling of the existing bungalow which had included the creation of an additional floor, side and rear extensions and associated roof extensions and associated alterations. The bulk and massing of the previously approved scheme was broadly similar to the current proposal, except that a two storey rear extension was now proposed. The differences between the previously approved scheme and that for which permission was now requested were highlighted.
- (4) The impact on neighbouring dwellings had been assessed with regard to the potential to harm amenity, including daylight, sunlight, outlook and privacy. Two Meadow Close was situated adjacent to the application site to the west and at a lower ground level. The previous scheme had no significant impact on that property. This application would by virtue of its increased height have some impact on the existing conservatory at 2 Meadow Close. Whilst there would be some loss of light to the glazed roof there was sufficient glazing to the rear and side that the impact would not be so harmful as to warrant refusal. A daylight and sunlight report had been submitted during the course of the application which had identified no significant impacts on daylight location within the adjoining property. Overall, it was considered that the size, design and layout of the proposed dwelling would provide adequate levels of accommodation, circulation, storage, light, sunlight ventilation and outlook and therefore approval was recommended.

**Public Speakers**

- (5) Dr Evans spoke as a neighbouring objector setting out his objections to the proposed scheme. Dr Evans explained that the proposed development would have a negative impact on his amenity and quality of life. The proposed development would tower over their conservatory and would overlook their patio and garden area and result in a significant loss of privacy. They had no objection to the principle of development but considered that it would have been possible to design the proposed development in a manner which did impact so negatively on their dwelling.

- (6) Mrs Peters, the applicant, spoke in support of her application stating that they had liaised closely with the planning department and had sought to design a high quality sustainable lifetime home. It was considered that their proposal to demolish the existing building would less impact than if they had built extensions to the existing building in line with the extant permission. The roof slope of the proposal would be lower and in their view the design and appearance of the proposed form of development was in keeping with the neighbouring street scene.
- (7) Councillor Miller noted that it appeared that the number of balconies to the front of the property had increased from that associated with the previous scheme and asked for clarification as to the rationale for that; also whether consideration had been given to utilising the roof space. It was explained that it was not intended that these balconies (one of which was a juliet balcony), would be used as amenity space, notwithstanding that it would provide uninterrupted views to the sea. It was explained the solution proposed was considered to be more suitable.

### **Questions of Officers**

- (8) Councillor Miller referred to the proposed balconies and sought confirmation as to whether a condition could be added requiring the proposed balconies to be obscure glazed if the Committee were minded to approve the application. It was confirmed that it could.
- (9) Councillor C Theobald asked to see photographs indicating the height and proximity of the upper storey to the neighbouring conservatory.

### **Debate and Decision Making Process**

- (10) Councillor Miller stated that whilst having no objection to the principle the proposed development he was unable to support the application as presented as he considered that there would be a significant and detrimental impact on the neighbouring dwelling. He considered that the views from the development would be achieved at the expense of no 2 Meadow Close and that amendments could and should have been found which addressed the applicants' needs without a negative impact
- (11) Councillor C Theobald agreed considering that the proposed form of development would be located very close to the boundary with the neighbouring property.
- (12) Councillor Hyde considered that in its present form the application was unneighbourly, full height ceilings would be achieved at the sacrifice of neighbouring amenity.
- (13) Councillor Littman concurred with all that had been said considering that the proposed scheme would be overbearing on the neighbouring conservatory and would be negative.
- (14) Councillor Robins concurred wholeheartedly with all that had been said and that he would not be voting in support of the application.
- (15) Councillor Cattell, the Chair, stated that as views would be angled towards the applicant's garden she did not consider that the proposed scheme would be

unneighbourly and would therefore be voting in support of the officer's recommendations.

(16) A vote was taken and on a vote of 5 to 1 by the 6 Members of the Committee who were present when the vote was taken the officer recommendation was overturned and planning permission was refused. A further vote was then taken and reasons for refusal to be drafted subsequently were put forward. On a recorded vote was then taken and Councillors Hyde, Littman, Miller, Robins and C Theobald voted that planning permission be refused for the reasons set out below (subsequently drafted and agreed with officers). Councillor Cattell, the Chair, voted that planning permission be granted; therefore planning permission was refused.

65.14 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation and resolves to **REFUSE** planning permission on the grounds that the proposed rear projection would result in an overbearing and over-dominant feature that would have an un-neighbourly impact on the conservatory and rear garden to no 2 Meadow Close. The proposal is therefore contrary to Policy QD 27 of the Brighton & Hove Local Plan 2005.

**Note:** Councillors Bennett, Daniel, Gilbey, Inkpin-Leissner, Mac Cafferty and O'Quinn were not present during consideration of the above application or when the vote was taken.

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

66.1 There were none.

## **67 INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS**

67.1 The Committee noted the position regarding pre application presentations and requests as set out in the agenda.

## **68 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE**

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

## **69 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES**

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

## **70 APPEAL DECISIONS**

70.1 The Committee noted the content of the letters received from the Planning Inspectorate advising of the results of planning appeals which had been lodged as set out in the agenda.

The meeting concluded at 8.30pm

Signed

Chair

Dated this

day of





<b>Subject:</b>	<b>Protocol for Public Representations at Planning Committee</b>		
<b>Date of Meeting:</b>	<b>5 December 2018</b>		
<b>Report of:</b>	<b>Executive Lead for Strategy, Governance &amp; Law</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Hilary Woodward</b>	<b>Tel: 01273 291514</b>
	<b>Email:</b>	<b>hilary.woodward@brighton-hove.gov.uk</b>	
<b>Ward(s) affected:</b>	<b>All</b>		

## **1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 The Committee is being asked to agree that developers seeking to vary or discharge completed s106 planning obligations should be given the opportunity to address the Committee when the request or application comes before the Committee for determination. This will require an amendment to the Protocol for Public Representations at Planning Committee.

## **2. RECOMMENDATIONS:**

- 2.1 That the Committee agrees that the Protocol for Public Representations at Planning Committee ("the Protocol") is amended as per the attached Appendix to allow developers or their agents to address the Committee when their request or application to vary or discharge a completed s106 planning obligation is before the Committee for determination.

## **3. CONTEXT/ BACKGROUND INFORMATION**

- 3.1 S106 of the Town and Country Planning Act 1990 provides for planning obligations to be entered into by persons interested in land. Planning obligations are usually entered into in connection with a planning application and can secure, for example, affordable housing and transport or recreational contributions. S106A of the Act provides that such obligations can be modified or discharged either by agreement at any time or by application following the statutory procedure set down in the Act when the planning obligation sought to be modified or discharged is at least five years old.
- 3.1 The Protocol was adopted a number of years ago and grants certain public speaking rights in connection with planning applications. In addition to determining planning applications the Committee is required, on occasion, to determine requests or applications for the variation of completed s106 planning obligations and could as well be asked to discharge obligations. At present there is no formalised opportunity for developers to address the Committee in support of such requests or applications.
- 3.2 It is considered that extending public speaking to s106 variation and discharge requests and applications would be beneficial to the Committee as it could allow

Members to gain a fuller understanding of why the request or application has been made than may be understood from the request or application itself.

3.3 The attached Appendix shows the recommended changes to the Protocol in bold text (paragraph 9.). It is proposed that developers, or their agents, be allowed a maximum of three minutes to address the Committee and that Members may ask questions of clarification on what has been said.

3.4 If agreed, the amended Protocol can be adopted with immediate effect since, under the terms of the Council's Constitution, any changes to the Protocol may be agreed by the Planning Committee.

#### **4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

4.1 The alternative option would be to retain the Protocol as currently drafted and not to introduce a procedure for developer speaking rights on s106 variation and discharge requests.

#### **5. COMMUNITY ENGAGEMENT & CONSULTATION**

5.1 None has been undertaken in view of the nature of the report.

#### **6. CONCLUSION**

6.1 That the Protocol should be amended to allow developer speaking rights in support of requests and applications to vary or discharge completed s106 planning obligations.

### **SUPPORTING DOCUMENTATION**

#### **Appendix:**

1. Proposed amended Protocol for Public Representations at Planning Committee

#### **Background Documents**

1. Current Protocol for Public Representations at Planning Committee (Part 8.6 of the Brighton & Hove City Council Constitution)





## APPENDIX

### PART 8.6 PROTOCOL FOR PUBLIC REPRESENTATIONS AT PLANNING COMMITTEE

The following procedure shall be followed at the Planning Committee meetings for the purpose of enabling members of the public to make representations. This protocol supplements the Council Procedure Rules and the two should be read together.

#### Planning Applications

1. A planning officer will introduce the planning application and display any plans as well as bringing to Members' attention any new matters that have arisen since the agenda was prepared. Members may ask questions of the planning officer.
2. Objectors (or their representative) have an opportunity to address Members. Where there is more than one objector, the clerk to the Committee will require the objectors to nominate a spokesperson. Exceptionally, and at the Chair's discretion, more than one objector may be allowed to speak, but only where new material issues are to be raised. Members may ask questions of the objectors only for the purpose of clarifying matters of fact already raised during the objector's presentation.
3. Ward Members, a representative of Rottingdean Parish Council and a representative of a neighbourhood forum may address the meeting in relation to any planning application before the Planning Committee that falls within or affects their ward/area.
4. The applicant (or their representative) has an opportunity to make representations in support of the application, but only if the recommendation is to refuse or there are ward Members, a representative of Rottingdean Parish Council, a representative of a neighbourhood forum or objectors speaking against the application. Applicants will make their representations after all other speakers have spoken. Applicants will be notified of any notice of intention to speak. Members may ask questions of the applicant only for the purpose of clarifying matters of fact already raised during the applicant's presentation.
5. Members may receive legal and other professional advice as necessary during the proceedings.
6. In the interests of efficient despatch of business, the following rules regarding speaking time per application will apply:
  - A total time of 3 minutes shall be allowed for all objectors. Where the Chair permits more than one objector to speak, the time will be divided equally among the objectors (unless they come to some other arrangement between themselves.)
  - A total time of 3 minutes shall be allowed for Ward Members. Where more than one Ward Member wishes to speak, the time will be divided equally

## APPENDIX

among the Ward Members (unless they come to some other arrangement between themselves)

- A total time of 3 minutes shall be allowed for Rottingdean Parish Council
  - A total time of 3 minutes shall be allowed for a neighbourhood forum
  - A total time of 3 minutes shall be allowed for the applicant.
  - In exceptional cases, these timings may be extended at the Chair's discretion. An exception may involve an abnormal weight of objections or support or where the application is particularly complex.
7. A person wishing to speak at a meeting of the Committee shall give written notice of his/her intention to do so to Democratic Service 4 clear days before the meeting (Normally, the Committee meets on Wednesdays which means the notice has to be received by the preceding Friday). The applicant and other persons wanting to make representations will be notified of the arrangements for public speaking by being sent a copy of this protocol together with contact details. Applicants may be given the right to speak notwithstanding that they have failed to give the required notice.
8. For the purposes of this protocol:-
- the term "objector" shall mean a person who lives in the immediate vicinity of the application site or who otherwise may reasonably be considered to be potentially directly affected by the proposed development
  - the term "neighbourhood forum" means a neighbourhood forum designated as such in accordance with the Localism Act 2011

### **Requests or applications for the discharge or variation of completed s106 planning obligations**

9. In those cases where the request or application is to be determined by the Committee, developers or their agents requesting or applying for the variation or discharge of completed s106 planning obligations have the opportunity to address the Committee for a total of 3 minutes in support of their request/application. The opportunity arises whether the officer recommendation is to agree or to refuse the request/application. Four clear days' notice of the intention to address the Committee shall be given to Democratic Services. Members may ask questions of the developer /agent only for the purpose of clarifying matters of fact already raised during the developer's/agent's address.
10. The Committee or the Chair may waive any of the requirements of this protocol if satisfied on legal and professional advice, and only in exceptional circumstances, that it is appropriate to do so in the circumstances.

# **ITEM A**

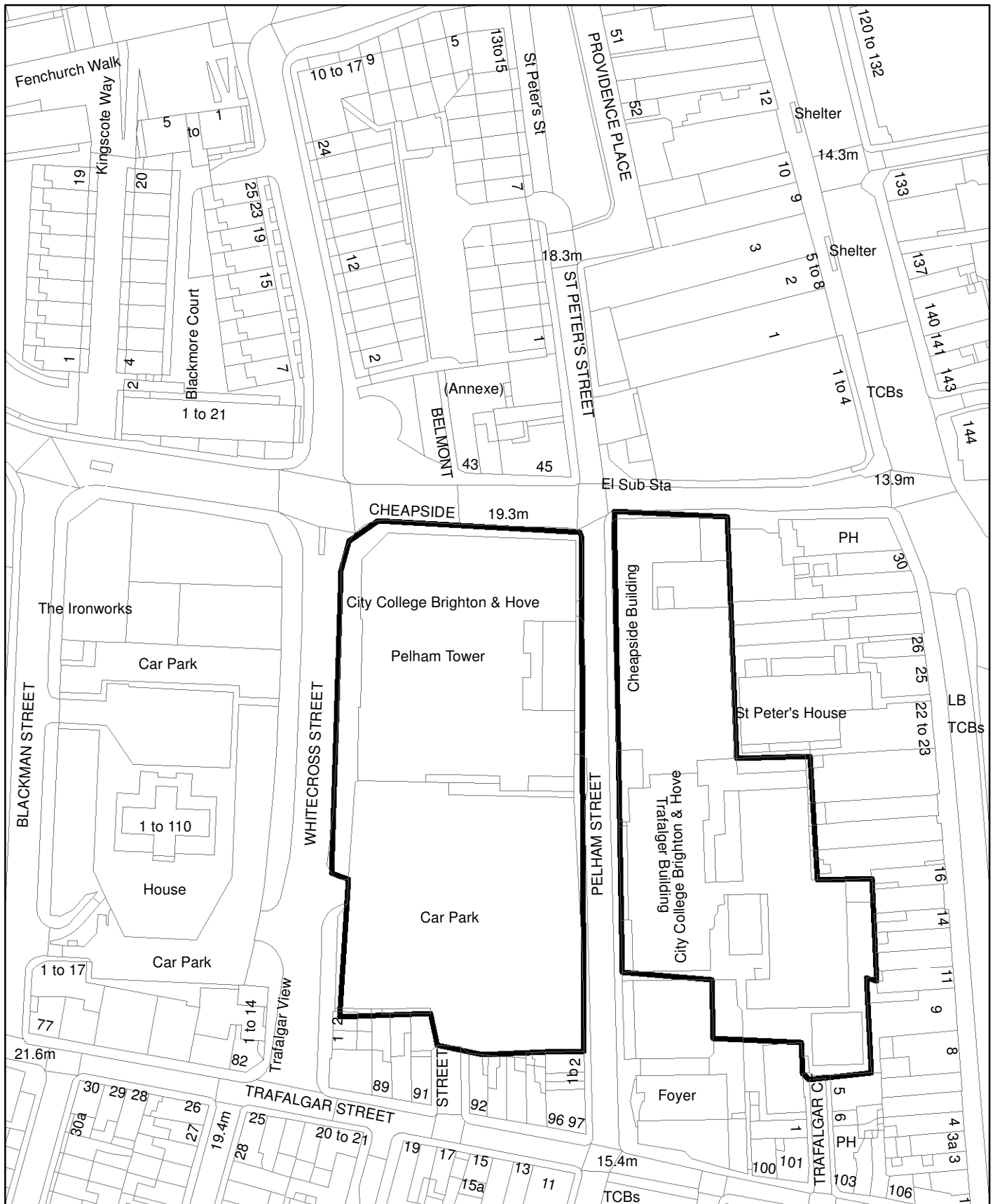
**Greater Brighton Metropolitan College,  
Pelham Street,  
Brighton**

**BH2018/02607  
Full Planning**

**DATE OF COMMITTEE: 5<sup>th</sup> December 2018**







Scale: 1:1,250



<b><u>No:</u></b>	<b>BH2018/02607</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>Greater Brighton Metropolitan College Pelham Street Brighton BN1 4FA</b>		
<b><u>Proposal:</u></b>	<p><b>Hybrid planning application comprising: Full Planning application Site A (West of Pelham Street): External alterations and internal refurbishment to the existing college building and redevelopment of the existing car park to provide 3 storey extensions to the existing college (D1 use), disabled parking spaces with new vehicular access, cycle parking spaces, open space and landscaping.</b></p> <p><b>Outline Application Site B (East of Pelham Street): Demolition of York, Trafalgar and Cheapside Buildings and the erection of up to 135 residential units (C3 use) at maximum 6 storeys with associated new and relocated vehicular accesses, car and cycle parking (with all matters reserved except access, external layout and scale).</b></p>		
<b><u>Officer:</u></b>	<b>Sarah Collins, tel: 292232</b>	<b><u>Valid Date:</u></b>	<b>23.08.2018</b>
<b><u>Con Area:</u></b>	<b>Adjoining North Laine and Valley Gardens Conservation Areas</b>	<b><u>Expiry Date:</u></b>	<b>22.11.2018</b>
<b><u>Listed Building Grade:</u></b>	<b>N/A</b>	<b><u>EOT:</u></b>	<b>17.12.2018</b>
<b><u>Agent:</u></b>	<b>Mr Huw James Brooklyn Chambers 11 Goring Road Worthing BN12 4AP</b>		
<b><u>Applicant:</u></b>	<b>Greater Brighton Metropolitan College C/O ECE Planning Limited Brooklyn Chambers 11 Goring Road Worthing BN12 4AP</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>
Site Location Plan	6301-ECE-01-01-ST-A 0000	A1	10 August 2018
Illustrative Masterplan	1923-TF-00-DR-L-1001	P02	16 October 2018
Proposed Site Block Plan	6301-ECE-01-00-ST-A-0004	A2	16 October 2018
Existing &	6301-ECE-01-ZZ-ST-A-0010	A1	10 August 2018

Proposed Site Section AA			
Existing & Proposed Site Section BB	6301-ECE-01-ZZ-ST-A-0011	A1	10 August 2018
Site A Landscape Proposals	1923-TF-00-00-DR-L-1002	P04	16 October 2018
Site A Cycle Parking Provision	1923-TF-V4-00-DR-L-1003	P04	November 2018
Site A Indicative sections/elevations	1923-TF-00-00-DR-L-5001	P03	16 October 2018
Site A Plant Palette – Part 1	1923-TF-00-00-SH-L-3001	P03	16 October 2018
Site A Plant Palette – Part 2 – planting bed against college building			10 August 2018
Site A Plant Palette – Part 3 – East-West tree bed and Pelham St and Whitecross St pavement beds			10 August 2018
Site A Plant Palette – Part 4 – south of Whitecross St steps			10 August 2018
Site A Gate Sections	1923-TF-00-DR-L-5002	P02	23 August 2018
Site A Proposed Ground Floor	6301-ECE-01-00-GA-A-0300	A1	10 August 2018
Site A Proposed First Floor	6301-ECE-01-00-GA-A-0301	A1	10 August 2018
Site A Proposed Second Floor	6301-ECE-01-00-GA-A-0300	A1	10 August 2018
Site A Proposed Third, Fifth, Ninth & Tenth Floors	6301-ECE-01-00-GA-A-0304	A1	10 August 2018
Site A Proposed Roof Plan	6301-ECE-01-00-GA-A-0303	A1	10 August 2018
Site A Amended Proposed East Elevation			10 August 2018
Site A Bay Study of West Elevation – Whitecross St	6301-ECE-01-ZZ-DT-XX-2102	A2	10 August 2018
Site A Bay Study of West Wing Courtyard Elevation	6301-ECE-01-ZZ-DT-XX-2103	A2	10 August 2018
Site A Bay Study of East Elevation – Pelham St	6301-ECE-01-ZZ-DT-XX-2104	A2	10 August 2018
Site A Bay Study of	6301-ECE-01-ZZ-DT-XX-	A2	10 August 2018

East Wing Courtyard Elevation	2105		
Site A External Lighting Isoline Plot	6350/S2	P2	10 August 2018
Site A External Lighting Layout	6351/S2	P2	10 August 2018
Site A Existing & Proposed Site North Elevation	6301-ECE-01-ZZ-ST-A-0006	A1	10 August 2018
Site A Existing & Proposed Site East Elevation	6301-ECE-01-ZZ-ST-A-0007	A2	10 October 2018
Site A Existing & Proposed Site South Elevation	6301-ECE-01-ZZ-ST-A-0008	A2	10 October 2018
Site A Existing & Proposed Site West Elevation	6301-ECE-01-ZZ-ST-A-0009	A2	10 October 2018
Site A Existing & Proposed Site Section AA	6301-ECE-01-ZZ-ST-A-0010	A2	10 October 2018
Site A Proposed Inner East & West Elevations	6301-ECE-01-ZZ-GA-A-0614	A2	10 October 2018
Site A Proposed West Elevation	6301-ECE-01-ZZ-GA-A-0613	A2	10 October 2018
Site A Proposed South Elevation	6301-ECE-01-ZZ-GA-A-0612	A2	10 October 2018
Site A Proposed East Elevation	6301-ECE-01-ZZ-GA-A-0611	A2	10 October 2018
Site A Proposed North Elevation	6301-ECE-01-ZZ-GA-A-0610	A1	10 August 2018
Site B Site Servicing Diagram	6301-ECE-02-xx-GA-A-1101	B	16 November 2018
Site B Proposed Storey Height Diagram	6301-ECE-02-XX-GA-A-1103	A	10 August 2018
Site B Existing & Proposed West Elevation	6301-ECE-02-ZZ-GA-A-1500	A	10 August 2018
Site B Existing & Proposed North Elevation	6301-ECE-02-ZZ-GA-A-1501		10 August 2018
Site B Existing & Proposed South Elevation	6301-ECE-02-ZZ-GA-A-1502	A	10 August 2018
Site B Existing & Proposed East Elevation	6301-ECE-02-ZZ-GA-A-1503	A	10 August 2018
Accommodation Schedule	6301-ECE-02-ZZ-SC-A-1400	C	4 September 2018

SITE A

1. The Site A 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.

2. a) Prior to commencement of development on Site A including demolition, 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.

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.

**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.

3. Prior to the commencement of development on Site A, in line with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS 10175:2011+A1:2013 - Investigation of Potentially Contaminated Sites - Code of Practice, the following shall be submitted to and approved in writing by the Local Planning Authority:

- (a) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS 10175:2011+A1:2013; and if notified in writing by the local planning authority that the results of the site investigation are such that site remediation is required then,

- (b) 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. Such a scheme shall include nomination of a competent person to oversee the implementation of the works.

AND

- (c) 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 (1)c 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).

Unless otherwise agreed in writing by the local planning authority the verification report shall comprise:

- i) built drawings of the implemented scheme;
- ii) photographs of the remediation works in progress;
- iii) certificates demonstrating that imported and/or material left in situ is free from contamination.

**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.

4. If during development of Site A, 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 obtained written approval from the Local Planning Authority for a method statement to identify, risk assess and address the potential contaminants.

Asbestos containing materials (ACM) within the ground and buildings are a contaminant of concern. Any desk top study and site investigation must fully incorporate ACM into the conceptual site model with any significant risks and pollutant linkages noted and risk assessed.

**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.

5. The development hereby permitted on Site A shall not be commenced (other than demolition works and works to trees) 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 and Flood Risk Assessment received on 10th August 2018 has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented and maintained in accordance with the approved detailed design and management and maintenance plan.

**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.

6. Prior to the commencement of development on Site A, an ecological design strategy (EDS) addressing enhancement of the site for biodiversity shall be 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 works.

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To provide a net gain for biodiversity in line with Section 40 of the Natural Environment and Rural Communities Act 2006 and paragraphs 170 & 175 of the National Planning Policy Framework 2018.

7. Prior to the commencement of development hereby approved, evidence should be submitted to demonstrate that the energy plant/room(s) have capacity to connect to a future district heat network in the area. Evidence should demonstrate the following:

- Energy centre size and location with facility for expansion for connection to a future district heat network: for example physical space to be allotted for installation of heat exchangers and any other equipment required to allow connection;
- A route onto and through site: space on site for the pipework connecting the point at which primary piping enters the site with the on-site heat exchanger/ plant room/ energy centre. Proposals must demonstrate a plausible route for heat piping and demonstrate how suitable access could be gained to the piping and that the route is protected throughout all planned phases of development.
- Metering: installed to record flow volumes and energy delivered on the primary circuit.

**Reason:** To ensure that the development is sustainable and makes efficient use of energy to comply with policies CP8 and DA4 of the Brighton & Hove City Plan Part One.

8. Prior to the commencement of the development of site A (including any ground clearance, tree works, demolition or construction), details of all tree protection monitoring and site supervision by a suitably qualified tree specialist (where arboricultural expertise is required) shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter 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/ CP13 of the Brighton & Hove City Plan Part One and SPD06:Trees and Development Sites.

9. No development, including demolition and excavation, shall commence until a Site Waste Management Plan for Site A, confirming how demolition and construction waste will be recovered and reused on site or at other sites, has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Plan.

**Reason:** To maximise the sustainable management of waste and to minimise the need for landfill capacity and to comply with policy WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

10. Prior to the commencement of the development of Site A (including demolition and all preparatory work), a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be implemented in strict accordance with the approved details.

Specific issues to be dealt with in the TPP and AMS include:

- Location and installation of services/ utilities/ drainage.
- Methods of demolition within the root protection area (RPA as defined in BS 5837: 2012) of the retained trees.
- Details of construction or demolition within the RPA or that may impact on the retained trees.
- A full specification for the installation of boundary treatment works.
- A full specification for the construction parking areas including details of the no-dig specification and extent of the areas of the parking areas to be constructed using a no-dig specification where possible. Details shall include relevant sections through them. Methodology and detailed assessment of root pruning should also be submitted, if required.
- A specification and plan for protective fencing to safeguard trees during both demolition and construction

**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/CP13 of the Brighton & Hove City Plan Part One and SPD06:Trees and Development Sites.

11. Prior to the commencement of the development of Site A (including demolition and all preparatory work) a pre-commencement meeting shall be held on site and attended by the developer's appointed arboricultural consultant, the site manager/foreman and a representative from the Local Planning Authority (LPA) to discuss details of the working procedures and agree either the precise position of the approved tree protection measures to be installed OR that all tree protection measures have been installed in accordance with the approved tree protection plan. The development shall thereafter be carried out in accordance with the approved details or any variation as may subsequently be agreed in writing by the LPA.

Items to be discussed:

- 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.

**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 / CP13 of the Brighton & Hove City Plan Part One and SPD06:Trees and Development Sites.

12. Within 6 months of the commencement of development of Site A, landscaping details shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping details shall be implemented accordingly in the first planting season after completion or prior to the occupation of the College extensions, whichever is the sooner. The details shall include the following:

- i) all hard and soft surfacing to include type, position, design, dimensions and
- ii) materials and any sustainable drainage system used;
- iii) a schedule detailing species, sizes and numbers/densities of all proposed
- iv) trees/plants including details of tree pit design, underground modular systems use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period; any use of these within the RPA's of retained trees should be specified, and
- iii) specifications for operations associated with plant establishment and maintenance that are compliant with best practise.

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. Replacement planting shall be in accordance with the approved landscaping scheme submitted for this condition.

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

13. Within 6 months of the commencement of development of Site A, details of the perimeter gates and fencing and any other boundary treatments at scale 1:20, including their height, design, materials and durability, including lockable gates and designed to inhibit climbing and graffiti where it adjoins a highway, shall be submitted to and approved in writing by the LPA. The boundary treatments shall be implemented and installed in accordance with the approved details prior to occupation of the development.

**Reason:** The perimeter gates and fencing will be prominent in the street scene and visible from the North Laine Conservation Area and are required to secure the open space and the college at night, therefore they need to be both functional and of an attractive appearance, to comply with policies QD15, HE6 and QD27 of the Brighton & Hove Local Plan and CP12, CP13 and CP15 of the Brighton & Hove City Plan Part One.

14. Within 6 months of the commencement of development of Site A, signage detailing the opening times of the open space shall be submitted to and approved in writing by the LPA. The approved signage shall be installed accordingly prior to the occupation of the extensions to the college building.

**Reason:** To comply with policies CP9 and CP13 of the Brighton & Hove City Plan Part One.

15. Within 6 months of the commencement of development of Site A, details of the mechanism(s) for preventing vehicles from entering the open space via Redcross Street, whilst allowing access to emergency vehicles, shall be submitted to and approved in writing by the LPA. The approved mechanism(s) shall be implemented accordingly prior to the occupation of the extensions to the college building.

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

16. Notwithstanding the plans hereby approved, within 6 months of the commencement of development of Site A, a Cycle Parking Scheme providing a minimum of 118 secure cycle parking spaces shall be submitted to and approved in writing by the Local Planning Authority, and the approved scheme shall be implemented accordingly prior to the occupation of the extensions to the college building and maintained thereafter. The scheme shall include the allocation of cycle spaces for staff, residents and visitors, details of shower and changing room facilities within the college building, detailed drawings of cycle parking areas including types of stands, spacing between stands, and details of entrances to stores including opening assistance and security measures.

**Reason:** To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan and SPD14: Parking standards.

17. No development above ground floor slab level of any part of the development hereby permitted on Site A 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, grouting, 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 and door 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 Brighton & Hove City Plan Part One.

18. No development above ground floor slab level of any part of the development hereby permitted on Site A shall take place until detailed section and gradient drawings of the open space and accessible parking area, demonstrating compliance with the requirements of the Ramped Access provisions of section 1.26 of Approved Document M Volume 2 ('Access to and Use of Buildings other than Dwellings') have been submitted to and approved in writing by the Local Planning Authority. Details shall include section drawings of the steps and

details of level access into the building and from the adjoining highways. The development shall be implemented in accordance with the approved details.

**Reason:** To secure safe, suitable and inclusive access for pedestrians to comply with Brighton & Hove Local Plan policies TR7, TR14, TR18 and City Plan Part One policies CP9, CP12 and CP13.

19. Prior to the occupation of the college extensions on site A a scheme for the storage of refuse and recycling shall be submitted to and approved in writing by the Local Planning Authority and implemented in accordance with the approved details, and the refuse and recycling storage facilities shall thereafter be retained for use at all times.

**Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and to comply with policy QD27 of the Brighton & Hove Local Plan, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.

20. Prior to the occupation of the college extensions a Delivery and Servicing Management Plan shall be submitted to and approved in writing by the Local Planning Authority which shall include –

- (i) details of the types of vehicles that will deliver to and service the site, their purpose, and the anticipated frequency of their movements
- (ii) details of how delivery and service vehicle movements will take place and be managed, including routes, where vehicles will wait to load/unload, how goods and containers will be conveyed between vehicles and building accesses without obstructing the highway or compromising safety for users of the highway, and details of actions that will be taken to secure compliance. Both deliveries and the measures to prevent unauthorised use of delivery and servicing areas shall thereafter be carried out in accordance with the approved Plan.

**Reason:** In order to ensure the safe operation of the development and to protect the amenities of nearby residents, in accordance with policies QD27 and TR7 of the Brighton & Hove Local Plan.

21. Within 6 months of the commencement of development of Site A, details of the photovoltaic panels on the roof of the building shall be submitted to and approved in writing by the Local Planning Authority and shall be installed accordingly prior to the occupation of the extensions to the college and maintained thereafter.

**Reason:** To ensure that the development is sustainable and makes efficient use of energy, water and materials and has an acceptable appearance and to comply with policies CP8 and CP12 of the Brighton & Hove City Plan Part One.

22. Within 6 months of the commencement of development of Site A, a scheme for the suitable treatment of all plant and machinery against the transmission of sound and/or vibration shall be submitted to and approved in writing by the Local Planning Authority. The buildings should be designed to achieve standards in line with, WHO guidelines for Community Noise (1999), BS8233 Sound Insulation and Noise Reduction in Buildings(2014) and BB93 (2014) Acoustic Design in Schools. Noise associated with plant and machinery incorporated within the development shall be controlled such that the Rating Level, measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed a level 5dB below the existing LA90 background noise level. Rating Level and existing background noise levels to be determined as per the guidance provided in BS 4142:2014. Any external plant is to be free from any low frequency tones that are likely to attract complaints. A scheme of testing to be carried out post construction but prior to occupation to demonstrate that the standards are met. 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.

23. Within 6 months of occupation of the extensions to the college building a BREEAM Building Research Establishment Post Construction Review Certificate confirming that the development has achieved a minimum BREEAM New Construction rating of Very Good, shall submitted to and approved in writing by the Local Planning Authority.

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

24. Access to the flat roof over the extension hereby approved at Site A shall be for maintenance or emergency purposes only and the flat roof shall not be used as an amenity area.

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

25. The barrier to the disabled parking area at the vehicular entrance shall remain permanently open when the adjacent open space is open.

Reason: In order to prevent vehicles entering the site from causing unnecessary obstruction within the highway, in the interest of highway safety.

26. Prior to the occupation of the extensions to the college building:

- (i) the on-site car park for 3 accessible parking spaces accessed from Pelham St shall have been completed and made available; and
- (ii) a Car Parking Management Plan detailing, inter alia, how the spaces will be allocated amongst staff and students and the car park managed, has been submitted to and approved in writing by the Local Planning Authority. Thereafter the facilities shall be maintained and managed in accordance with the approved plans and Car Park Management Plan.

**Reason:** In order to ensure that the parking is managed in line with the principles of CP9 of the City Plan Part One and SPD14 and that appropriate facilities for mobility impaired drivers are secured to comply with Brighton & Hove Local Plan Policy TR18.

27. Prior to the occupation of the extensions to the college building, a noise management plan (NMP) for Site A shall be submitted to and approved in writing by the Local Planning Authority, which shall include:

- a) restrictions on plant and equipment operation,
- b) restrictions on events and the use of amplified music or public address systems (within the building and the open space), and
- c) the opening times of the café/restaurant.

The aim of the plan should be to avoid noise nuisance during the day and should provide that during opening hours of the open space, security staff will patrol the public outdoor space and take steps to minimise noise nuisance. The approved NMP shall be implemented and maintained accordingly.

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

28. The car park approved on Site A shall be used for parking by staff, student and visitors who are blue-badge holders for the purpose of accessing the site only.

**Reason:** In order to ensure that the parking is managed in line with the principles of CP9 of the City Plan Part One and SPD14 and that appropriate facilities for mobility impaired drivers are secured to comply with Brighton & Hove Local Plan Policy TR18.

29. Threshold drainage: No part of the site A development hereby approved shall discharge surface water onto the public highway unless otherwise approved in writing by the Local Planning Authority.

**Reason:** In the interest of public safety and to comply with Brighton & Hove Local Plan policy TR7.

30. Within 6 months of the commencement of development of Site A, details of all doors to the college building, demonstrating accessible, level and automated opening entrances, shall be submitted and approved in writing by the Local Planning Authority. The approved details and doors shall be installed accordingly prior to the occupation of the extensions to the college building.

**Reason:** To secure safe, suitable and inclusive access for pedestrians to comply with Brighton & Hove Local Plan policies TR7, TR14, TR18 and City Plan Part One policies CP9, CP12 and CP13, and SPD14: Parking standards.

31. The open space and car park on Site A hereby permitted shall not be open or in use except between the hours of 7am and 10pm.

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

32. Where life safety plant is included on Site A, the operation and testing should minimise any impact on either site users or adjacent residents. Audible external tests may take place between the hours of 8am & 6pm once per month on a weekday for up to an hour.

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

33. No deliveries or refuse collections shall take place on site A except between the hours of 7am and 7pm on Mondays to Saturdays and not at any time on Sundays or Public Holidays.

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

34. External lighting for site A should be designed and positioned to:

- Be the minimum required to perform the relevant lighting task;
- Minimise light spillage and pollution;
- Include landscaping/screening measures to screen illuminated areas in environmentally sensitive areas, and



- Avoid dazzle or distraction to drivers on nearby highways.

Any external lighting designs must have reference to both horizontal and vertical illuminance to account for the varied sensitive receptors on and around the site. The lighting installation shall comply with the recommendations of the Institution of Lighting Professionals (ILP) Guidance Notes for the Reduction of Obtrusive Light (2011,) for zone E, or similar guidance recognised by the council. The Delta Green report (Revision P2 23rd), July 2018 lighting design specification is to be installed and certification on completion provided, by a competent person to show that the lighting installation complies with guidance to produce no nuisance to adjacent receptors. The main lighting to be extinguished and minimum safety lighting to be provided between the hours of 10pm and 7am.

**Reasons:** To protect the amenity of future occupants and/or neighbours and to protect wildlife and to comply with policies SU9, QD18, QD25 and QD27 of the Brighton & Hove Local Plan.

35. The Site A building shall only be used for D1 education provision only with ancillary restaurant/café uses as shown on the approved plans and for no other purpose (including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

**Reason:** The Local Planning Authority would wish to retain control over any subsequent change of use of these premises in the interests of safeguarding the amenities of the area and the education aspirations for the City and to comply with policies HO20 and QD27 of the Brighton & Hove Local Plan.

#### SITE B

36. The development of Site B must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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

37.a) Details of the reserved matters of Site B set out below (“the reserved matters”) shall be submitted to the Local Planning Authority for approval within three years from the date of this permission:

- (i) appearance;
- (ii) internal layout, and
- (iii) landscaping.

b) The reserved matters shall be carried out as approved.

c) Approval of all reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced.

**Reason:** To enable the Local Planning Authority to control the development in detail and to comply with Section 92 (as amended) of the Town and Country Planning Act 1990.

38. Prior to the demolition of buildings on or the decanting of students from Site B, the development hereby approved on Site A, including the internal and external alterations hereby approved, shall be completed and ready for occupation.

**Reason:** To ensure the continuity of provision of college facilities and to comply with policy CP21 of the Brighton & Hove City Plan Part One and policy HO20 of the Brighton & Hove Local Plan.

39. No development, including demolition and excavation, shall commence until a Site Waste Management Plan for Site B, confirming how demolition and construction waste will be recovered and reused on site or at other sites, has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Plan.

**Reason:** To maximise the sustainable management of waste and to minimise the need for landfill capacity and to comply with policy WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

40. a) Prior to commencement of development on Site B including demolition, 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.

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.

**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.

41. Prior to the commencement of development on Site B, in line with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS 10175:2011+A1:2013 - Investigation of Potentially Contaminated Sites - Code of Practice, the following shall be submitted to and approved in writing by the Local Planning Authority:

(a) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS 10175:2011+A1:2013;

and if notified in writing by the local planning authority that the results of the site investigation are such that site remediation is required then,

(b) 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. Such a scheme shall include nomination of a competent person to oversee the implementation of the works.

AND

(c) 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 (a) and (b) 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).

Unless otherwise agreed in writing by the local planning authority the verification report shall comprise:

- i) built drawings of the implemented scheme;
- ii) photographs of the remediation works in progress;
- iii) certificates demonstrating that imported and/or material left in situ is free from contamination.

**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.

42. The development hereby permitted on Site B shall not be commenced (other than demolition works and works to trees) 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 and Flood Risk Assessment received on 10th August 2018 has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented and maintained in accordance with the approved detailed design and management and maintenance plan.

**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.

43. If during development of Site B, 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 obtained written approval from the Local Planning Authority for a method statement to identify, risk assess and address the potential contaminants.

Asbestos containing materials (ACM) within the ground and buildings are a contaminant of concern. Any desk top study and site investigation must fully

incorporate ACM into the conceptual site model with any significant risks and pollutant linkages noted and risk assessed.

**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.

44. Notwithstanding the plans hereby approved, no development shall take place on Site B until both:

- (i) details of car and motor cycle parking facilities which shall incorporate 10 or more accessible parking spaces, 2 or more motorcycle parking spaces, and no more than 16 parking spaces overall; and
- (ii) a Car Parking Management Plan which details how parking spaces will be allocated, secures accessible parking spaces for disabled residents or workers, details how rapid charging points are to be made available (including bringing the passive provision into use)

have been submitted to and approved in writing by the Local Planning Authority. The parking shall thereafter be implemented, managed and maintained in accordance with the approved details and plan with no parking occurring on-site other than in the approved locations.

**Reason:** In order to secure parking facilities for mobility impaired people to comply with Brighton & Hove Local Plan policy TR18 and SPD14: Parking Standards and to ensure that parking is provided and managed in line with the principles of CP9 of the City Plan Part One and SPD14.

45. Within 6 months of the commencement of development on site B a cycle parking scheme shall be submitted to and approved in writing by the Local Planning Authority which shall include: number of spaces for residents and visitors, types of stands, detailed layouts of stores and other parking areas including spacing between stands, and details of entrances to stores including opening assistance and security measures. Thereafter the cycle parking facilities shall be implemented, managed and maintained in accordance with the approved Scheme.

**Reason:** To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan and SPD14: Parking standards.

46. Prior to the commencement of development on Site B, an ecological design strategy (EDS) addressing enhancement of the site for biodiversity shall be 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 works.

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

**Reason:** To provide a net gain for biodiversity in line with Section 40 of the Natural Environment and Rural Communities Act 2006 and paragraphs 170 & 175 of the National Planning Policy Framework 2018.

47. Within 6 months of the commencement of development of Site B a scheme for the suitable treatment of all plant and machinery against the transmission of sound and/or vibration shall be submitted to and approved in writing by the Local Planning Authority. The buildings should be designed to achieve standards in line with ProPG guidance for new housing, and BS8233 Sound Insulation and Noise Reduction in Buildings(2014). Noise associated with plant and machinery incorporated within the development shall be controlled such that the Rating Level, measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed a level 5dB below the existing LA90 background noise level. Rating Level and existing background noise levels to be determined as per the guidance provided in BS 4142:2014. Any external plant is to be free from any low frequency tones that are likely to attract complaints. A scheme of testing to be carried out post construction but prior to occupation to demonstrate that the standards are met. 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.

48. Prior to the occupation of the residential properties on site B a scheme for the storage of refuse and recycling shall be submitted to and approved in writing by the Local Planning Authority and implemented in accordance with the approved details, and the refuse and recycling storage facilities shall thereafter be retained for use at all times.

**Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and to comply with policy QD27 of the Brighton & Hove Local Plan, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.

49. Hedges or shrubs within the planting areas fronting onto Cheapside shall be pollution tolerant species (that can cope with nitrogen, dust and salt) and have an ongoing maintenance strategy. It is advisable that roadside green plants are established after the majority of construction vehicle movements have passed.

**Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area and to help reduce the local effects of air pollution and to comply with policies QD15 and SU9 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.

50. External lighting for Site B should be designed and positioned to:

1. Be the minimum required to perform the relevant lighting task.
2. Minimise light spillage and pollution.
3. Include landscaping/screening measures to screen illuminated areas in environmentally sensitive areas.
4. Avoid dazzle or distraction to drivers on nearby highways.

Any external lighting designs must have reference to both horizontal and vertical illuminance to account for the varied sensitive receptors on and around the site. The lighting installation shall comply with the recommendations of the Institution of Lighting Professionals (ILP) Guidance Notes for the Reduction of Obtrusive Light (2011,) for zone E, or similar guidance recognised by the council. Certification on completion of the lighting installation is to be provided by a competent person to show that it complies with guidance to produce no nuisance to adjacent receptors.

**Reason:** To protect the amenity of future occupants and/or neighbours and to protect wildlife and to comply with policies SU9, QD18, QD25 and QD27 of the Brighton & Hove Local Plan.

51. Within 6 months of commencement of the development of Site B, a scheme shall be submitted to the Local Planning Authority for approval 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. The approved scheme shall be implemented before occupation.

**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 Brighton & Hove City Plan Part One and SPD14: Parking Standards.

52. Threshold drainage: No part of the site hereby approved shall discharge surface water onto the public highway.

**Reason:** In the interest of public safety and to comply with Brighton & Hove Local Plan policy TR7.

53. None of the residential units hereby approved shall be occupied until each residential unit built has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).

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

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

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

55. The reserved matters application required by Condition 38 shall include details of an acoustic report which contains details of how the Residential Buildings submitted at all storeys and all facades will be glazed and ventilated in order to protect internal occupants from road traffic noise and meet the "good" levels in British Standard 8233. The scheme shall be implemented fully in accordance with the approved details and retained as such thereafter.

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

56. The reserved matters application required by Condition 38 shall include a daylight and sunlight report which shall contain details of the levels of daylighting and sunlighting to all habitable windows in the buildings and to all external areas on Site B in accordance with the BRE Site Layout Planning for Daylight and Sunlight A Guide to Good Practice and BS8206-2:2008 Lighting for Buildings Part 2: Code of Practice for daylighting.

**Reason:** To provide adequate levels of daylight and sunlight for the future occupiers of the buildings and to inform the landscaping scheme and to comply

with policies QD27 of the Brighton & Hove Local Plan and policies CP8, CP10, CP13 and CP14 of the Brighton & Hove City Plan Part One.

57. The reserved matters application required by Condition 38 shall include a Delivery and Servicing Management Plan which shall include - (i) details of the types of vehicles that will deliver to and service the site, and the anticipated frequency of their movements (ii) details of how delivery and service vehicle movements will take place and be managed, including routes, where vehicles will be waiting to load/unload how goods and containers will be conveyed between vehicles and building accesses without obstructing the highway or compromising safety for users of the highway, and details of actions that will be taken to secure compliance.

**Reason:** In order to ensure that the safe operation of the development and to protect the amenities of nearby residents, in accordance with policies QD27 and TR7 of the Brighton & Hove Local Plan.

58. The reserved matters application required by Condition 38 shall include details of the ventilation system for the properties that front onto Cheapside including external flues and plant equipment and demonstrating that the ground and first floor windows of the properties that front onto Cheapside within the residential development (Site B) shall be hermetically sealed.

**Reason:** In order to minimise exposure to pollution for future occupiers of the residential development with frontage onto Cheapside, to safeguard the visual appearance of the development and nearby heritage assets, and to comply with policies SU9, QD27, HE3 and HE6 of the Brighton & Hove Local Plan and CP12, CP13 and CP15 of the Brighton & Hove City Plan Part One.

59. The reserved matters application required by Condition 38 shall include an energy and sustainability report that shall include scoping the use of renewable energy technology and green roofs or walls at the development.

**Reason:** In order to meet sustainability objectives, and to comply with policies DA4, CP8 and CP10 of the Brighton & Hove City Plan Part One.

60. Any Ultralow NOx boilers within the development shall have NOx emission rates of <30 mg/kwh.

**Reason:** To safeguard the amenities of the local residents and minimise air pollution and to comply with policies SU9 and QD27 of the Brighton & Hove Local Plan and policy CP8 of the Brighton & Hove City Plan Part One.

61. At least 50% of all parking spaces shall be provided with electromotive charging points that are electromotive ready.

**Reason:** To encourage travel by more sustainable means and seek measures which reduce fuel use, NOx, particulate and greenhouse gas emissions,



particularly given the nearby AQMA, and to comply with policy SU9 of the Brighton & Hove Local Plan, policy CP9 of the Brighton & Hove City Plan Part One and SPD14: Parking Standards.

62. HGVs used for demolition and construction of the development shall be minimum euro-VI emission standard.

**Reason:** To safeguard the amenities of the local residents and minimise air pollution and to comply with policies SU9 and QD27 of the Brighton & Hove Local Plan.

63. At least 5% of the dwellings on Site B 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.

**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.

64. During the construction phase, the developer shall comply with Stage IIIB of EU directive 97/68/EC for NO<sub>x</sub> emissions limits from non-mobile construction machinery in accordance with DfT guidance Improving Air Quality Reducing Emissions from non-road mobile machinery.

**Reason:** to avoid emission impacts on high levels of nitrogen dioxide recorded in the vicinity of London Road (A23 general traffic northbound)

65. Within 6 months of the commencement of development on Site B, details of the gated accesses to the development shall be submitted to and approved in writing by the LPA. The vehicular access gates shall be set a minimum of 6 metres into the site from the carriageways in order to prevent obstruction in the road by vehicles waiting to enter the site. There should be separate gates for pedestrian access.

**Reason:** To ensure the safe operation of the highway and pedestrian safety, and to protect the visual amenities of the locality, and to comply with policies TR7 and QD5 of the Brighton & Hove Local Plan and policies CP9 and CP13 of the Brighton & Hove City Plan Part One.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on

this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.

2. The applicant is advised to consider the security recommendations made by Sussex Police in their response to this application dated 14<sup>th</sup> September 2018.
3. The applicant should 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). Note that where there is a difference between the operating hours allowed for licensable activities and the hours granted under planning permission the shorter of the two periods will apply.

## **2. SITE LOCATION**

- 2.1 The application site comprises a 1.18 hectare site which contains Pelham Tower and car park on the west side of Pelham St (Site A) and Cheapside, York, and Trafalgar buildings on the east side of Pelham St (Site B). The site is in use by Greater Brighton Metropolitan College (GBMET) for educational purposes.
- 2.2 Pelham Tower is a 1960's block which is 12 storeys and has a surrounding three storey podium which measures approximately 51 metres by 56 metres. Pelham Tower is accessed through a glazed entrance directly from Pelham Street. The materials are brick with steel window frames. The surface car park to the south is accessed from Whitecross St and is surrounded by metal fencing. It accommodates 118 car parking spaces which are allocated to staff.
- 2.3 The buildings on Site B vary in height up to 3 or 4 storeys, which is more akin to 5 or 6 storeys residential because of the large floor to ceiling heights. They are mostly faced in red brick and a glazed entrance connects the Cheapside and Trafalgar buildings on the Pelham St frontage. There is vehicular access from Cheapside through an undercroft. The three significant buildings on this site, Trafalgar, Cheapside and York were developed between 1893 and 1938 as part of the school which occupied the site and have been supplemented by workshops, halls, 'temporary' classrooms and storage sheds.
- 2.4 Site A is bounded by Whitecross St to the west, Cheapside to the north, Pelham St to the east and Redcross St, 1 and 2 Whitecross St, 87-97 Trafalgar St, and 1 and 2 Pelham St to the south. Site B is bounded by Pelham St and The Sanctuary and The Foyer residential blocks to the southwest, Cheapside to the north, 8-31 York Place and St. Peter's House to the east, and the college's Gloucester building, no.5 Trafalgar Ct, and Trafalgar Ct to the south.
- 2.5 An arched entranceway of brick with limestone spacers is present at 15 York Place, close to the eastern boundary of Site B. It has three sections in the crenelated cornice, separated by brick buttresses and with a stone moulding above the arch. The archway has an ornate gate which is locked preventing access to Site B.

- 2.6 The site is in a highly accessible sustainable location: it is approximately 350 metres walking distance from Brighton Station, immediately to the north of the North Laine shopping centre and within 100m of the London Road shopping centre which lies to the northeast. The site is also close to some main bus routes including the Lewes Road and Preston Road bus routes from York Place and City Centre bus routes from Trafalgar St and Brighton Station. The site lies within Development Area 4 (DA4) of the City Plan Part One (CPP1). Valley Gardens Conservation Area bounds Site B to the east and North Laine Conservation Area bounds both sites to the south.

### **3. PURPOSE OF THE APPLICATION**

- 3.1 The application submissions provide a summary of the College's estates strategy and the purpose of this application, which is relevant in terms of viability considerations and to understand the need for the sale of Site B to enable the development of Site A, and what the development of Site A is intended to deliver.

Greater Brighton Metropolitan College (The MET) was formed in 2017 from the merger of City College Brighton and Hove and Northbrook College Sussex. The merger was an outcome of the Government's Area Review process, designed to ensure that colleges could continue to deliver education and skills to their local communities whilst remaining financially viable. The MET has committed to retaining its five main campuses. Four of these, West Durrington and Broadwater in Worthing, Shoreham Airport, and the East Brighton Campus in Wilson Avenue, have received significant recent investment. The Central Brighton Campus on Pelham Street, however, has suffered from a number of failed schemes over the past 25 years, primarily because they were overambitious, reliant upon government funding that has fallen away, and is in need of significant investment if it is to continue to meet the education, training and skills needs of the City and City Region.

- 3.2 The College has reviewed all options to update and make its facilities fit for purpose on the Pelham Campus. The MET is not able to borrow money on a long-term basis to support any redevelopment, as bank finance was maximised at the point of merger. A detailed options analysis was completed which shows that the most cost effective approach is to retain and refurbish the existing tower, while addressing and updating the existing facilities, rather than to build entirely new facilities or to relocate. In addition to the tower, the College utilises a number of other buildings located on the East side of Pelham Street (the Cheapside/Trafalgar complex) which are unfit for purpose, have poor energy performance and cannot be economically improved. Although their floor to ceiling heights are high, they are not high enough to provide mezzanine floors in a conversion and would be inefficient and costly to convert to another use.
- 3.3 On this basis, a scheme has been developed to sell the Cheapside/Trafalgar complex, which will raise proceeds towards the extension of the college building on Site A into the car park, and the consolidation of the college buildings onto one site. There would be an overall net loss of college floorspace but no fewer staff or students at the site, achieved by a more efficient layout and fit for

purpose facilities within the extended and refurbished college building. Proposals include a new Centre for Creative and Digital Industries and a 'shop front' for the service industry curriculum, with ground floor access to hair and beauty services and a café.

- 3.4 The College has secured a £5m grant (growth fund) from the LEP (Local Enterprise Partnership), which is the maximum amount available, but this alone is not enough to cover the cost of the Site A proposals. The Viability Report submitted with the application advises that even with the £5m grant and the expected proceeds from the land disposal (Site B), the cost of the Site A proposals would not be covered and there would still be a deficit. Therefore the refurbishment of the existing tower (Pelham Tower) and podium will be limited by this financial position and even the maximum possible receipt from the sale of Site B will not allow for a full refurbishment of the tower, or to undertake work to improve the exterior of the building.
- 3.5 The College plans to undertake this work as a later phase (or phases), aligned with potential future funding opportunities or once a proportion of its existing debt has been paid down.
- 3.6 A concurrent application has been submitted by the College for the conversion of the locally listed Gloucester Building from education use into 2no. 3bed residential units immediately to the south of this application site.

#### **4. APPLICATION DESCRIPTION**

- 4.1 The application is a hybrid application (full application for Site A and outline application for Site B).
- 4.2 Site A proposals (Full):  
External alterations: Additional and larger windows, a new entrance and canopy are proposed for the publicly accessible restaurant on the corner of Cheapside and Whitecross St.
- 4.3 Internal alterations are proposed to the ground floor, 1st, 2nd, 3rd, 5th, 9th and 10th floors.
- 4.4 3 storey extensions on the south side of the college building on the existing surface car park, to provide 2957sqm additional floor space to the existing college (D1 use):
  - Eastern wing comprises seven hair and beauty salons, storage, WC's and offices
  - Western wing comprises flexible art studios and ICT suites
  - Central atrium and slot creates the new main entrance to the college building and reception area with circulation above to the two wings and café
- 4.5 The existing main pedestrian entrance to the building on Pelham St is to be closed and would provide an emergency exit only. A secondary pedestrian entrance into the building is proposed from Pelham St where the Pelham St extension joins the existing building. The existing vehicular access into the

building from Pelham St is to be retained and refuse collection would continue to take place at this location.

- 4.6 The public areas of the college building and all teaching areas are proposed to be wheelchair accessible and to comply with Building Regulations Part M and Disability Discrimination Act requirements.
- 4.7 A large array of photovoltaic panels (PV panels) are proposed on the roof of the extensions and all plant equipment would be within plantrooms in the building or on the roof which is proposed to have a 1100mm parapet around its perimeter. Access to the roof for maintenance is provided via the stair core at the northern end of the Whitecross St extension, which extends up to roof level.
- 4.8 BREEAM rating of 'Very Good' is targeted for the college building. The elevations of the extensions are a modern take on the existing college building, designed to sit sympathetically next to it. The existing building is orange brick, aluminium curtain walling and UPVC windows. Tall vertical fins and deep window reveals are proposed for the extensions to reflect the vertical cladding system on the existing building and to provide solar shading and easy maintenance. A brick finish of dark to pale greys is proposed with dark grey aluminium windows and cladding with either a PPC or anodised finish. A 3 storey fully glazed curtain wall system is proposed to the main entrance between the extensions to create a welcoming entrance and provide natural light into the existing building. The Whitecross St extension is proposed to have larger areas of glazing than the Pelham St extension as the art studios within it require more natural light than the hair and beauty salons within the Pelham St extension. The windows on the Whitecross St extension reach down to almost pavement level to provide natural light to the art studios in the ground floor, which is set a few metres below the pavement level.
- 4.9 Open Space: A combination of hard and soft landscaping between the college extensions and up to the southern boundary of the site, incorporating removal of vehicular access and provision of stepped access from Whitecross St, level access for pedestrians and cyclists from Redcross St, and new vehicular access for 3 disabled spaces from Pelham St, as well as stepped and ramped access for pedestrians from Pelham St. The Design & Access Statement advises that pedestrian and vehicular areas of the site are intended to be laid to maximum 1:20 gradients in order to avoid any additional steps or ramps across the site. The two existing sycamore trees along the southern boundary are to be retained. 118 spaces for cycles are proposed in two secure and covered cycle stores accessed from Redcross St, and in the form of Sheffield stands within the open space and on the pavement on Whitecross St. The Design & Access Statement mentions that accessible shower facilities, changing rooms and lockers are to be provided within the college building, however these are not labelled clearly on the proposed plans.
- 4.10 Site B proposals (Outline):  
Outline application with all matters reserved except access, external layout and scale, for the demolition of all buildings on the site (York, Trafalgar and Cheapside buildings) and the erection of up to 135 residential units (C3 use).

To clarify, the external layout refers to the footprint of the buildings and the size and position of the buildings and external areas, as set out on the site plan, and this is to be assessed in this outline application. The floor plans submitted are indicative only and subject to revision at Reserved Matters stage. Should any subsequent Reserved Matters application alter the indicative number or mix of units from the submitted accommodation schedule, items such as housing mix, trip generation and s106 contributions would need to be reviewed.

4.11 Access:

The existing vehicular access from Cheapside is to be repositioned approximately 5m further west and widened to give two-way access to the site with separate pedestrian access either side. This access would provide private access to the 16 parking spaces, and would also allow pedestrian and cyclist access for the residents and visitors. Refuse collection would take place on Cheapside. A new vehicular access is proposed from Pelham St slightly to the north of the entrance to the open space proposed on the other side of Pelham St at Site A, which would allow access and a turning area for servicing and deliveries, including refuse collection vehicles. There would be a physical separation between the two vehicular accesses although they would be connected by an undercroft pedestrian link. There would be no vehicular access from Trafalgar Court. The site is intended to be private access only and gated at all three entrances to the site on Cheapside, Pelham St and Trafalgar Court. There would be separate pedestrian gates alongside the vehicular accesses onto Pelham St and Cheapside.

4.12 Cyclists and pedestrians (residents and visitors only) would have step-free access from and to all three entrances to the site and details of the entrance gates would form part of a reserved matters application.

4.13 Layout:

The largest of the blocks is perimeter block in an L shape on the corner of Cheapside and Pelham St which would be set back to provide 2 metre wide pavements on both the Cheapside and Pelham St frontages. Soft landscaping is proposed between the building frontages and the pavements and 1m high railings are indicated to separate these planting areas from the pavements. 3 entrances to the flats are proposed from the public highway on Pelham St and the rest of the entrances are accessed from within the site. To the rear is a parking area, indicated to provide 16 spaces, of which 9 are disabled. Secure and segregated cycle parking is proposed within the lower ground floor of this block, accessed from the parking area. Soft landscaping is proposed around the parking bays and trellises with climbing plants are proposed over some of the car and cycle parking areas.

4.14 Cycle parking is proposed in a mix of Sheffield stands, two-tier racks and individual cycle lockers across the site local to each building core at a rate of 1no. space per dwelling and 1 per 3no. dwellings for visitors.

4.15 Refuse stores would be provided at ground floor level within communal bin stores for refuse and recycling for each block.

- 4.16 From the Pelham St vehicular access an east-west 'street' would be formed with 6 storey blocks either side, connected to the parking area to the north and the courtyard and Trafalgar Court to the south via pedestrian undercrofts, and terminated by a 5 storey block at the eastern end with an undercroft that would provide a physical link to the gate at 15 York Place. However, as this link is not within the site ownership there would be no guarantee of access to York Place and cannot therefore be secured through this application. The 'street' would be mainly for pedestrian use and only used by servicing and delivery vehicles. No parking spaces are proposed in this area. Some trees are proposed alongside this street and soft landscaping/planting beds are proposed between the street and the residential blocks to provide defensible space and privacy to ground floor windows. Additional planting is proposed around the entrance gates and fencing.
- 4.17 To the south of this street is proposed a communal garden roughly square in shape with some trees and lawn areas, accessed by an undercroft from the 'street' or from Trafalgar Court. A terrace of 4 no. 3 storey houses is proposed at the southern end of the site which would front onto this communal garden.
- 4.18 Private areas of amenity space are proposed in the form of balconies and areas of shared green space of approximately 1,181sqm. Detail of landscaping is a reserved matter that would be assessed in a separate reserved matters application, however the location and amount of soft landscaping (layout) can be secured through this application.
- 4.19 The internal layout of the development (the stair cores and room layouts) is indicated but is a reserved matter that would be assessed in a separate reserved matters application.
- 4.20 The outline proposal is for up to 135 dwellings, however the accommodation schedule would provide 131 dwellings, with the following mix of room sizes: 8no. studios, 56no. 1 beds, 60no.2 beds and 7no. 3 beds. It is confirmed in the Design & Access Statement and the Accommodation Schedule that all the units would meet the Nationally Described Space Standards minimum for each unit size:  
37sqm Studios  
50sqm 1 beds (2 person)  
61sqm 2 beds (3 person)  
70sqm 2 beds (4 person)  
86sqm 3 beds (5 person)  
The accommodation schedule also states that 6 of the units are proposed as wheelchair accessible. This would represent 4.58% of 131 units or 4.44% of 135 units. The remainder of the dwellings are proposed (in the Design & Access Statement) to meet Part M(4)2 of the Building Regulations Approved Documents, which would be wheelchair adaptable.
- 4.21 Scale:  
The development proposed ranges from 2.5 to 6 storeys. The 2.5 storey block is the terrace of 4 houses at the southern end of the site and the top floor is within

a pitched roof; the block to the north opposite the gate at 15 York Place is 4.5 storeys with the top floor within a pitched roof facing York Place and the Valley Gardens conservation area. The block to the west of this block is proposed as 5 storeys and the blocks fronting onto Pelham St and Cheapside are at 6 storeys with the top (5th floor) recessed, and reaching full 6 storey height with recessed balconies either side of the Pelham St access and on the Cheapside/Pelham St corner.

- 4.22 The detailed design of the elevations and roofs (the 'appearance') of the development is a reserved matter that would be assessed in a separate reserved matters application.

However, the submissions provide an indicative appearance that incorporates the extensive use of brick in the elevations. On the Pelham St and Cheapside frontages the ground floor is raised by some 450mm from street level to provide a defensive space and privacy and space for the cycle stores at the rear.

- 4.23 A 'Screening Request' was submitted to the Council which determined that the development would not be Environmental Impact Assessment development. The following documents, in addition to the normal planning application submissions have been submitted in support of the application:

Education Justification Statement  
Design and Access Statement  
Viability Assessment  
Statement of Community Involvement  
Heritage Assessment  
Transport Assessment and Framework Travel Plan  
Landscape Design (Site A)  
Arboricultural Assessment and Survey  
Lighting Strategy/ Assessment  
Sustainability Statement  
Energy Statement  
Biodiversity Appraisal and Checklist  
Daylight, Sunlight and Overshadowing Assessment  
Noise Assessment  
Air Quality Assessment  
Flood Risk Assessment and Drainage Strategy  
Archaeological Statement  
Contaminated Land Statement and Ground Investigation

## 5. RELEVANT HISTORY

**BH2018/02608:** Gloucester Building application for change of use and conversion of existing educational floorspace (D1) to create 2no. three bedroom flats (C3) incorporating alterations to boundary walls, access, landscaping & associated works. Under Consideration

**BH2013/01600:** Hybrid planning application comprising: Phase 1: Full planning application for erection of an 8 storey (ground plus 7) College building of 12,056 sqm and ancillary accommodation (use class D1), with associated access, infrastructure and, public realm improvements and landscaping. Phase 2a: Full



planning application for demolition of Pelham Tower and erection of a 10 (ground plus 9) storey building of 12,647 sqm to provide 442 student residential units and ancillary accommodation (sui generis use class), with associated access, infrastructure, public realm improvements and landscaping. Phase 2b: Outline planning consent for the demolition of York, Trafalgar and Cheapside Buildings, and the erection of up to 125 residential units (use class C3) (access, layout and scale). Approved 11/04/2014

**BH2008/02376:** Application for outline planning permission for the redevelopment of the site for a mixed use scheme including the demolition of Pelham Tower and other associated buildings. (Phase 1) for the erection of a 14,237sqm new City College campus and ancillary uses (Class D1) and associated access. (Phase 2) additional college space and (Class D1), student accommodation (Class C1), youth hostel (sui generis), café with ancillary gallery space (Class A3), employment space (Class B1) GP Clinic (Class D1), residential use (Class C3), infrastructure and landscaping works and associated access. Access, appearance, landscaping, layout and scale to be determined for (Phase 1). Access, layout and scale to be determined for (Phase 2). Planning Committee resolution to Mind to Grant 18/03/2009. Finally disposed of by the LPA 21/09/2011.

**BH2004/03312/FP:** Construction of new three-storey teaching facilities on site of existing surface car park (Pelham Street West) with link to existing main college building (Pelham Tower) and, via first floor bridge link over Pelham Street, with Trafalgar and Cheapside Buildings, together with hard and soft landscaping to new college square and remaining car park. Demolition of York Building and Library and various other single storey structures on Pelham Street east site and construction of 1 and 1 1/2 storey workshops for College use and 13 live/work units, change of use of Gloucester Building to form 2 no. residential studios and refurbishment of remaining College buildings. Approved 30/06/2005.

## 5.1 PRE-APPLICATION ADVICE

The applicant went through an extensive pre-application consultation with Officers and presented to Members and the Southeast Design Review Panel.

Members were supportive in principle of the proposals to improve and expand the teaching facilities on Site A and the provision of new housing on Site B. However the net loss of college floor space and the wider estates strategy for the college would need to be explained within the application submissions to justify an exception to Local Plan policy HO20. The absence of purpose built student accommodation (PBSA) within the scheme would also need to be justified. Members advised that some residents may welcome the absence of student accommodation in the scheme as many objected to this in the previous scheme. In addition, the reduced scale of development on Site A would also be likely to be welcomed by local residents. Many Members were disappointed that the 12 storey tower is to be retained and requested more improvements to the tower and plinth. Members recommended less visible undercroft parking for both sites to provide more private amenity space and a better outlook for residents. Following Members' concerns over the step-in of the extension fronting onto Whitecross St and over the height of the tall building on site B, the plans were amended to reduce the height on Site B to maximum 6 storeys and

to bring forward the building line of the extension on Whitecross St. Members were also concerned that the Site B buildings could create a canyoning effect in Pelham St and questioned the useability of the balconies fronting onto Pelham St. Members welcomed the provision of public access to the open space on Site A and the potential for public access through Site B to York Place, although acknowledged that there are problems with crime in the local area and the need to secure the site at night-time. Members requested an open book viability assessment if policy complaint level of affordable housing was not offered. Some Members raised safety concern over potential shared spaces within the development. Members wanted to know proposals for the Gloucester Building. Green Roofs were requested. Members requested that contractors liaise with residents to reduce issues with construction noise and traffic. Car Club spaces and free residents bus passes were requested for the new occupants.

The pre-application proposals were reviewed by the SE Design Panel, who made the following comments, in summary:

Site A

- Existing building form is poor with little animation;
- Suggest exploring more comprehensive redevelopment of the site which could provide energy savings;
- Energy strategy is vague and BREEAM Very Good is under-ambitious given that the initial assessment showed just 2% short of Excellent rating;
- Need to clarify phasing of internal refurbishment;
- Not convinced of the layout with the entrance hidden between the wings - whilst the entrance would be more attractive, it would be a retrograde step in terms of urban form and legibility.
- The car parking should be reduced to just provide for blue-badge disabled cars and relocated away from in front of the Whitecross Street wing;
- Welcome the provision of the open space and understand why it needs to be secured at night, however, an alternative layout is suggested that improves natural surveillance and removes the need for it to be gated at night;
- The unattractive rear of Trafalgar St properties need to be better screened, by modest buildings or an attractive wall, rather than vegetation.

Site B

- Concern over the number of residential units proposed and whether an acceptable design can be achieved;
- The appearance of the residential blocks needs to be comparable to or of greater architectural quality than the existing education buildings;
- Not convinced of the south-angled balconies to Pelham St and the building's proposed height could be detrimental to the pedestrian experience of Pelham St;
- Supportive of the 3 entrances from Pelham St which will help activate this street;
- Suggest a more simple internal layout to provide more dual aspect units and more windows in south elevation of southernmost Pelham St block;
- Concern over the quality of shared amenity space and the arm of the Pelham St proposed to meet St Peter's House (which was removed through further round of pre-app);

- Whilst they support principle of creating pedestrian link to York Place, the developer needs to be sure that the gate at York Place will remain open; the route must be overlooked, the route's edges need to be secure and attractive, and calming measures in Pelham St should be explored. Without these items secured a gated community would be better solution and allow more flexibility in the layout and potentially more daylight/sunlight.
- 5.3 Officers requested justification for the absence of purpose built student accommodation (PBSA) as an exception to City Plan policy CP21 and justification for the net loss of academic floorspace. The principle of residential development on Site B was supported by Officers as a valuable contribution towards the Council's housing targets, and it was noted that the redevelopment of this site for up to 125 dwellings was granted outline consent in 2013.
- 5.4 Officers were disappointed that the proposals did not include the removal of the 12 storey Pelham Tower or more external improvements to the existing college building. However, it was acknowledged that many aspects of the scheme would improve the townscape and urban realm, including the new open space and the 3 storey extensions on Site A. The Heritage Officer welcomed the reduction in height of the residential scheme during the pre-application process and agreed that maximum 6 storeys would be likely to be acceptable in principle on the Pelham St/Cheapside frontage, subject to detailed design and submission of key views. The layout of the buildings on Site B was amended through the pre-app process to respond to Officer comments relating to creating vistas, high quality communal gardens, amenity, access, servicing and delivery, and air quality issues.
- 5.5 The proposals on Site A were amended to bring forward the extension closer to Whitecross St to strengthen the building line, and to create more glazing to help activate the street frontages, which were seen as positive changes by the Council. Officers advised that disabled spaces only would be acceptable and that the Sycamore tree in the southeast corner of the site should be retained given its size and quality and the lack of trees in the immediate site context.
- 5.6 During the course of the pre-app process, issues of existing anti-social behaviour in the local area were discussed with Officers and it was agreed that the open space on Site A would need to be secured at night time to prevent an exacerbation of the existing problems. Whilst this would reduce the permeability of the development, it was considered by Officers that this would be necessary.
- 5.7 For Site B, the College advised that they were unable to secure a right of way over adjacent land to connect the development to the gate at 15 York Place. Whilst disappointing in terms of the Council's aspirations to improve the permeability of Site B, Officers accepted that this link would not be currently achievable as neither the College nor the Council has control of the land that would provide this link. However, Officers encouraged the scheme to be designed to allow for this link to be opened up to the public in the future, by providing a physical link through the development from Pelham St to this link at 15 York Place.

- 5.8 Officers also sought changes to the layout to provide improved outlook and daylight for the new residents and to create larger, more consolidated green amenity areas. There were also discussions about how to secure the site if publicly accessible, particularly at night-time which is an ongoing problem in the vicinity of the site and not unusual in a city centre location such as this. Given that direct access through the site from Pelham St to York Place would not be achievable given the current situation outlined above, Officers considered that allowing public access through the remainder of the site would not improve the permeability of the local area. Through this process it was agreed that these problems could best be overcome by preventing public access into the site.
- 5.9 During the pre-application stage the college's Gloucester building, which is locally listed and the only college building within the Conservation Area and is located at the southern end of Site B, was excluded from the outline application proposals in recognition of the requirement for applications in conservation areas be in full detail, and a concurrent application for change of use of this Gloucester building from college D1 use to residential C3 use (2 flats) has been submitted.
- 5.10 The Council advised that should less than policy compliant (40%) level of affordable housing be proposed on Site B, a financial viability report should be submitted to justify this. The DVS provided advice at pre-application stage on the appropriate approach and methodology for the viability report.
- 5.11 Officers requested studies and analysis of existing pedestrian and vehicular movements around the site, in order to establish the footfall levels and to assess the suitability of the relocation of entrances at Site A. Due to the level changes across the open space, section drawings were also requested, to assist in providing a level or ramped, step-free access where possible.

COUNCILLOR REPRESENTATION

Cllr Lizzie Deane  
BH2018/02607      Greater Brighton Metropolitan College

I write in my capacity of ward councillor in support of local residents and their objections to certain elements of this application.

First of all, I would like to object to the fact that this application contains no provision for affordable housing. Should the Committee be minded to grant this application, I would ask that an allocation of affordable housing be made a condition in accordance with the council's City Plan.

Secondly, I note that there is no provision for S106 monies. I would ask that, should this application be granted, S106 be made a condition. I note that there have been comments on a lack of public realm amenity within the proposed development and would suggest that some S106 monies be put to this purpose.

Thirdly, residents have voiced concerns over general security around the perimeter of the site and the three entrances, in particular that leading to and from Whitecross Street.

There are concerns that antisocial behaviour occurring on the site will be managed by the college security, but will be displaced to areas in close vicinity to the college, and could become hotspots for street drinking and associated crime.

Fourthly, I note that the staircase that had been a controversial point in the previous application has been moved a few metres to the north and will be gated. However I would wish the committee to be reassured that Sussex Police and Community Safety are fully satisfied with this arrangement so that no area of the college will act as a magnet for antisocial behaviour and thereby create nuisance to nearby residents.

Overall, the local community has broadly welcomed the fact that this application has gone some way in addressing previous concerns. However I would ask that the remaining concerns as listed above be taken into consideration and also addressed prior to any approval being granted.



# **ITEM B**

**Former Peter Pan Playground Site  
Madeira Drive  
Brighton**

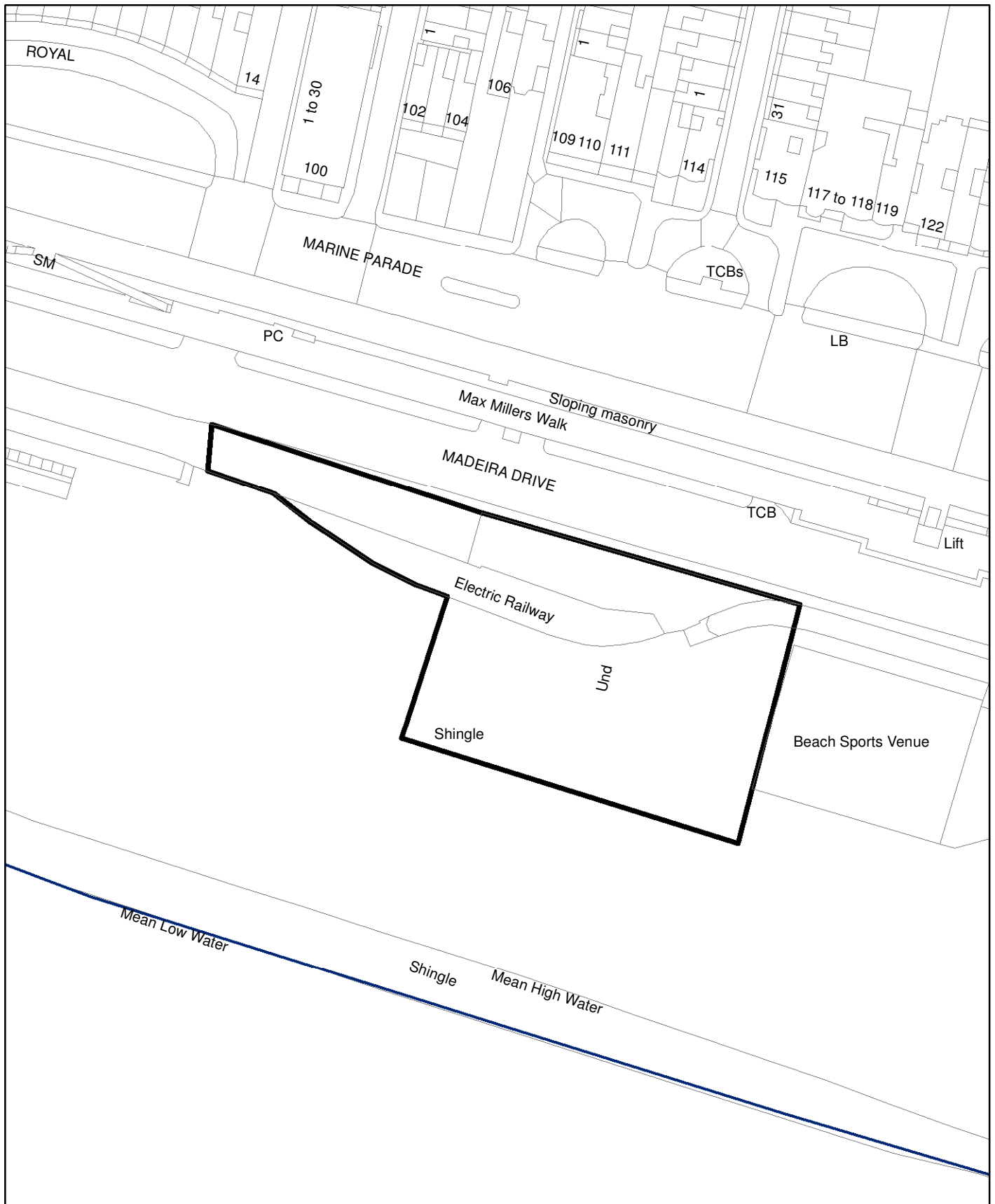
**BH2018/01973  
Full Planning**

**DATE OF COMMITTEE: 5<sup>th</sup> December 2018**





# BH2018\_01973 Former Peter Pan Playground Site Madeira Drive



Scale: 1:1,250



<b><u>No:</u></b>	<b>BH2018/01973</b>	<b><u>Ward:</u></b>	<b>East Brighton/Queens Park Wards</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Former Peter Pan Playground Site Madeira Drive Brighton BN2 1PS</b>		
<b><u>Proposal:</u></b>	<b>Erection of outdoor swimming pool (25m x 12.5m) and changing/plant rooms (D2 use), flexible events space (D2 use) and 1-3 storey relocatable modular buildings with first floor deck to provide mixed leisure/retail/food/drink/office uses (D2/A1/A3/A4/A5/B1 uses) including second floor place markers and lifeguard observation unit, with associated cycle parking, refuse storage, landscaping, boundary treatment and retractable beach mat. Temporary (meanwhile use) for 5 years.</b>		
<b><u>Officer:</u></b>	<b>Maria Seale, tel: 292175</b>	<b><u>Valid Date:</u></b>	<b>02.07.2018</b>
<b><u>Con Area:</u></b>	<b>East Cliff</b>	<b><u>Expiry Date:</u></b>	<b>01.10.2018</b>
<b><u>Listed Buildings Grade:</u></b>	<b>II (setting of)</b>	<b><u>EOT:</u></b>	<b>10/01/19</b>
<b><u>Agent:</u></b>	<b>Absolute Town Planning Ltd Gemini House 136-140 Old Shoreham Road Brighton &amp; Hove BN3 7BD</b>		
<b><u>Applicant:</u></b>	<b>SeaLanes Brighton Ltd C/o Agent</b>		

## 1. RECOMMENDATION

- 1.2 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:**

**Ecology:** An Obligation to secure submission and agreement of an Ecological Strategy and Plan prior to first installation of the swimming pool which commits the developer to the following (which will require a licence from the council as landowner):

- Provision of details of an off-site coastal vegetated shingle mound (minimum 1,500sqm in area) between the Yellowwave facility and Banjo Groyne (or another location to be agreed) and implementation of it. Details to include methodology, size, design, location, materials to be used, planting/seeding, specification including volume, number and type of plants, period of implementation
- Provision of details of a boardwalk and one interpretation board and implementation of them associated with the vegetated shingle mound
- Provision of details of a minimum of area of 266.5sqm of on-site vegetated shingle habitat adjacent to the Volks Railway and implementation of it before development is first brought into use

- Provision of details of a maintenance/management strategy for all the ecological mitigation measures to include provision of an annual monitoring report over a 10 year period
- A financial contribution total of £2,074 towards annual review of the monitoring reports by the County Ecologist (over a 10 year period)

**Sustainable Transport:**

- A financial contribution of £3,500 towards enhancement of sustainable modes of transport within Madeira Drive to include, but not be limited to, provision of additional cycle stands including the Bike Share scheme, pedestrian enhancements and signage.

**Economic Development:**

- Submission of an Employment & Training Strategy to demonstrate how the developer or main contractor and / or their subcontractors will encourage 20% local labour and training opportunities during the life of the project.

**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
<i>[Will be inserted on the Late List].</i>			

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 outdoor pool and all structures hereby permitted shall be removed within 5 years from the date of the A1/A3/A4/A5/D2/B1 uses north of Volks Railway line first being brought into use or by 1<sup>st</sup> April 2025, whichever is the sooner, and shingle shall be replaced on the beach where the pool and flattened to match the surrounding beach.

**Reason:** The structures hereby approved are not considered suitable as a permanent form of development as their scale, height, siting, site coverage/density, design, colours and materials cause harm to the special historic character and appearance of the East Cliff Conservation Area and the setting of adjacent listed Madeira Terraces, Shelter Hall and Lift, to comply with policies SR18, HE3 and HE6 of the Brighton and Hove Local Plan and policies CP12, CP15 and SA1 of the Brighton and Hove City Plan Part One. Temporary permission has been granted exceptionally as at this particular time it is considered the public benefits of instigating regeneration of the area would outweigh the harm caused. Permanent permission is not considered appropriate because this area of the seafront is identified in the long term for comprehensive coordinated regeneration with permanent development which is sympathetic to its special setting, and to ensure the development does not prejudice the emerging plans for restoration and viability of the Madeira Terraces.

4. Within 12 months of the A1/A3/A4/A5/D2/B1 uses north of Volks Railway line hereby permitted first being brought into use the outdoor pool and associated ancillary facilities and retractable beach mat shall be implemented and completed ready for first use or alternatively the pool shall be implemented and ready for use by 1<sup>st</sup> April 2020.
- Reason:** To ensure the sports/leisure attraction element of the scheme is delivered to accord with policy SA1 of the Brighton and Hove City Plan Part One which primarily seeks to secure family and leisure based activities in this location, and in the interests of preserving the visual amenities of the area as the A1/A3/A4/A5/D2/B1uses hereby permitted have only been justified as enabling development to support the viability of the leisure/sports attraction, to comply with policies SR18, HE3 and HE6 of the Brighton and Hove Local Plan and CP12, CP15 and CP17 of the Brighton and Hove City Plan Part One.
5. No development of each respective phase 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 commitment to adopt and implement the Considerate Contractor Scheme (or equivalent at the time of submission)
  - (iv) A commitment to ensure that all road hauliers and demolition/construction vehicle operators are accredited to Bronze standard (or greater) of the Freight Operator Recognition Scheme
  - (v) A scheme of how the contractors will liaise with local residents, businesses, elected members and public transport operators to ensure that they are all 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)
  - (vi) A scheme of how the contractors will minimise, record and respond to complaints from neighbours regarding issues such as noise, dust management, vibration, site traffic, idling vehicles, parking by staff and contractors and deliveries to and from the site
  - (vii) Details of hours of construction and deliveries to site, including all associated vehicular movements
  - (viii) Details of the construction compound, including the proposed location, design and construction of vehicular accesses to this from the highway, associated measures to manage local traffic movements around this, including those by pedestrians and cyclists, and any associated on-street restrictions and other measures necessary to minimise congestion on the highway and permit safe access by site vehicles.
  - (ix) A plan showing construction traffic routes.
  - (x) Details of measures to facilitate sustainable travel to site by staff and contractors.
  - (xi) A scheme to minimise congestion, delays and disturbances to traffic and public transport services in the vicinity of the site owing to staff and contractor car parking and site traffic. This will include the identification of

areas for staff and contractor parking. The scheme can be informed by parking stress surveys of the streets and public car parks in the vicinity of the site. These shall be carried out in accordance with the Lambeth methodology and shall be conducted at intervals over a 16 hour period on two neutral weekdays and one Saturday. Survey areas, dates and times shall be agreed in advance with the Council.

- (xii) A scheme to minimise the impact, within Brighton & Hove, of demolition and construction traffic on Air Quality Management Areas and areas that currently experience, or are at risk, noise exceeding World Health Organisation lower limits.

The construction shall be carried out in accordance with the approved CEMP.

Reason: As this matter is fundamental to the protection of amenity and highway safety throughout development works and to comply with policies QD27, SU9, SU10 and TR7 of the Brighton and Hove Local Plan, policy CP8 of the Brighton and Hove City Plan Part One.

6. No development, including demolition and excavation, shall commence of each respective phase until a Site Waste Management Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details approved.

**Reason:** To maximise the sustainable management of waste and to minimise the need for landfill capacity and to comply with policy WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

7. The B1 office use floorspace within the development hereby permitted shall not exceed 300sqm in total and no one A4 bar use unit shall exceed a total of 150sqm (unless alcohol is ancillary to food served at the premises or there is service to seated customers taking meals on the premises).

**Reason:** To ensure no one use dominates in the interests of securing a mix of vibrant and active uses that complement the seafront location and help draw visitors to the area, and in the interests of crime prevention and preventing anti-social behaviour, to comply with policies SR12 and SR18 of the Brighton and Hove Local Plan and SA1, CP5, CP12 and CP13 of the Brighton and Hove City Plan Part One.

8. No development (excluding excavation) shall take place of each respective phase until details (and samples where necessary) 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) All brick, stone, concrete, render, modular building wrapping and roofing material (including details of the colour of modular building wrapping/render/paintwork to be used and evidence of robustness against weathering)
- b) All cladding to be used, including details of their treatment to protect against weathering
- c) All hard surfacing materials including for landscaping and means of enclosure
- d) All the proposed window, door and balustrade/railing treatments
- e) The colour and type of pool lining to be used
- f) All other materials to be used externally

The development shall be carried out in accordance with the approved details.

**Reason:** To ensure a satisfactory appearance to the development and HE3 and HE6 of the Brighton and Hove Local Plan and CP12 and CP15 of the Brighton and Hove City Plan Part One.

8. The outdoor pool hereby permitted shall not be first brought into use until details of the retractable beach mat from the pool to the sea across the beach has been submitted to and approved in writing by the LPA. The agreed mat shall be installed ready for use before the pool is first brought into use.  
**Reason:** To ensure the scheme delivers accessibility benefits to the seafront, to comply with policy SR18 of the Brighton and Hove Local Plan and SA1 of the Brighton and Hove City Plan Part One.
9. The development hereby approved (excluding outdoor pool and associated ancillary facilities) shall not be open to customers except between the hours of 07.00 hours and 23.00 hours daily. The outdoor pool shall not be open except between the hours of 06.00 hours and 22.00 hours daily.  
**Reason:** To safeguard the amenities of nearby residents and occupiers and the amenity of the general locality and in the interests of crime prevention to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton and Hove City Plan Part One.
10. No odour control/extraction/ventilation equipment shall be installed within the development until details have first been submitted to and approved in writing by the Local Planning Authority. This shall include details of sound insulation of the equipment. The unit(s) to which the equipment is to be fitted shall not be first brought into use until all the measures agreed have been implemented and they shall thereafter be retained as such.  
**Reason:** To safeguard the amenities of the occupiers of nearby properties and the amenity of the general seafront locality and the visual amenity of the area to comply with policies QD27, SU9, SU10 and HE3 and HE6 of the Brighton and Hove Local Plan and CP12 and CP15 of the Brighton and Hove City Plan Part One.
11. No plant and machinery shall first be brought into use until details of their appearance and location and a scheme for the suitable treatment of all plant and machinery 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 first occupation of the development and shall thereafter be retained as such.  
**Reason:** To safeguard the amenities of the occupiers of adjoining properties and the visual amenities of the locality to comply with policies HE3, HE6, SU10 and QD27 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton and Hove City Plan Part One.
12. No sound reproduction or amplification equipment (including public address systems, tannoy, loudspeakers, etc.) which is audible outside the site boundary shall be installed or operated on the site.

**Reason:** To safeguard the amenities of the occupiers of nearby properties and the general locality to comply with policies SU10 and QD27 of the Brighton and Hove Local Plan.

13. Each respective phase of the development of the development hereby permitted shall not be first brought into use until details of external lighting (and any internal lighting of place marker units) have been submitted to and approved in writing by the Local Planning Authority. These details shall include:

- Location, design and visual appearance
- Hours of operation
- Luminance levels
- Evidence that the lighting has been selected and designed to minimise light spillage and pollution and avoid dazzle or distraction to drivers on nearby highways
- Evidence that landscaping/screening measures have been incorporated to screen illuminated areas in environmentally sensitive areas as applicable
- Evidence that lighting designs have reference to both horizontal and vertical illuminance to account for the varied sensitive receptors around the site.
- Independent evidence from a Competent Person to demonstrate the lighting installation complies with the recommendations of the Institution of Lighting Professionals (ILP) Guidance Notes for the Reduction of Obtrusive Light (2011), or similar guidance recognised by the council

The lighting shall be installed in accordance with the approved details before first occupation of each respective phase 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 nearby properties and the character and appearance of the general locality and to comply with policies QD25, QD27, HE3 and HE6 of the Brighton and Hove Local Plan and Cp15 of the Brighton and Hove City Plan Part One.

14. Within 3 months of the date each respective phase of the development hereby permitted is first brought into use, a Travel Plan shall be submitted to the Local Planning Authority for approval. The Travel Plan shall set out a package of measures and commitments tailored to the needs of the development, which is aimed at promoting safe, active and sustainable travel choices by its users (visitors and staff), and shall include the following measures:

- a) A travel survey of employees and visitors;
- b) Details of publicity and ticketing initiatives including advanced booking. This shall include evidence that sustainable transport information has been provided on the operators website and booking information/tickets, including information regarding public transport links and walking and cycling routes to the site;
- c) Details of a monitoring framework based on an annual survey, to enable the Travel Plan to be reviewed and updated as appropriate;
- d) Nomination of a member of staff as Travel Plan Co-ordinator.

The approved Travel Plan shall thereafter be fully implemented throughout the duration of the use of the development.

**Reason:** To ensure the travel demand created is satisfactorily met and to prevent undue traffic generation and promote sustainable modes of transport, to



comply with policies TR4 of the Brighton and Hove Local Plan and CP9 of the Brighton and Hove City Plan Part One.

15. Notwithstanding the layout of the scheme as shown on the drawings hereby permitted, no development shall be first occupied until a Delivery & Service Management Plan, which includes details of the types of vehicles, a drawing of how deliveries will take place, and the timing and frequency of deliveries for each respective phase shall be submitted to and approved in writing by the Local Planning Authority. The layout shall be amended as approved before the development is first brought into use and all deliveries shall thereafter be carried out in accordance with the approved plan.  
**Reason:** In order to ensure that the safe operation of the development and highway safety, in accordance with policy TR7 of the Brighton & Hove Local Plan.
16. Each respective phase of the development hereby permitted shall not be occupied until details of secure cycle parking facilities for the occupants of, and visitors to, the development 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 and SPD14: Parking Standards.
17. Each respective phase of the development hereby permitted shall not be occupied until a scheme for the storage of refuse and recycling has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out and provided in full in accordance with the approved details prior to first occupation of each phase of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.  
**Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and to comply with policy QD27 of the Brighton & Hove Local Plan, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.
18. No part of each respective phase of the development hereby permitted shall be first occupied until a Crime Prevention Scheme has been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before first occupation of each respective phase.  
**Reason:** In the interests of crime prevention in this relatively isolated seafront location, to comply with policies CP12 and CP13 of the Brighton & Hove City Plan Part One.
19. Each respective phase of the development hereby permitted shall not be commenced until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods 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 in each phase.

**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.

20. No development of each respective phase shall take place until a Drainage Strategy detailing the proposed means of foul and surface water disposal and an implementation timetable, has been submitted to and approved in writing by, the Local Planning Authority in consultation with the sewerage undertaker (Southern Water). The development of each phase shall be carried out in accordance with the approved scheme and timetable.

**Reason:** To ensure adequate foul sewage drainage/treatment is available prior to development commencing and to comply with policy SU5 of the Brighton & Hove Local Plan.

21. (a) No development of each respective phase shall take place until the applicant has secured the implementation of a 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.
- (b) 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 policies HE12 of the Brighton and Hove Local Plan and CP15 of the Brighton and Hove City Plan Part One.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The applicant is advised that a licence from the council (as landowner) will be required in order to carry out work on the beach outside the site for ecological mitigation as per the associated S106 Obligations secured as part of this permission.
3. The applicant is advised that having a planning application in place is no defence against a statutory noise nuisance being caused or allowed to occur. Should the Council's Environmental Health department receive a complaint, they are required to investigate under the provisions of the Environmental Protection Act 1990 to determine whether or not a statutory nuisance is occurring.
4. 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). The applicant is advised that the site is located in a cumulative impact area and an applicant would have to have extra regard to presumption of a refusal for additional licences within the area.
5. 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 (2011)' or similar guidance recognised by the council. A certificate of compliance signed by a competent person (such as a member of the Institution of Lighting Engineers) should be submitted with the details. Please contact the council's Pollution Team for further details. Their address is Environmental Health & Licensing, Bartholomew House, Bartholomew Square, Brighton, BN1 1JP (telephone 01273 294490 email: ehlpollution@brighton-hove.gov.uk website: www.brighton-hove.gov.uk).

6. The applicant is advised that this planning permission does not override the need to obtain a licence under the Licensing Act 2003. Please contact the Council's Licensing team for further information. Their address is Environmental Health & Licensing, Bartholomew House, Bartholomew Square, Brighton BN1 1JP (telephone: 01273 294429, email: eh1.safety@brighton-hove.gov.uk, website: www.brighton-hove.gov.uk/licensing).
7. 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

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

- 2.1 The site is owned by the council and is part of the former Peter Pan amusement site between Madeira Drive and the Volks Railway, just west of the Yellowwave volleyball facility. The site comprises an area of hardstanding north of the Volks Railway and also part of the beach to the south of the railway. It has had several temporary uses.
- 2.2 The site lies in the East Cliff Conservation Area and within the setting of the Grade II Listed Madeira Terraces, Lift and Shelter Hall (Concorde 2). The site is also partly located within the Volks Railway Site of Nature Conservation Interest (SNCI).
- 2.3 The application proposes the following for a temporary time period of 5 years (from date of first use):
  - An outdoor, heated swimming pool (12m x 12.5m) with retractable cover, associated plant and changing facilities directly on the beach
  - The applicant envisages about 7 users per hour in the pool, with most visiting for 30-60 minutes at a time
  - 1386sqm new floorspace is proposed
  - Commercial 'enabling' development is proposed comprising shops/cafes/restaurants/bars/takeaway (A1/A3/A4/A5 uses), leisure/yoga studios/swimming-related uses (D2 uses) and office (B1 use) in modular 'container' type structures of between 1 and 3 storeys high with first floor terrace. These will be delivered in advance of the pool, so the scheme is effectively two phases.
  - A wrapping material is proposed of various colours and patterns
  - Second floor 'place markers'
  - Associated bin and cycle storage and plant
  - Creation of area of 'event space' (D2 use) in grey pebble over shingle
  - Landscaping and ecological mitigation

- External lighting is proposed, although no details have been submitted at this stage. The applicant suggests it will be low level and not floodlights.
  - Retractable beach mat to sea edge
  - Lifeguard look out unit
  - A phased approach is proposed with the commercial units being provided up to 12 months before delivery of the pool to enable income to help deliver the pool
- 2.4 The application information suggests that a future application may be submitted for a permanent scheme, with an extended 50m pool, however, no further information relating to this has been submitted and this does not form part of the current application.

### 3. RELEVANT HISTORY

Former Peter Pan Amusements Site (history back to 2000 only):

**BH2018/02281** Erection of temporary buildings including first floor terrace to provide swimming training facility, sauna and changing facilities (D2 use), marketing suite/office (B1 use) and associated storage, plant and fencing, and use of land for general leisure/therapy use and pop-up events (D2/D1 uses) for temporary period of 12 months (Part retrospective). Currently under consideration.

**BH2016/01405** Erection of a single storey temporary structure for use as a theatre (Sui Generis) and food court (A3) from 9th of May until the 6th of September 2016 (retrospective). Approved 24/6/16.

**BH2011/01424** Erection of steel container for operation of cycle hire business for temporary period until 31 October 2011. (Retrospective). Approved 25/7/11.

**Prior to 2000:** Numerous applications approved for amusement and fairground ride-related development, prior to amusements ceasing in approximately the year 2000.

Adjacent sites:

(Yellowwave):

**BH2005/02408** Creation of a sand area for beach sports, erection of a cafe/reception pavilion, erection of a climbing wall and erection of boundary screening. Approved 22/6/06.

Gracies Place café adj to Peter Pan Playground

**BH2014/03148** Demolition of existing cafe and erection of new single storey cafe with roof terrace (A3) in relocated position. Approved 23/3/15.

Adventure Golf Course:

**BH2018/00700** Erection of 16 metre high rope climbing course above existing golf course. Approved 23/6/18 (on a temporary basis for 5 years).

Pre-Application discussions:

An earlier scheme was presented to members on 5/6/18. The main feedback given was:

- Appropriate regeneration of this part of the seafront would be welcomed.
- The provision of the swimming pool and boardwalk access to the beach would positively contribute to the provision of leisure and sporting facilities in the City. However, as there is a general policy presumption against development on the shingle beach, this would have to be fully justified in your submission. Further details should be provided to show how the scheme will link to the overall development and regeneration proposals for this part of the Seafront.
- The planning application should clearly set out the reasoning behind the submission of an initial 5 year temporary phase and the later permanent phase of the development.
- The mix of uses within the enabling development would appear to be appropriate in this location.
- Whilst members noted that further gaps between the buildings had been introduced and the height of the development had been reduced from the initial pre-application presentation in 2016, the height of the buildings needs to be justified so that it will be possible to fully assess the proposals, in particular the impact on views of the sea and beach from Madeira Drive.
- The bulk, scale and design (including colour) of the development, and its impact on the nearby heritage assets (East Cliff Conservation Area and Grade II listed Madeira Terraces and Shelter Hall), should be fully assessed, justified and, where necessary, mitigated. In particular, the submission of a viability assessment for the enabling development will be essential.
- The impact of the proposals on the Volk's Railway Site of Nature Conservation Interest (SNCI) should be fully assessed and, where necessary, mitigated in an ecological assessment.
- Members would normally recommend the scheme is the subject of a DesignPLACE review but noted this was not possible due to timing.
- Councillors noted the lack of parking provision on site. Given the lack of direct access all year round by public transport and the apparent lack of servicing facilities, this should be fully assessed and, where necessary, mitigated as part of the planning submission.

Officers and consultees (including Historic England) raised similar issues and in particular wished to see further amendments with regards to height, form, siting, colour and overall density of the enabling development. The developer has sought to respond to some of the issues raised, and has sought to justify other areas where the advice given has not been followed. This is discussed in the Considerations section of this report.

#### **4. REPRESENTATIONS**

4.1 Six (6) letters have been received objecting to the proposed development for the following reasons:

- Overdevelopment
- Commercial properties out of proportion to size of facility
- Poor design/modular buildings out of character
- Temporary scheme no excuse for poor design

- Inappropriate height
- Adverse impact to setting of Conservation Area and listed buildings
- Whilst a pool and some modest buildings would be supported, 39 modular units, stacked up to 3 storeys in garish colours are not in keeping. Architectural integrity needed as is an insult to the city and heritage
- Poor quality, needs to be classier, will damage city's image
- Pool too small to be useful public facility or attraction
- Restriction of views
- Adverse impact to residential amenity
- Will create additional traffic and noise
- Development should fund the Madeira Lift all year and an additional disabled parking space

4.2 Thirty-two (32) letters have been received supporting the proposed development for the following reasons:

- Great idea!
- Will create jobs and help small businesses
- Will enliven a derelict area and help bring other business down there
- Will be huge asset for city and make it more attractive
- Would be a year round attraction
- Will encourage people to be active and more healthy, less strain for the NHS
- City is seriously lacking decent swimming pool facilities, an outdoor one would be ideal given the increase in popularity of outdoor swimming and triathlons
- Will be good for local athletes
- Good stepping stone to sea swimming
- Will be good alternative to leisure based pools in the city, will be an important venue for serious swimming, swim training and coaching, will be centre of excellence
- Will complement Yellowwave
- Good design, is quirky, colours are cheerful, will enhance this dreary area of seafront
- Pool should ideally be 50m but good start and there is potential for this
- Will attract visitors to city
- Is temporary only so allows council to use for something else in future if needed
- Previous pop-up events here have proved very popular
- Strongly support but prefer less garish colours
- Support but containers are uninspiring- could be more artistic
- Should be permanent, not temporary

4.3 **Brighton Marina Neighbourhood Forum:** Support the proposal. Will help regenerate the area after cumulative effects of unoccupied buildings along Madeira Drive. Facilities will benefit Marina residents.

4.4 **Kingscliffe Society:** Objection. Whilst sympathetic to concept of a sea-related pool concerns regarding: lack of environmental impact assessment in interests of safety, infrastructure and ecology; lack of information as to how could benefit

the disabled or young people; lifeguard at higher level will impact safety response; limited sea views through from Madeira Drive; overall volume of development excessive for modest site in setting of heritage assets; and colours don't complement sensitive setting.

- 4.5 Regency Society: Objection.** Removing the dereliction of the former Peter Pan Playground site and providing the proposed pool are both worthwhile objectives, however, it seems implausible that development on the proposed scale could produce a return on investment within five years and cover the operating deficit of the pool and still be able to pay for reinstatement at the end of the term. If the company goes into liquidation, the Council would be landed with the cost of reinstatement. Proposal is gross overdevelopment. Loss of seaward view over significant part of Madeira Drive. Would create extra traffic and demand for parking. No recognition that Terraces are listed or assessment of impact. No way of assessing supposed public benefits against undoubtable harm to listed building. Harm is not just to Terraces appearance, but also their viability – would be fatal to hopes of saving the Terraces and grant funding. Commercial uses should be in the Terraces themselves. Is completely incongruous. Adverse effect on listed buildings and East Cliff Conservation Area.
- 4.6 Saltdean Lido CIC: Support proposal.** Vision of creating a national open water centre of excellence focusing on swim training, lifeguard training and swim safety will help encourage more residents and tourists into sporting and leisure activities. This additional provision of swimming facilities is much needed in Brighton & Hove. The proposed plans will continue the growth in swimming in our city.
- 4.7 The Brighton Society: Objection** on grounds the scale and appearance out of character with sites important location on Madeira Drive and East Cliff Conservation Area and listed Madeira Terraces. Contradicts East Cliff Conservation Area Character Statement. Design is poor quality, a permanent better quality scheme is needed. So why should this proposal even be considered in such a sensitive and historic area of the city? Building may not weather well. Is tacky. Scheme has no visual relationship in either appearance, form, scale, materials or colour to heritage buildings. Would prejudice the views of the beach and sea from Madeira Drive, Madeira Terraces and Marine Parade. Could set unwelcome precedent for permanent scheme.

## **5. CONSULTATIONS**

### **External:**

#### **5.1 Conservation Advisory Group: Objection:**

The Group recommends refusal.

The five year permission sought by the applicant is clearly at variance with the East Cliff CA Character Statement para 7.4.3 which is reproduced in part below.

*"...The council will seek to use its powers to achieve a better quality children's play area, with buildings and structures clustered together in a visually co-ordinated manner, and high quality hard and soft landscaping appropriate to the seafront location. Replacement buildings of a high standard of design will be*

*encouraged, which respect the appearance of the conservation area not only in views along Madeira Drive and from the beach, but also from Marine Parade above. No expansion of the boundary of the playground will be acceptable. Single storey buildings only will be appropriate, with careful attention paid to the design and material of the roofs, and no amusement or ride should exceed the pavement height of Marine Parade, including when in use".*

**5.2 Historic England: Comment/Concerns:**

Pre-application advice on an earlier scheme has been previously given. Whilst supporting the principle of a new high-quality, leisure-based activity on this site as part of a coherent strategy to continue the regeneration of Brighton's seafront we raised several concerns relating to the potential impact upon the sensitive historic environment in this location. In particular the issues of balancing the current openness and important relationship between the heritage assets and the sea front, which is a major contributor to their historic and architectural interest as well as a distinctive element of the conservation area and the scale and visual impact of new development was highlighted.

- 5.3 It is therefore disappointing to see in the submitted Sea Lanes Heritage Statement produced by QED a poor understanding of the importance of this site in heritage terms. It is stated that this site does not contain a listed building or "form part of the immediate setting of a listed building" and consequently no analysis of significance or potential impact of the development upon significance is provided. In light of the fact that the Madeira Terraces listed at Grade II are located immediately opposite the site and have a direct visual, functional and cultural associations with it and the sea beyond, this is not a credible conclusion.
- 5.4 The proposal is described as a "meanwhile" temporary use based on the grant of a five-year lease by Brighton and Hove City Council subject to Planning. However, the investment required to provide the development is evidently considerable and it has the appearance of a more permanent scheme. The benefits set out in the HD & A Statement, also appear to be more permanent, examples being "seeing the city transformed into a national centre for excellence or open water swimming" which would presumably require more than five years to achieve. Similarly, the benefits to schools and colleges imply a longer lifetime for the development if they are to be meaningful.
- 5.5 In light of the fact that application is for a five-year period, the terms "meanwhile use" and "temporary" are therefore to be treated with caution, especially as the application is silent on the long-term proposals for the site that a "meanwhile use" suggests will follow. Without any clarity on how and when the Madeira Terraces will be restored and re-used there is an obvious concern that this development could prejudice their future. Should the "temporary use" prove as successful as the applicants hope, the temptation to renew the lease and extend the permission will become even more difficult to resist.
- 5.6 The proposals do respond to the cultural history of this site and its immediate context and this use could indeed complement the other activities on the



seafront but the form of the proposal and its visual impact will cause harm to the contribution made by the seafront setting to both the significance of the terraces and the historic boarding houses and residential development above. A justification for some harm, on the basis that use of this site supports the Council in generating funds towards the longer term sustainable regeneration of the seafront, including finding a use for the listed buildings, is only convincing if both the extent of harm has been minimised and the funding clearly secured towards the long-term regeneration.

5.7 Minimising harm in compliance with Section 16 paragraphs 189 and 190 of the National Planning Policy Framework require an understanding of the significance of the site to be used in the development of and assessment of impact of a proposal. This includes looking carefully at scale and height and in particular, whether the brightly and random pattern finishes are a sensitive response to the character of the conservation area. The harm caused by this proposal could also be further minimised by securing an effective means of removal after the initial five-year period has expired.

5.8 Recommendation:

Historic England has concerns regarding the application on heritage grounds. In determining this application, you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. As paragraph 190 of the NPPF sets out, harm should be avoided or minimised. Following measures to minimise harm, which in this case includes ensuring that the initial five-year period cannot be extended, any justification has to convincingly outweigh it as set out in paragraphs 193 and 194 of the NPPF. In this case ensuring that the funds generated by the development are clearly and demonstrably going to be put towards the future regeneration of the seafront including securing a long-term permanent use for the listed terraces is a key element of that justification.

5.9 Marine Management Organisation: The MMO is responsible for the management of England marine area below the mean high water mark. [This site is above that]

5.10 Southern Water: Comment:

No development will be permitted to be constructed over or within 6m either side of the existing combined critical sewer that crosses the (Peter Pan) site. From our initial assessment of the existing apparatus it appears that there is limited opportunity to divert existing drainage apparatus, and therefore Southern Water objects to the proposed development.

Verbal Update: The sewer is sufficient distance below ground so as not to be affected by this temporary scheme involving modular container buildings. An

engineering solution should be able to be found should a future scheme with permanent buildings (and foundations) be proposed in the future.

Southern Water requires a formal application for a connection to the public foul sewer and public water main to be made by the applicant or developer.

The applicant should be advised that a wastewater grease trap should be provided on the kitchen waste pipe or drain installed and maintained by the owner or operator of the premises.

Initial investigations indicate that there are no dedicated public surface water sewers in the area to serve this development. Alternative means of draining surface water from this development are required.

The application contains a proposal for a swimming pool for commercial/public use. If the pool produces filter backwash water this would need to be discharged to the public foul sewer. The rate and times of discharge of this water to the sewer, and of the contents of the pool, if these need to be drained to the sewer, would have to be agreed with SW.

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.

We request that should this application receive planning approval, a requiring details of the proposed means of foul and surface water sewerage disposal is recommended.

**5.11 Sport England: Support** as proposal is considered to provide facilities to meet demand:

Swim England have been consulted and they would like to emphasise its support of the project, it states that it has been in communication with the project team from an early stage and therefore is on hand to provide advice and consultancy throughout the project. Swim England believes it will have a positive impact on the swimming community of Brighton and also provide strong links between pool and open water swimming. Within the wider region of Brighton & Hove there is a slight deficit of water space, that combined with a fairly active swimming community would result in a large demand for this facility and the additional water space it provides.

At this stage the designs are adequate, however fine details will need to be considered and Swim England's advice should be sought as the process proceeds due to the close nature of the pool to the sea at the potential impact this will have on tank finishes and fixtures and fittings around the pool.

Sport England, therefore, considers this proposal addresses an identified need for this facility type and has the potential to be of benefit to the development of

sport. We would wish to see this accorded an appropriate weight in the decision that is reached on this application.

**5.12 Sussex Police: Comment:**

The level of crime and anti-social behaviour in Brighton and Hove district is above average when compared with the rest of Sussex, and it will be important to consider all appropriate crime prevention measures when viewing the proposals.

The location is fairly isolated from view towards the eastern end of Madeira Drive making it vulnerable to unauthorised access, especially from the beach side and to the pool. It is pleasing that some security measures have been incorporated within the design and access statement. A combination of security measures will help ensure there is no unauthorised access, especially when the facility is closed.

The modular units provide the security for the north side of the development and so must be sound and fit for purpose as prefabricated portable style cabins and temporary buildings have historically been easy to break into given their temporary use.

The four access points must also have controlled access. The remaining south, east and west sides of the proposed development must also be secured. Fencing/gates should be appropriately designed and at least 2m high. Container units at the east and western end of the swimming pool must, as far as possible be clear of points which may allow access to the pool by climbing onto the flat rooves of the containers. It is also recommended the access to the lifeguard observation tower has perimeter security and controlled access.

It is noted that a General Site Manager will be in place during opening times. Further details of the management plan in relation to operating hours, security control for the various modular units and the gated entrances proposed is needed. It is noted that 'out of hours' security will be supplemented with a local security and facilities management 'on call' company. Cycle racks and the bin store will need to be adequately secured.

The toilet doors and changing facility doors must have adequate access control. Secure lockers should be provided for clothing and personnel possessions for persons using the swimming pool facilities.

The application states CCTV will be included to cover most of the site. this needs to be adequate and a 24/7 monitored system is recommended. Dusk to dawn energy efficient lighting around the perimeter of the application would provide lighting for casual observation by passers-by.

The area is close to the edge of the parameter of the late night economy of the city which can experience large amounts of footfall, noise, litter and acts of antisocial behaviour at the start and end of the day or when events are taking place along Madeira Drive. The location can be popular during summer months and during the day but less so at night time. The application wishes to include

an (A5) Takeaway facility. Depending on operating hours this application would provide legitimate reasons to frequent the area, which could in turn lead may act as a honey pot and create problems around the application area, especially if open late at night. It is unclear which units will be operated as a restaurant or bar. There would be concerns of the cumulative impact of these and it is asked that any consent for any units within the application or future application site is conditional that alcohol is ancillary to food prepared on the premises and served at table by waiters / waitresses.

**Internal:**

**5.13 County Archaeologist: Approve subject to conditions.**

The proposed development is of archaeological interest due to the proposed impact to the remains of the late Victorian Volks Railway, the earliest public electric railway in Britain. The proposed development area contains the course of a section of track (not the current course) that ran from a station at Banjo Groyne to the east through to a station by the Palace Pier. The route eastward from the Banjo Groyne to Rottingdean was constructed 60metres from the shore on sets of legs 23feet high. The proposed construction in the northern section of the site has a potential to destroy or disturb remains of the 19th century railway.

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 (secured by condition). 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.

**5.14 Coastal Engineer: Comment:**

The Shoreline Management Plan 2006 for this section of coast (policy unit 4d12) has a policy of 'Hold the Line' for the next 100 years. Hold the Line is defined as 'maintain or upgrade the level of protection provided by defences'(Defra 2001). A strategic study of the coastline carried out in 2014 and approved by committee and the Environment Agency does not identify the need for any coast defence works in the area of the application for the next 100 years, only continued maintenance of existing defences.

According to the results of the south east regional coastal monitoring programme (which carries out regular surveys of beach levels) this section of coast is an accreting coastline. Therefore it is not expected that the development will be affected by coastal erosion only an increasing beach width. From time to time beach management activities take place towards the Marina (extraction and movement of shingle back to Shoreham Port's beaches) this is not expected to have a negative impact on the development.

The application proposes laying temporary matting system across the shingle to the sea to enable disabled access. The proposed matting ('mobi mat') is shown going over a sand beach. Shingle beaches develop steeper slopes than sand;

the developer should satisfy himself that this type of matting will still perform as expected in a situation such as this.

There is no record of sea flooding in the area of the development and no conditions are recommended.

**5.15 County Ecologist: Comment**

Original comments:

Recommend refusal as the application is likely to have significant adverse impacts on biodiversity. The proposed development would lead to the loss of 1121m<sup>2</sup> of coastal vegetated shingle, which is approximately 14% of the City's resource of this globally restricted habitat, and is a significant loss to one of only three sites for this habitat in Brighton & Hove. The proposed mitigation and compensation measures are not considered adequate to offset this loss. As such, the current proposal cannot be supported from an ecological perspective.

Revised comments on updated Ecology Report:

The proposed development will lead to the loss of 1121m<sup>2</sup> of vegetated shingle and 420m<sup>2</sup> of scrub, grassland and tall ruderal habitats. The vegetated shingle that would be lost includes a conservation mound that was created to mitigate for the Yellowwave development. Whilst the vegetated shingle habitat on the mound is not an outstanding example of the habitat, it includes a good proportion of native shingle species and remains a notable habitat, the extent of which is significant.

The applicant commissioned a further ecology report which proposed to compensate for the loss of vegetated shingle habitat through the creation and management of 1500m<sup>2</sup> of vegetated shingle offsite (to the east of the Yellowwave development), which would be acceptable. It is noted that the previously proposed biodiverse green roof and the 1.5m wide linear strip to the west of the site will no longer be provided due to the financial implications of the compensatory habitat. The provision and protection of small areas of vegetated shingle within the site adjacent to the Volks Railway LWS totalling 266.5m<sup>2</sup> will enhance the site for biodiversity.

If the Council is minded to approve the application on the basis of this updated ecology report, a detailed plan for the compensatory habitat should be provided, including size, design and location, materials to be used, planting/seeding methodology, details of proposed public access/boardwalk, details of interpretation boards and a monitoring and management scheme. Whilst a 10 year management plan is appropriate to establish the site, management of the habitat should ideally be secured for 25 years.

Cost for annual review of monitoring report approximately as follows (£54ph):

Year 1:

- Site visit x 3 = 9 hours
- Review of monitoring reports + advice re subsequent management/remedial measures = 3-4 hours

Years 2-3:

- Review of monitoring reports + advice re subsequent management/remedial measures = 3-4 hours per year  
Years 4-10:
- Review of monitoring reports = 2 hours per year  
(total approx. £2,074 incl VAT)

#### **5.16 Economic Development: Support**

City Regeneration welcomes the provision of employment floorspace. These proposals will deliver jobs and help meet the needs of the City Skills and Employment Plan (2016). City Regeneration welcomes the creation of around 70 new jobs and opportunities for the local community. The proposals support the regeneration of Madeira Drive (Madeira Drive Regeneration Framework (MDRF)) and the rejuvenation of Brighton seafront in this area. The application also supports Policy SA1 'The Seafront' of City Plan Part One which encourages regeneration of the seafront and that proposals should support year round sport, leisure and the cultural role of the seafront. To the east of the site is the Yellowwave beach volley ball facility and café and these proposals are complementary to the existing facilities and businesses and help attract people towards this area of the seafront and contribute towards its rejuvenation.

Should this application be approved, due to the size of the development, it would be subject to certain obligations which would be included in a S106 agreement. There will be a requirement for the developer or their contractor to submit an Employment & Training Strategy linked to the development. The strategy should demonstrate how the developer or main contractor and / or their subcontractors will source local labour and provide training opportunities during the life of the project. How they will work with the Council's Local Employment Scheme Coordinator and organisations operating in the city to encourage employment of local construction workers during the construction phases of the Proposed Development, with a target that at least 20% of the temporary and permanent job opportunities created are available to local residents interested in working in construction or gaining training, facilitated on site. In addition to the strategy, there will be a requirement for Developer Contributions for the sum of £12,110 to be made prior to commencement towards the Local Employment Scheme, as per the Developer Contributions Technical Guidance.

#### **5.17 Environmental Health: Comment**

There are concerns that lighting used in the evenings could cause light nuisance to neighbours. The mixed uses should have restricted opening times to avoid causing noise nuisance. Opening hours of 7am-11pm are suggested although acknowledge a gym opening at 6am nearby does not cause a nuisance, so a temporary early start could be considered to allow this to be monitored. External lighting details should be secured by condition. No PA/tannoy equipment should be permitted.

#### **5.18 Heritage: Objection**

Statement of Significance:

This site is in the East Cliff Conservation Area and adjacent to the grade II listed Madeira Terraces, Lift and associated buildings, with the route of the historic Volks Electric Railway partly running around it and partly through it.

It is currently cleared land with basic barriers/boundary treatment against the public highway and Volks railway route, beyond which the land is open beach. The ground surfaces and boundary treatment are not positive features that sustain or enhance the conservation area, however the openness of the site is characteristic of the Western half of Madeira Drive, affording uninterrupted views of the sea and Palace Pier to the south, contrasting with the imposing scale of Madeira Terraces to the north.

The uninterrupted sweep of shingle beach along the Eastern seafront has a different character to the beach and esplanade West of the Palace Pier, however a small hub of open leisure uses with low level ancillary structures has developed between the application site and the Banjo Groyne. The low heights and low density of the buildings along with the choice of materials used has minimised their impact on the distinctive openness of this area.

#### Relevant Design and Conservation Policies and Documents

Planning (LBCA) Act 1990:

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the local authority shall have 'special regard to the desirability of preserving a listed building or its setting...' This presumption can be outweighed by material considerations powerful enough to do so. Where the identified harm is limited or less than substantial, the local planning authority must nevertheless give considerable importance and weight to the preservation of the listed building and its setting.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance...' of the conservation area.

National Planning Policy Framework:

Section 192 states that 'In determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets.' And Section 193 states 'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.'

Brighton & Hove Local Plan Policies: HE3, HE6, CP15, SR18, SA1.

#### East Cliff Conservation Area Study and Enhancement Plan 2002 :

Appearance:

The expanse of open beaches is an integral element of the setting of the buildings and the seafront amusements at Peter Pan's Playground partly detract from it. This clutter of structures is also a discordant element when viewed from above but the Volks Railway line at least provides a logical, and historic, southern boundary.

Character:

The seafront shelters, Madeira Terrace and Covered Walkway, the Shelter Hall and Lift and below that the wide, straight southern pavement of Madeira Drive

all evoke traditional seafront promenading. The continuous line of wide, uncluttered beaches contribute significantly to this character.

At 7.4.3 it states Peter Pan's playground currently detracts from the appearance of the conservation area due to its random collection of ramshackle buildings and other structures and the poor quality of its immediate environment. The council will seek to use its powers to achieve a better quality children's play area, with buildings and structures clustered together in a visually co-ordinated manner, and high quality hard and soft landscaping appropriate to the seafront location. Replacement buildings of a high standard of design will be encouraged, which respect the appearance of the conservation area not only in views along Madeira Drive and from the beach, but also from Marine Parade above. No expansion of the boundary of the playground will be acceptable. Single storey buildings only will be appropriate, with careful attention paid to the design and material of the roofs, and no amusement or ride should exceed the pavement height of Marine Parade, including when in use.

#### The Proposal and Potential Impacts

This application follows a process of formal and informal pre-application submissions over the last two years, which has seen the scheme change in various ways. The current application is for a temporary use of the site with a 25m swimming pool, internal endless pool, plant and changing rooms (all single storey) on the south side of the Volks railway line, and part 2 storey mixed use development with first floor walkway in the space between the railway line and Madeira Drive. The structures are to be adapted containers, clad in vibrant graphic PVC skins.

Previous discussions and advice have included encouragement for a more holistic and co-ordinated approach to be taken, to include the upgrading of the public realm and the relationship of the development with potential new uses for the Madeira Terrace arches and their restoration. The move to a temporary use makes such an aim more ambitious, and it is disappointing that the scope for this is lost, at least for the time being.

#### Policy context

The relevant sections of policies are set out above. The principal heritage considerations are the effect of the development on the character of the conservation area (specifically at this point the openness of the beach and promenade contrasted with the scale and enclosure of the sea wall) and the setting of the listed Terraces.

The East Cliff Study identifies the character of this part of the seafront as wide, uncluttered beaches which were harmed by the run-down playground that existed at that time. Since then, this site has been vacated but is still considered to have a negative impact on the immediate setting.

#### Use

The Yellowwave Beach Sports venue now bounds the site to the East, and due to the previously developed nature of the site along with the cluster of activities in the vicinity, the open water swimming facility is considered a suitable use for the site in principle. It is noted that the application requests approval for a temporary period of 5 years, and the Heritage Statement includes the removal of the pool



after 5 years and the return of the site to its former condition, however the Design and Access Statement proposes temporary commercial leisure and food uses but a permanent pool. [Note is has been clarified that all proposed development is only for 5 years]

Current Council aspirations for the regeneration of Madeira Drive support the creation of an active waypoint between the Palace Pier and Marina, however Heritage considerations require an acceptable balance to be made between the advantages to be gained in respect of the future restoration of the listed Terraces and improvements to the public realm, and the negative impact that ancillary uses and developments could have on the heritage assets that make this space special.

#### Site Area and Layout, Scale and Materials

Previous advice from the planning service has been that the siting of built structures north of the railway is generally considered acceptable, however the policy of confinement of developments to the area bounded by the railway line has already been eroded by Yellowave. This application also includes development south of the railway route and it is considered that a minimal amount of structures south of the railway would be acceptable if, like Yellowave, they were at beach level and of materials that tone with the shingle.

It was further recommended that north of the railway the buildings should be predominantly single storey and arranged in small groups to allow good views through to the beach and sea beyond, and use natural materials such as timber and gabions to reflect the beachfront setting.

As proposed the units around the pool are limited to single storey, however the use of the vibrant colours proposed would do nothing to minimise their impact, and the effect of their encroachment beyond the current extent of built structures in this location would be exacerbated, therefore the proposed materials are considered particularly inappropriate on this part of the site. It is also considered that the proposed bright blue pool lining contrasts with the anticipated open-water swimming character of the pool; having more of the appearance of a chlorinated lido. It is considered that a more natural colour lining should be investigated.

North of the railway the development has been arranged in a dense formal pattern with only allowances for brief, oblique views through to the sea. There are still approximately 1/3 of the units with a second storey. These first floor units are scattered along the development giving an overall impression of a 2 storey development. Again, the use of vibrant colours and bold patterns makes no reference to the surrounding natural environment and the use of the coloured skins on the roofs of the units will have a particularly intrusive impact when viewed from the higher vantage points on the terraces and Marine Parade. These should be revised to specify a natural finish that blends with the pebble beach setting.

There also appears to be some 3rd storey 'place markers' that appear to be internally lit cubes. These features further impinge on the strict height limit

previously imposed for structures along Madeira Drive in order to moderate the impact of new structures on the setting of the listed Madeira Terraces, Shelter Hall and Lift, and as proposed these way markers are considered particularly intrusive, over dominant and unnecessary.

The robustness of the proposed PVC coating is also of concern. This harsh, exposed location will be testing for any material, and it is considered that the natural materials consistently recommended for this site would continue to respect the setting when weathered, whereas damaged or degraded modern finishes would further harm the appearance.

Concern is raised over the proposed use of timber posts and Heras fencing; boundary treatment should be carefully considered and there is little detail provided to be assured that this will have a suitable appearance. Also, security gates are proposed across wide parts of the frontage and little detail has been provided regarding their appearance. It is noted that security gates do not appear to be proposed across the staircases.

Minimal detail is available regarding services, and assurance is required that there will not be roof-mounted (or other visible) plant. Mention is made of wall mounted extracts in relation to odour control and details of their appearance and locations are required.

#### Summary of conflicts with policies and guidance

The Heritage Team has considered this application against national and local policies and guidance, and it is considered that the scale, density and use of materials proposed for this development is in conflict with these.

Specifically, for the reasons given above the development would have an adverse impact on the setting of the Madeira Terraces (HE3) and would neither preserve or enhance the openness of the setting (HE6, CP15 & East Cliff Conservation Area Study) or reflect the character of the conservation area through the use of materials and finishes (HE6 & East Cliff Conservation Area Study).

The development would result in the loss of open space and involves development on the beach (CP16 & CP18), and would not respond to the design or visual character of the stretch of seafront to which it would relate and would have an adverse impact on the setting of important seafront buildings.

It would not continue the visually coordinated manner in which new buildings have so far been developed in the vicinity, particularly their scale and materials including the roofscape (East Cliff Conservation Area Study).

The scheme has potential to create added footfall which in the long term will be important to the success of the regeneration of this area, however the lack of tangible improvements consistent with the identified character of its setting means there are not considerations that would outweigh the harm, and the scheme cannot therefore be considered to comply with the requirements of the Planning (LBCA) Act or the NPPF and for this reason the Heritage Team is not able to support this application without significant amendments.

## 5.19 Planning Policy: Comment

### Initial Comments:

In principle the proposed use - the outdoor pool - accords with City Plan Part 1 Policy

SA1 The Seafront and emerging aspirations for the regeneration of Madeira Drive

(Madeira Drive Regeneration Framework) and the emerging City Plan Part 2.

The main policy considerations relate to:

Firstly the acceptability and suitability of the proposed encroachment on the beach to accommodate the swimming pool rather than Peter Pan hard standing site; the need to balance any adverse impact upon the Volks Railway SNCI/Local Wildlife Site against the provision of a new leisure use and the regeneration of a key seafront site. Further clarification/ justification is sought on why as an exceptional case a beach location is required. The county ecologist should be consulted on this application to ensure the requirements of Policy NC4 and CP10 have been fully addressed by the applicant.

Secondly the scale of the proposed commercial uses and whether these have been demonstrated to be enabling development. Further clarity is sought on the proposed uses (see comments below). Whilst a mix of small independent businesses would be considered acceptable to help support the leisure use and help create a vibrant seafront these would need to be ancillary/ supportive uses. The commercial elements should be kept ancillary to the main leisure use and to an absolute minimum as delivery of leisure related is the key aim for this site.

Thirdly the proposal creates c. 1,386 sq m of main town centre uses. Given the site's edge of centre location, a sequential site assessment is required in accordance with the NPPF paragraph 86 and to accord with Policy CP4 Retail Provision of the adopted City Plan Part 1.

No artistic component sum will be sought for this temporary planning application.

## 5.20 Further Comments:

It is noted that the further points submitted on behalf of the applicant with regards to justification of the swimming pool element being located on the beach to address SR18a) Seafront Recreation:

- Policy and Resources Committee landlord consent for the proposal;
- Beach incursions have occurred elsewhere on the beach – seating areas for cafes (Shoosh and Ohso Beach Bar); temporary beach events such as the Big Screen and Spiegel Tent) and Yellowwave Beach Sports Venue (where an exception to the policy was demonstrated);

The support for the Sea Lane scheme in various council Seafront Strategies;

- The draft CPP2 site allocation - however it should be noted that the draft CPP2 site allocation and draft policy map does not include the shingle beach as suggested by the further information provided – it incorporates the Volks railway section to the south of the site only.

- 5.21 The applicant has not clarified in the further information whether in drawing up the proposals whether they had considered siting the temporary swimming pool element on the hardstanding and whether this had been discounted due to site constraints and/or the need also to accommodate the enabling development which would have helped the consideration of the application.
- 5.22 Encroachment on the shingle beach is contrary to Policy SR18 a) and Paragraph 3.123 of the supporting text to Policy SA1 The Seafront indicates a presumption against proposals involving an increase in hard surfacing of the seafront at or in the vicinity of the sites of city-wide nature conservation importance. Paragraph 4.176 of the supporting text to CP16 Open Space indicates the importance to protect the intrinsic geological and aesthetic interest of this expanse of shingle stones which forms such a major open space between the land and the sea. The issue remains whether the proposed use, size and design of the pool would harm the beach in in this location.
- 5.23 It is acknowledged that the applicant at this stage is only seeking temporary permission for a 25m swimming pool and therefore subject to appropriately addressing CP10 Biodiversity a temporary permission for a 25 m pool could be considered as an exception to the policy if weight is given to the fact that the proposal will provide an outdoor leisure activity which accords with seafront strategies for this area of the seafront and the proposed uses would positively support the regeneration of this section of the seafront.
- 5.24 The applicant has indicated that they wish in the longer term to create a permanent larger swimming pool and provided in the submitted information an outline footprint. However the case for a permanent, larger facility would need to be fully justified with any future planning application.
- 5.25 It is acknowledged that the applicant it seeking a temporary permission for enabling commercial uses for five years however it is not considered that would constitute a 'meanwhile use'. It is therefore welcomed that the applicant has provided a Sequential Test site assessment for the proposed town centre uses that are proposed on an edge of centre site in order to accord with the requirements of paragraph 86 of the NPPF and Policy CP4 Retail Provision. It is also acknowledged that commercial uses proposed are enabling development for the swimming pool and this would limit the opportunities to disaggregate the commercial elements from the leisure uses. The applicant has looked at available sites within the St James Street District Centre and the assessment has confirmed that there are no sequentially preferable sites which are suitable, available of viable and therefore the requirements of the NPPF and CP4 have been met.
- 5.26 Flexibility with regard to amount and location of floorspace is proposed. There should however be no A4 (bar) unit larger than 150 sqm – as that is the floorspace threshold set out in the retained SR12 in the BHLF for a single unit. With regard to A uses, presumably with the configurations and different sizes of the containers this would ensure there could not be amalgamation to create one or two very large units. For B1 (office) start up units the Employment Land Study 2012 seemed to indicate that they tend to be around the 90 – 280 sq m

size – so a limit of 280sq m would be reasonable in this location. This would seemed to fit with the proposed upper floor commercial units of c. 238 sq m but the planning statement did seem to indicate ‘commercial’ units on the ground floor.

**5.27 Seafront Development: Support:**

The development of the former Peter Pan amusement site is a key part of the regeneration of Madeira Drive. The site has been vacant for close to 20 years and has proven difficult in attracting serious investment. The closure of Madeira Terrace which runs opposite the site has added to the gradual demise of this area.

The Sea Lanes temporary development will not only create a destination in its own right but will complement and support the existing businesses in the area who welcome this new addition to Brighton’s eastern seafront. The density of uses on the site is critical in driving footfall to the area from the already busy central seafront zone west of Brighton Palace Pier. The active frontage created by the retail and leisure units on Madeira Drive provides the required interest and vibrancy to ensure that the scheme is viable.

The size and nature of the pre-fabricated units allows flexibility within the site to create a mix of uses and tenancies which can adapt and respond to demand over the 5 year period. The building design reflects the temporary nature of the application.

We fully support this application and are confident that Sea Lanes represents a critical next step in the wider regeneration of Madeira Drive.

**5.28 Sports Facilities: Support:**

The BHCC Sports Facilities Team support the proposal as it improves the provision of swimming facilities in the city and the opportunity for engagement in sport and physical activity for local clubs and residents.

The proposal will provide considerable benefits in terms of improving and providing increased sporting opportunities and facilities in Brighton and Hove. The proposal helps to meet a number of the council’s key objectives, outcomes and recommendations from the following policy/strategy documents including Corporate Plan (2015-2019), City Plan Part One, Sports Facilities Plan 2012-22, Sports and Physical Activity Strategy 2013-18.

Limited information has been submitted in respect of the pool and operation. The application states that the pool is heated pool and 25m by 12.5m with a retractable pool cover but any more detailed information is limited.

The ancillary facilities – such as changing and toilet provision are not entirely clear. Further information is needed to be assured that there are an acceptable number of spaces for the expected usage and that the plans are informed by the Sport England and Swim England Design Guidance.

The temperature of the water, planned opening hours and potential programme usage are also key to understanding how the local community will be able to access the facility. More information in terms of accessibility for those with physical impairments would also be important to ensure the facility is as inclusive as possible.

Overall the proposal has the potential to provide an improvement to the city's swimming facility provision to help meet the required demand, although more detailed information would be able to provide better assurance.

**5.29 Sustainable Drainage:** Approve subject to condition.

No building can commence until the submission of a final drainage design has been submitted for the new development. The drainage design must include the SuDS and a detailed maintenance plan, highlighting how they will be managed.

**5.30 Sustainable Transport:** No objection subject to conditions and S106

The Highway Authority would not wish to object to the principle of temporary redevelopment of the site; however, had requested further details on the proposed Delivery and Servicing arrangements prior to determination.

In particular, this concerned the potential conflict with the Madeira Drive cycle lane. Clarification was subsequently provided that this would be undertaken from the existing access to the east of the site serving the Volk's Railway. The Highway Authority subsequently issued supplementary comments in which further details and clarification were requested. The above clarification has not been provided at the time writing and the Highway Authority would request that these details be provided prior to determination. If they are not provided prior to determination, it is recommended that a pre-commencement of construction condition relating to deliveries and servicing be added to any consent. In order to address the concerns raised, a variation to the submitted plans may be necessary.

For a development of this scale, the Highway Authority would typically expect to see a full Transport Assessment, considering a range of factors including assessment of walking and cycling routes connecting to the site and trip generation. In this case, it is recognised that the development is temporary and likely to be seasonal in nature. However, for any future application for a permanent venue, the Highway Authority would expect to see a full Transport Assessment as required by Brighton & Hove City Plan Part One policy CP9.

In the event that that the application is approved, owing to the size of the development and the likely increase in trips to the site, the Highway Authority would request a sustainable transport S106 contribution of £35,000. This is heavily discounted from the contribution that would be requested using the council's standard calculation outlined in the Technical Guidance for Developer Contributions in order to reflect the site's temporary use. It is recognised that the Local Planning Authority will need to consider the overall viability of the development in determining the level of contribution requested by the Highway Authority. However, it should be noted that, where a discount has been applied, trips associated with a temporary use will not be taken into account as 'existing'

trips when determining the level of contribution required by a future permanent application.

Conditions relating to cycle parking, deliveries/servicing and CEMP should be applied.

**5.31 Tourism (VisitBrighton): Support:**

We would welcome the application which we believe has much merit and will positively enhance the City's leisure offering, both for residents and tourists. The proposed development offers a genuinely novel experience and will encourage tourists to explore the seafront East of the Pier. It is vital that we are able to offer visitors a wide variety of 'experiences', giving them new reasons to visit and potentially convert day trips to staying visits. The redevelopment of the area would undoubtedly offer an innovative visitor experience.

**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 and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only - site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.

6.3 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
- CP4 Retail provision
- CP5 Culture and tourism
- CP7 Infrastructure and developer contributions
- CP8 Sustainable buildings
- CP9 Sustainable transport
- CP10 Biodiversity

CP11 Flood risk  
CP12 Urban design  
CP13 Public streets and spaces  
CP15 Heritage  
CP16 Open space  
CP17 Sports provision  
CP18 Healthy city  
SA1 The Seafront

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

TR4 Travel plans  
TR7 Safe Development  
TR14 Cycle access and parking  
TR18 Parking for people with a mobility related disability  
SU9 Pollution and nuisance control  
SU10 Noise Nuisance  
QD5 Design - street frontages  
QD15 Landscape design  
QD18 Species protection  
QD27 Protection of amenity  
EM4 New business and industrial uses on unidentified sites  
SR4 Regional shopping centre  
SR5 Town and district shopping centres  
SR6 Local centres  
SR18 Seafront Recreation  
HE3 Development affecting the setting of a listed building  
HE6 Development within or affecting the setting of conservation areas  
NC4 Sites of Nature Conservation Importance (SNCI's)

Supplementary Planning Documents:

SPD03 Construction & Demolition Waste  
SPD11 Nature Conservation & Development

Supplementary Planning Guidance:

SPD14 Parking Standards

East Cliff Conservation Area Study and Enhancement Plan (2002)

Background Documents:

Sports Facilities Plan 2012-2022  
Madeira Drive Regeneration Framework  
Draft Seafront Strategy 2012  
Local Wildlife Sites Review 2018

**8. CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations in the determination of this application relate to:
- The principle of developing the open shingle beach
  - The impact to ecology and biodiversity
  - The principle of locating the proposed uses in this location



- The impact to local retail centres
- The impact to the setting of the special character and appearance of the East Cliff Conservation Area and nearby listed buildings
- The impact to tourism and the economy
- The contribution the development will make to sports provision in the city
- The demand for travel created by the development
- The impact to amenity

## **8.2 Planning Policy:**

Policy SA1 'The Seafront' of City Plan Part One is the policy which has most relevance to the proposal. It states that the council will encourage regeneration of the seafront and that proposals should support the year round sport, leisure and cultural role of the seafront for residents and visitors whilst complementing its outstanding historic setting and natural landscape value. Proposals should ensure a good marine environment, enhance biodiversity and consider options for small scale renewable energy provision.

The policy sets out priorities for the whole seafront which include enhancement of public realm, provision of adequate facilities for residents and visitors, improvements to beach access and the shoreline and ensuring the seafront is accessible for everyone. Securing high quality architecture which complements the natural heritage of the seafront and historic built environment is identified as a priority.

SA1 identifies specific priorities for the area of the seafront east of Palace Pier to the Marina and states development should:

- Deliver the regeneration of Madeira Drive as a centre for sports and family based activities supported by a landscape and public art strategy which also provides for an improved public realm and conservation and enhancement of the historic and nature conservation features present in this location;
- Safeguard the vibrant and important event space at Madeira Drive as this presents a unique location for a mix of cultural, sport and leisure activity to take place;
- Improve beach access and seafront access for pedestrian and cycle users, linking with access improvements at the Marina/Black Rock.

8.3 City Plan Policy CP5 is relevant as it relates to culture and tourism. Its key priority is to maintain and enhance the cultural offer of the city to benefit residents and visitors. It aims to support the role the arts, creative industries and sustainable tourism sector has in creating a modern and exciting visitor destination with a range of high quality facilities, spaces, events and experiences. New visitor attractions will be expected to:

- 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 of the city and benefit the city's economy; and
  - Be accessible by public transport.
- 8.4 City Plan Policy CP16 seeks to safeguard, improve, expand and promote access to Brighton & Hove's open spaces (public and private) and the diverse range of experiences offered by these spaces. Planning permission resulting in the loss of open space, including the beach, will only be granted provided certain exceptional criteria are met.
- 8.5 City Plan Policy CP17 states the council's aspiration to increase participation in sports and physical activity, and seeks to safeguard, expand, enhance and promote access to Brighton & Hove's sports services, facilities and spaces. Supporting text to CP17 states the city's outdoor sports space provision is low compared to other local authorities. The Open Space, Sport and Recreation Study (which forms part of evidence base of the City Plan) indicates a further potential need for additional pool space, and the Sport Facilities Plan 2012-2022 builds on this and identifies a need to expand and improve public facilities especially swimming pools, sports halls, health and fitness suites and artificial grass pitches.
- 8.6 City Plan Policy CP18 seeks to promote healthier lifestyles.
- 8.7 Local Plan Policy SR18 of the Brighton and Hove Local Plan is relevant as it relates to seafront recreation. This states that new recreation facilities which are related to seafront/coastal activities will be permitted on the seafront provided that:
- There will be no development onto the beach;
  - The importance of the seafront and beach as an open space is not undermined;
  - Any development does not have a detrimental impact on strategic views along the coastline;
  - The development makes a considered response in its design to the visual and environmental character of the stretch of seafront to which it relates, supported by a design statement which addresses that character;
  - The development does not have a harmful impact on the amenity of local residents and the seafront due to noise, disturbance and light pollution;
  - The development will not result in the significant generation of car borne journeys, nor additional pressure for car parking;
  - The development will not have an adverse impact on the setting of important seafront buildings;
  - The development does not have an adverse impact on nature conservation interests; and
  - Any development enables the beach and seafront to be accessible to all.
- 8.8 Local Plan Policy NC4 states permission will not be granted for a proposal within, or in the setting of, an existing or proposed Site of Nature Conservation Importance (SNCI) where it is likely to have an adverse impact, on the nature conservation features of the site. Exceptions will only be made where:
- a. the proposal can be subject to conditions that will prevent damaging

impacts on the nature conservation features and their setting and includes provision for the protection, enhancement and management of nature conservation features; or

- b. the proposal is: essential to meet social, environmental and / or economic needs; of more than local importance within the City; cannot be located anywhere else; and the following requirements have been met:
  - i. the location, design and construction of the development is such that damage to nature conservation features is minimised and opportunities are taken for nature conservation gain;
  - ii. compensating and equivalent nature conservation features are provided;
  - iii. remaining features are protected and enhanced and provision made for their management; and
  - iv. improvements to public appreciation of and access to the site are provided.

8.9 Local Plan and City Plan policies relating to A1/A3/A4/B1 uses, Heritage, Ecology, Transport and Amenity are also relevant in the consideration of the proposal, and are discussed in this Considerations Section.

8.10 Emerging Policy in City Plan Part Two (due to be adopted 2020):

Although policies in CPP2 carry very limited weight at this stage (as the plan is currently out to Regulation 18 Consultation), emerging policy is a material consideration and is a useful indicator of the direction of travel for seafront policy.

8.11 Policy SSA6 specifically identifies the former Peter Pan site as appropriate in principle for leisure uses and ancillary supporting retail uses. Proposals will be expected to:

- a. Contribute towards the priorities for the Seafront as set out in City Plan Part One Policy SA1, including supporting the role of the seafront as an all year recreation attraction for residents and tourists;
- b. Achieve a high quality of design and sustainability which preserves and where possible enhances the setting the Conservation Area, adjacent Listed Buildings/ structures, the character of the seafront and strategic views;
- c. Provide for sustainable means of transport to and from the site and demonstrate good linkages for pedestrians and cyclists;
- d. Complement the regeneration of Madeira Terraces and Drive (SSA5) and contribute to a coordinated approach to enhance the public realm;
- e. Improve accessibility and connectivity between the site and the beach and sea; and
- f. Conserve and enhance biodiversity in the area.

8.12 Policy DM15 states proposals for new shop, food and drink and drinking establishments (A1 – A5) and D1 galleries and museums (D2 Use Class) on the lower promenade Madeira Drive and within the seafront arches, will be permitted provided certain criteria are met.

- 8.13 Policy DM16 states that the council will encourage temporary uses which help animate and activate vacant buildings or sites before regeneration/ construction commences. Provision of ancillary small-scale retail outlets will be permitted on identified seafront development sites or to support existing or proposed leisure/ tourism schemes.
- 8.14 Policy DM39 echoes existing policy in stating there is a general presumption against development extending onto the shingle beach and that the importance of the seafront and beach as an open space should be safeguarded.
- 8.15 The CPP2 also seeks to increase the area of the allocated SNCI (due to be renamed Local Wildlife Site) in this location as it is one of only three remaining sites of coastal vegetated shingle in Brighton and Hove.

It is anticipated CPP2 will provide a step towards a coordinated strategy for future development along this part of the seafront to guide development proposals and prevent harmful ad hoc schemes, in the interests of preserving the special character and appearance of the area. Policy SSA5 allocates the Madeira Terraces for a vibrant and balanced mix of uses. Restoration of the declining Terraces is a key goal for the council and restoration and use of a number of arches at the eastern end of the Madeira Terraces is proposed to commence next year. Should a Heritage Lottery Funding bid (Dec 18) be successful it is anticipated work will commence on a masterplan and public realm strategy to identify key enhancement priorities and guide future development proposals in the locality.

**8.16 Principle of proposed uses in this location:**

The former Peter Pan Amusements site has been vacant for nearly 20 years and this area of the seafront is in decline and requires regeneration, therefore potential investment here is certainly welcomed in principle. Introduction of new uses which help draw people to the area and give the area a boost are welcomed.

Given the existing and emerging policy context outlined above, the proposed leisure use (ie pool) is welcomed in principle given that it would deliver a sports based activity in a location where this is encouraged, and there is an identified shortage of swimming pools in the city. The proposal would contribute towards the council aspiration to promote healthier lifestyles. The council's Sports Facilities team support the proposal, as do Sport England. The proposal for swimming in this location links back to Brighton's history as a bathing resort and is considered an appropriate seafront use. The proposed pool use would add to the overall visitor offer of the seafront and help boost tourism and the economy, as sought by policy. The proposal could operate all year round, which reduces the seasonality. The positive benefits of a pool here is therefore given significant weight.

Given its location directly on the beach however, the pool's location would conflict with policies SR18, SA1 and CP16 (and emerging policy DM39) which seek to safeguard the importance of the seafront and beach as an open space.

The applicant has stated that the area north of the railway (which was the site marketed by the council) is not sufficient to accommodate their proposal (and potential future plans for a 50m pool) and they cite examples of other sites where this exception has been made. It is accepted that the location of the pool does conflict with policy however it is considered that an exceptional case can be made in this particular case, and the benefits of the scheme outweigh the harm caused. Exceptions have been made in a similar circumstance where a significant public benefit is delivered, such as in the case of Yellowwave adjacent. In this particular location the beaches are wide and a substantial amount of open beach will remain surround the site. The site is close to existing development south of Madeira Drive (Yellowwave, Peter Pan playground, Adventure Golf and Volks Railway sheds) so forms part of a distinct cluster, which is considered appropriate. The proposed structures south of the railway are kept to the minimum required for pool operation and help retain a degree of openness. In addition, weight is given to the fact the proposal is for a temporary period only, therefore the site would return to open shingle eventually. On balance therefore, the positive benefits of locating a (temporary) swimming pool here are considered to outweigh the policy conflict in this instance.

In order to provide and operate the pool, a significant amount of commercial 'enabling development' is required to ensure it is viable. The requirement for this is understood but it is a concern that such a substantial amount of floorspace is required, given the priority for this area of the seafront is for family/sports based activities, and given the impact such development has on the character and appearance of the locality. Emerging policy is clear that any such uses here should be ancillary only. It is however recognised that certain sport facilities, and swimming pools in particular, require significant resources. The applicant has submitted a Viability Assessment which outlines how marginal the viability of the scheme is and why the amount of enabling development is required. The Assessment has been independently considered by the council's surveyors, who concur with the overall conclusion. On this basis the enabling development is considered acceptable in principle as an exceptional case. The area is clearly in need of a boost and the proposal should add much needed vibrancy and vitality to this declining area. The proposal will introduce something a bit different for the seafront and the city and is welcomed. Weight is also given to the fact this is a temporary scheme only. A condition is recommended to ensure the enabling uses are closely related to delivery of the pool, and this will ensure the pool is delivered within 12 months of the commercial uses first being brought into use (or by April 2020). The council's Seafront and Tourism Teams are supportive of the scheme.

There is no objection in principle to type of uses proposed in principle, as these would draw people to the area and add vibrancy, and generally accord with existing and emerging policy. Such uses could help attract visitors and boost the wider economy. The proposal will create jobs and is supported by the council's Regeneration Team. Flexible mixed uses across the site is encouraged in principle. There is some concern however regarding the proposed B1 office use as this is not an 'active' use as such and is not strictly appropriate in a beachfront location, however, the overall amount of B1 floorspace can be restricted by condition so that it does not become the dominant use and to allow

for a vibrant mix of uses. The applicant hopes to attract leisure based office users which is welcomed and encouraged (but occupiers cannot be controlled through the planning process). A Sequential Test has been submitted, and it is satisfactorily demonstrated that the proposal would not undermine the vitality or viability of local retail centres, as required by Policy CP4.

#### **8.17 Ecology, Biodiversity and Beach Processes:**

National and local planning policies seek to ensure developments do not compromise ecology or biodiversity, and seek enhancement. The site is partly located in a Site of Nature Conservation Importance (adjacent to the railway) and the site of the pool is on a vegetated shingle habitat mound created to mitigate the impact of the adjacent Yellowwave development. Development is generally resisted in such locations unless exceptional criteria can be met, as set out in policy NC4.

Coastal vegetated shingle is a globally restricted habitat and this site is one of only three sites for this habitat in Brighton & Hove therefore any development here requires very careful consideration. The proposed development will lead to the loss of c. 14% of the City's vegetated shingle resource, 6% of the revised Volks Railway Local Wildlife Site and loss of a conservation mound, therefore significant weight is given to the need to secure appropriate mitigation and enhancement. Even though the proposal is for a temporary use, the ecological impact will be permanent.

In this particular case it is considered an exception can be made given the wider benefits of providing a pool here and given that the application includes appropriate ecological mitigation and enhancement, and also enhances public appreciation of it (via boardwalk and interpretation board) as per policy NC4. These measures (and future maintenance and monitoring) can be secured via S106. On the basis of the applicant's revised ecological scheme which outlines a scheme to replace the vegetated shingle mound off-site and enhances the habitat on site, the County Ecologist raises no objection.

The council's Coastal Engineer confirms that the proposal would not compromise any beach processes and they do not expect the development will be affected by coastal erosion, only an increasing beach width. They do request further details of the retractable beach matting to ensure it is fit for purpose (which can be secured by condition). No coastal defence works are identified as necessary in this area. Both the council's Coastal Engineer and the Sustainable Drainage officer raise no concerns with regard to potential flooding.

#### **8.18 Design, Appearance and Impact to Heritage:**

The council has a statutory duty to have special regard to the desirability of preserving listed buildings and their settings (in this case the Madeira Terraces, Shelter Hall and Lift and Banjo Groyne), and also to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas (in this case East Cliff CA). National and local planning policies reinforce this importance.

The NPPF states that great weight should be given to conservation of heritage assets and that this presumption can be outweighed by material considerations deemed powerful enough to do so. The NPPF states that where a proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. Where the identified harm is limited or less than substantial, the local planning authority must nevertheless give considerable importance and weight to the preservation of the listed building and its setting.

The character and appearance of this part of the East Cliff Conservation Area is described in the formally adopted East Cliff Conservation Area Study and Enhancement Plan 2002, and this document provides guidance for future development here and is a material consideration.

Paragraph 3.3.4 of the Study states *the southern side of Marine Parade remains a broad promenade overlooking the Madeira Terrace, Madeira Drive and the wide shingle beaches with the only significant built development being the Aquarium Terraces at the far western end. It is generally uncluttered by modern street furniture etc. but the grade II listed 1890s lamp columns on the pavement edge and the late 19th century seafront shelters and early 20th century wooden benches add to its traditional seaside appearance. The expanse of open beaches is an integral element of the setting of the buildings and the [former] seafront amusements at Peter Pan's Playground partly detract from it. This clutter of structures is also a discordant element when viewed from above but the Volks Railway line at least provides a logical, and historic, southern boundary.*

Paragraph 3.3.6 states: *The seafront shelters, Madeira Terrace and Covered Walkway, the Shelter Hall and Lift and below that the wide, straight southern pavement of Madeira Drive all evoke traditional seafront promenading. The continuous line of wide, uncluttered beaches contribute significantly to this character.*

And paragraph 3.3.7 states: *...part of the seafront relates more to the brasher seafront pleasures of the Palace Pier, and includes the Aquarium Terraces and Colonnade and the beaches immediately east of the Pier. Any further intensification of this commercial brashness would, however, be detrimental to the special character of the seafront. It should be noted too that the seafront as a whole has a different character in summer to that of the winter. The influx of summer visitors gives this sub-area a lively character, which contrasts with a more sedate atmosphere during the winter months.*

In this context, the principal heritage considerations are the effect of the development on the character of the conservation area (specifically at this point the openness of the beach and promenade contrasted with the scale and enclosure of the sea wall) and the setting of the listed Terraces. The East Cliff Study identifies the character of this part of the seafront as wide, uncluttered beaches which were harmed by the run-down playground that existed at that

time. Since then, this site has been vacated but is still considered to have a negative impact on the immediate setting.

The comments made by Historic England, the council's Heritage Team (and local heritage societies) have been made in the context of current policy and guidance. They clearly have concerns regarding the scheme (although the degree of harm is not expressed), and consider it to adversely affect the setting of both listed buildings and the East Cliff CA. This is primarily due to the proposed design, site coverage/density, height, colours and materials of the scheme, which are not deemed to pay regard to their special setting.

The applicant argues that the site contained significant development in the past of varying heights and bright colours and that they are trying to achieve something modern and different here, in direct contrast to the historic and seafront setting, in the spirit of other 'daring' development that characterises Brighton. The appearance of the scheme clearly divides opinion as can be seen in the representations made.

Limited weight is given to the previous development on the site, particularly given that this was identified as being harmful to its setting, but there would be no objection to a modest single storey scheme here. As has been stated previously, the site forms part of a cluster of development south of Madeira Drive thus development would not be inappropriate in principle. The proposal, comprising of a significant number of temporary modular building up to 3 storeys high with bright colours would appear somewhat incongruous and are considered not particularly sympathetic to their special setting (as set out in the East Cliff Study). It is considered they do not comprise the high quality of development expected in such a sensitive location.

Since pre-application stage, the applicant has sought to reduce the overall scale and density, and the amount at second/third floor level and introduce some gaps through the site, which is positive. Given the scale of development needed to make the pool viable however such changes have had relatively minimal impact. It is positive that the majority of units are at single storey level, and those at second floor level are just below the level of the middle promenade. Third floor 'placemarkers' are proposed to announce the location and whilst there is concern regarding their height their numbers are kept to a minimum, which is positive. Gaps through at ground level are positive but are at an oblique angle and therefore have minimal impact. It is positive that structures south of the railway have been kept to the minimum needed for the pool to operate, which help retain a degree of openness. Officers have secured amendments to ensure the structures and pool are located as far north as possible, to lessen their impact.

Officers have sought to amend the materials and colours to be more appropriate to the seafront and heritage setting, however, the applicant states these are an important part of the brand and what is being offered here. They state the proposal will bring something a bit different and exciting to the city and that bright fun colours are part of Brighton's heritage.



Given the concerns regarding the appearance of the development and impact to heritage assets, the merits of the proposal are considered to be finely balanced. It is considered that given the substantial decline of this area of the seafront and its current state of flux, the development could have a positive impact, despite its shortcomings. The area is clearly in need of a boost and will need to change and adapt to present circumstances. The site currently is vacant and detracts from the area. Given the marginal viability of the scheme it is not possible at this stage for the scheme to contribute financially towards heritage enhancement. In the short term however, the positive effects and enlivening of the area could benefit the longer term aspirations for the area, including the campaign for restoration of the Madeira Terraces and enhancement of public realm.

It is considered that, in this exceptional case, significant weight should be given to the wider regenerative benefits of the scheme and the benefits of providing the sporting facility in particular, and to the fact it is temporary only (and thus harm would be minimised and ultimately reversible). It is considered that there is clear and convincing justification for the scheme, as required by para 194 of the NPPF. It is considered that the degree of harm caused would be less than substantial and that the positive public benefits of the scheme would outweigh the harm caused, as required by para 196 of the NPPF.

The proposal and its 'temporary' nature and appearance would not be considered acceptable as a permanent form of development given that it would prove counterproductive to the long-term aspirations for the area. The seafront has been, and always will be, the 'shop window' of Brighton & Hove therefore development has to be of the highest quality to be successful. It is disappointing that previous advice to take a more holistic and co-ordinated approach, to include the upgrading of the public realm and the relationship of the development with potential new uses for the Madeira Terrace arches and their restoration has not been taken, however, it is recognised these projects are at different stages of development. This is only a temporary scheme and there remains the opportunity for this as plans emerge for the Terraces (a 5 year consent should not prejudice this). Detailed follow on work from Madeira Drive Regeneration Framework is to commence shortly and the regeneration of this particular eastern part of the Madeira Terraces is at a very early stage. It is considered particularly important that only temporary consent is granted given the uncertainty over plans for the Terraces and Madeira Drive in general. In the medium to long-term, a significant development on the Peter Pan site could prejudice the special setting and future viability of the Terraces and thus would need very careful consideration. Concerns in this regard have been expressed by Historic England. In the future, retention of sea views will be important, as will retention of the prominence of the listed structures and the height of the middle promenade. Quality of design and materials will also be important. The council will encourage the developer to get involved in emerging plans for the future.

The County Archaeologist confirms that the site does contain archaeological interest relating to remains of the Volks railway, which are likely to be at shallow depth. Therefore the scheme, albeit with shallow foundations, is likely to disturb remains. This impact thus needs mitigating in line with policy and the NPPF and an appropriate condition is recommended.

### **8.19 Impact to 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. Other policies seek to ensure development do not result in unacceptable noise or other pollution.

As this is a seafront location, nearby residential properties are some distance away at the upper promenade level on Marine Parade. There are already several leisure uses in this location which generate activity. Therefore there is no objection in principle to the proposal from an amenity point of view. No details of lighting have been provided but a condition can ensure brightness is not excessive and ensure they are visually sympathetic. The Environmental Health Team raise no objection in principle, subject to the imposition of conditions restricting opening hours and to secure an appropriate lighting scheme. A condition can control potential noise from plant, PA's and tannoys etc.

The Environmental Health team expressed some concern regarding a 6am start and suggest this is tested on a trial basis only, however, given the location and nature of the pool use, on balance it is considered a 6am start would be acceptable for the duration of the proposal and is indeed comparable to gyms in the wider area. This earlier start also makes the development more accessible. A 7am start would be appropriate for the commercial uses. A 10pm closing time for the pool would be appropriate given this ties in with the hours of Yellowwave adjacent, and also other seafront attractions. There is no objection to an 11pm closing time for the commercial uses. See comments under 'crime prevention' below relating to size of A4 bar uses deemed appropriate here to prevent undue noise, crime and anti-social behaviour.

A condition can secure a Construction Environmental Management Plan (CEMP) to mitigate construction impacts.

### **8.20 Sustainable Transport:**

City Plan Policy CP9 seeks to encourage use of sustainable modes of transport. Local Plan policy TR7 seeks to ensure developments do not compromise highway safety.

There is no objection to a car-free development here. The site is well located to take advantage of pedestrian and cycling routes. Public transport access is possible but is more difficult given this is located above on Marine Parade. There is public car parking, including disabled, on Madeira Drive. Cycle provision on site is welcomed and encourages use of sustainable modes. A Travel Plan can promote further use of sustainable modes and would be appropriate for uses that could attract significant visitors, and can be secured by condition.

The applicant has stated they are unable to meet the financial contribution requested (£35,000) towards enhancement of sustainable transport given the marginal viability of the scheme. The on-site cycle provision will go some way towards this however the scheme is proposing a significant amount of new commercial uses as well as a destination use in the pool, therefore further mitigation is considered necessary. In the context that this proposal is for 5 years only, that the viability is marginal and that the scheme delivers other benefits, it is considered appropriate and reasonable to secure a significantly reduced figure (of £3,500). By way of comparison, the wheel and zip wire both contributed £10,000, and these schemes did not present a viability case. This sum could go towards enhanced signage/cycling/pedestrian facilities in Madeira Drive and could add to the bike share scheme. See also later section on 'viability'.

Some concerns regarding deliveries and servicing have been expressed, and a condition to secure a revised layout to ensure adequate highway visibility and safety is recommended. This will mean one modular unit will need to be relocated. Conditions can also secure a CEMP to mitigate construction impacts and ensure highway safety is not compromised.

#### **8.21 Other Considerations:**

##### Crime Prevention:

The NPPF and City Plan Policies CP12 and CP13 seek to ensure developments consider crime prevention.

In this relatively isolated seafront location crime prevention will be particularly important, and Sussex Police have identified measures that should be incorporated. Therefore submission of a Crime Prevention Strategy is recommended by condition. This could include Secure By Design certification. A balance will need to be struck to ensure that security measures such as fencing, CCTV etc do not comprise the visual amenity of the area.

Given the site is close to a large nightclub/gig venue with bar area at Concorde 2, and there is a bar area at Yellowwave, and Madeira Drive is used for events, a condition is also recommended to restrict the A4 (bar) floorspace to be no greater than 150sqm unless service is to seated customers to persons taking meals on the premises or alcohol is ancillary to food service. This accords with policy SR12, which resists large bars in close proximity to each other in the interests of preventing antisocial behaviour and crime.

#### **8.22 Sustainability:**

City Plan Policy CP8 expects all new development to incorporate sustainable design features to avoid expansion of the city's ecological footprint. It states 'major' development of more than 1,000sqm (as is proposed) should meet BREEAM 'excellent' standard. In this exceptional case however, which involves modular temporary buildings, it is considered it would not be reasonable or practically possible to secure this standard. The applicant does propose sustainable drainage systems, ecological mitigation and enhancement and promotes sustainable transport in the form of cycle stands, which is welcomed from a wider sustainable perspective.

### 8.23 Viability

Policy CP7 seeks to ensure developments meet the demands they create for infrastructure. The council's Developer Contribution Technical Guidance is a material consideration and sets out formula for calculating financial contributions based on the impact of particular development types.

The applicant has submitted a Business Case which demonstrates that the viability of the scheme is marginal. This has been independently considered by the council's surveyors, who concur with the overall conclusion. The NPPF states weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case.

The applicants have not allowed for any S106 contributions (except for ecology) to mitigate the impact the development would have or to comply with planning policy. This would normally mean the development is unacceptable in planning terms as the impacts it creates should be appropriately mitigated, notwithstanding viability. In this exceptional case however, given its temporary nature and the wider regeneration and public benefits of achieving development here, it is considered that significantly reduced S106 contributions may be sought, rather than recommend refusal of the application.

On balance, contributions towards the council's Local Employment Scheme are not sought (£12,110 requested), given the wider economic aims that would be achieved by the development, which is a similar aim of the Scheme. A S106 obligation to encourage use of local labour and training will however still be pursued. A contribution of £3,500 for sustainable transport enhancement has been agreed, which would allow for some enhancement of sustainable transport in Madeira Drive (signage/cycling/pedestrian enhancement). This is considered a reasonable balance which should enable the scheme to proceed in this area in need of significant regeneration. In addition this is preferable to an alternative of additional commercial units (to make the scheme more viable) which would be unacceptable on other grounds. It is considered that this reduced contribution, in these very exceptional circumstances, would meet the relevant tests in that it is necessary to make the development acceptable in planning terms, is directly related to the development and is fairly and reasonably related in scale and kind to the development.

### 8.24 Conclusion:

The proposed development is considered to bring significant benefits to an area which is in decline. It will help regenerate the area and boost tourism and the wider economy. There is an identified shortage of pool space in the city and the scheme will promote swimming and healthier life styles. The principle of locating the proposed 'enabling' commercial and sporting uses here on this part of seafront is considered acceptable. There is a general presumption against development directly on the beach, outside of the previously developed site, however there are other such examples like Yellowwave adjacent and on balance the wider benefits of the scheme are considered to outweigh the harm and loss of open space. The scheme would be built in an area of rare vegetated shingle habitat but would include satisfactory ecological mitigation and enhancement.

There are concerns regarding the overall scale/density and appearance of the scheme however the amount of development proposed is necessary to make the pool viable, and provision of this sporting facility is given significant weight. The scheme would cause harm to the special setting of listed buildings and the East Cliff Conservation Area, but this harm is exceptionally considered to be outweighed by the public benefits of the scheme and the fact any impacts will be only temporary. The developer is trying to do something different and exciting here and, on balance, approval is recommended.

## **9. EQUALITIES**

- 9.1 A platform lift is shown on the drawings which would allow access to the second floor. The remainder of the site, including pool and changing rooms, has level access which is welcomed. A retractable beach mat is proposed from the site to the seawater edge, which is welcomed, and accords with policies which seek greater public accessibility on the seafront. Details of the mat will be secured by condition.



# **ITEM C**

**1A Marmion Road  
Hove**

**BH2018/01894  
Variation of Conditions**

**DATE OF COMMITTEE: 5<sup>th</sup> December 2018**





# BH2018\_01894 1A Marmion Road Hove



Scale: 1:1,250



<b><u>No:</u></b>	<b>BH2018/01894</b>	<b><u>Ward:</u></b>	<b>Wish Ward</b>
<b><u>App Type:</u></b>	<b>Removal or Variation of Condition</b>		
<b><u>Address:</u></b>	<b>1A Marmion Road Hove BN3 5FS</b>		
<b><u>Proposal:</u></b>	<b>Application under S73a for variation of condition 2 of BH2015/01278 (Demolition of existing warehouse (B8) and erection of 4no two/ three storey residential dwellings (C3) and offices (B1).) (allowed on appeal) to allow amendments to the approved drawings.</b>		
<b><u>Officer:</u></b>	<b>Sonia Gillam, tel: 292265</b>	<b><u>Valid Date:</u></b>	<b>12.06.2018</b>
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	<b>07.08.2018</b>
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	<b>21.11.2018</b>
<b><u>Agent:</u></b>	<b>ADC Ltd 72A Beaconsfield Road Brighton BN1 6DD</b>		
<b><u>Applicant:</u></b>	<b>Albany Homes Southern Ltd Unit 33 Henfield Business Park Shoreham Road Henfield BN5 9SL</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:

- A contribution of £2,690 towards the planting of seven trees within the vicinity.

### 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>
Sections Proposed	ADC855/07		20 June 2016
Material sample/detail	SCHEDULE		20 June 2016
Material sample/detail	BRICK	ATHERSTONE RED	20 June 2016
Material sample/detail	WINDOW DOOR HEAD BRICK	TSTAFFORDSHI RE BLUE	20 June 2016
Material sample/detail	ZINC ROOF	PREPATINA BLUE GREY	20 June 2016
Material sample/detail	BLOCK PAVING	MARSHALLS CHARCOAL	20 June 2016
Material sample/detail	ARTISAN	COLOUR GREY	20 June 2016

	WOODGRAI N BROCHURE		
Floor Plans Proposed	ADC855/13	A	14 November 2018
Floor Plans Proposed	ADC855/14		11 June 2018
Floor Plans Proposed	ADC855/15		11 June 2018
Elevations Proposed	ADC855/16		11 June 2018
Location and block plan	ADC855/17	A	14 November 2018
Site Layout Plan	ADC855/18	A	14 November 2018
Elevations Proposed	TA633/16K		3 July 2015
Sections Proposed	TA633/18K		10 April 2015
Elevations Proposed	TA633/17K		3 July 2015

2. Not used
3. The southernmost building within the development hereby permitted shall be used for B1 (a) offices only and for no other purpose (including any other purpose in Class B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
4. The first floor windows in the rear/east elevation to all units of the development hereby permitted shall not be glazed otherwise than with obscured glass and thereafter permanently retained as such.
5. No cables, wires, aerials, pipework (except rainwater downpipes as shown on the approved plans), meter boxes or flues (other than those approved under drawings ADC855/16 received on the 11 June 2018) shall be fixed to any elevation facing a highway.
6. The car spaces to be provided shall be kept available at all times for the parking of motor vehicles by the occupants of the dwellings and offices, and their visitors, and for no other purpose.
7. No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. TA633/11 rev. J for bicycles to be parked and that space shall thereafter be kept available for the parking of bicycles.
8. 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.

9. The development shall be maintained in accordance with the approved materials samples/ details approved under application BH2016/02324 on 5 October 2016
10. Not used
11. Not used
12. The dwellings shall not be occupied until the Building Regulations Optional Requirements G2(36(2)(b)) (water efficiency) and M4(2) (accessible and adaptable dwellings) have been complied with.
13. The B1 use offices shall not be occupied until the sustainability measures detailed within the Sustainability Checklist received on the 10th April 2015 have been fully implemented, and such measures shall thereafter be retained.
14. Not used
15. 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.
16. Prior to the first occupation of the development, details of a scheme of works to raise the existing kerb and footway, including redundant vehicle crossovers, in front of the proposed development, and to realign the western bell mouth kerb to Mainstone Road to be the same radius as the kerb opposite (including tactile paving) shall be submitted to and approved in writing by the Local Planning Authority. The works shall be completed prior to the first occupation of the development hereby permitted and shall thereafter be retained.

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 site comprises a newly built two/ three-storey terrace comprising four two-bedroom houses and a B1 office unit at the junction of Mainstone Road and Marmion Road, Hove.
- 2.2 Application under S73a for variation of condition 2 of BH2015/01278 (Demolition of existing warehouse (B8) and erection of 4no two/ three storey residential dwellings (C3) and offices (B1).) (allowed on appeal) to allow amendments to the approved drawings.

- 2.3 The development has been constructed with various deviations from the approved plans. Amended plans have been received during the course of the application which show the existing situation on site.
- 2.4 Following a Planning Enforcement investigation, the applicant seeks to regularise the following:
- The size/ siting of the building in respect of the approved plans.
  - The size/position/spacing of windows and detailing between windows is incorrect to the western elevation;
  - The 2nd floor doors facing onto the roof terraces are incorrectly positioned;
  - The roof terrace balcony should feature obscure glazed panels but is clear glazed;
  - The parapet roof line is incorrect. The approved elevation shows a stepped parapet detail, with double height glazing in places;
  - Metre boxes shown on Marmion Road and flues on the Mainstone Road elevation in conflict with condition 5;
  - The approved plans show the planting of two trees to the southern end of the site; this has not been undertaken in conflict with condition 14;
  - The main entrance door and bin store door have been switched to western elevation.

### 3. RELEVANT HISTORY

- 3.1 2018/04516/ENFRCE Not in accordance with approval BH2015/01278. The Enforcement team have considered the deviations from the approved plans and do not consider that any of them cause any significant harm to either neighbour amenity or the character of the area.

BH2016/02324 Application for Approval of Details Reserved by Condition (s) 9, 10 and 11 of Application BH2015/01278 (allowed on appeal). **Approved** 05.10.2016.

BH2015/01278 Demolition of existing warehouse (B8) and erection of 4no two/three storey residential dwellings (C3) and offices (B1). **Refused** 05.08.2015 at Planning Committee for the following reasons:

1. The proposed development by reason of its height and scale would represent an incongruous feature in the street scene and would also result in the new development having a dominating relationship with the surrounding houses. The proposed development is therefore contrary to Policies QD1 and QD2 of the Brighton & Hove Local Plan 2005.

Allowed on appeal 08.03.2016. The Inspector gave the following reasons:

- The scale and height of the proposed development would not harm the character and appearance of the area.
- This is a high density area, with houses in close proximity such that there is a degree of mutual overlooking. Given the nature of this accommodation, I am satisfied that the distance to neighbouring dwellings would ensure that the living conditions of neighbouring occupiers would not be unduly harmed.
- No evidence has been provided as to the historic importance of the building and, at present, it is a utilitarian structure that does not make a particular contribution to the character and appearance of the locality.
- Whilst some employment floorspace would be lost, additional offices would be provided and this loss has been considered acceptable by the Council.
- There is no firm evidence that development would have any materially adverse effect on local services and infrastructure, including drainage and sewerage systems.
- The access and parking arrangements would be satisfactory and there is no evidence that highway safety would be compromised.
- Any disturbance during construction would be for a temporary period only.

BH2014/03570 Demolition of warehouse and erection of 4no two bedroom terraced houses and 1no office unit (B1). **Refused** 17/03/2015

BH2014/01571 Demolition of warehouse and erection of 4no two bedroom terraced houses and 1no office unit (B1). **Refused** 18/07/2014

BH2012/03254 Demolition of warehouse and erection of 4no two bedroom terraced houses and 1no office unit (B1). **Refused** 28/02/2013. Appeal dismissed on 18/10/2013.

BH2011/00540 Conversion of existing warehouse into 5no 2 bedroom dwellings. Refused 27/04/2011.

#### 4. REPRESENTATIONS

4.1 Nineteen (19) letters have been received objecting to the development. The main grounds for objection are as following:

- Deviation from plans
- Not complied with conditions
- Trees not planted

- Footprint larger
- Balcony glazing not obscure glass
- Tarmac rather than paving
- Metres and pipework facing highway
- Boiler release valves release pressure and steam onto footpath
- Noise
- Poor design
- Too close to the boundary
- Traffic or Highways
- Lack of privacy
- Building out of character
- Impact on property values

- 4.2 Two (2) letters have been received commenting on the development as follows:
- Do not wish to see any more building work, having already endured two years of noise and dust.
  - This site was an eyesore before the development was built, which is a vast improvement, despite the deviations from the plans

## **5. CONSULTATIONS**

5.1 Sustainable Transport: No objection

5.2 Arboriculture: No objection. In order for two trees to establish successfully and live for many years, large rooting areas need to be available for the trees. There is no room to plant two new trees that will successfully establish and grow to their full potential. Trees would restrict the number of available car parking and result in parked cars overhanging the public footway. This would be the case even if the approved scheme had been implemented.

5.3 Building Control: Verbal comment: No objection Plume from flues would not be of danger to public in terms of emissions or heat.

5.4 Councillor Nemeth objects to the application and has called to committee. The email is attached to the report.

## **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

CP3 Employment land

CP8 Sustainable buildings

CP9 Sustainable transport

CP12 Urban design

CP14 Housing density

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

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

SPD14 Parking Standards

## **8. CONSIDERATIONS & ASSESSMENT**

- 8.1 This relates to an application under S73a for variation of condition 2 of BH2015/01278 ((Demolition of existing warehouse (B8) and erection of 4no two/three storey residential dwellings (C3) and offices (B1).) (allowed on appeal) to allow amendments to the approved drawings. (part retrospective).

- 8.2 The development has been constructed with various deviations from the approved plans. Following a Planning Enforcement investigation, the applicant seeks to regularise the amendments.

- 8.3 Changes in planning policy are material considerations. The City Plan Part 1 Inspector's Report was received in February 2016 which pre-dated the original application. 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.
- 8.4 The Council's most recent land supply position was published in the 2017 SHLAA Update (February 2018) which showed a marginal surplus (5.0 years supply). However, the inspector for the recent planning appeal on Land south of Ovingdean Road (APP/Q1445/W/17/3177606) considered that the Council's delivery timescales for two sites were over-optimistic and concluded that there would be a five year supply shortfall of at least 200 dwellings. The Council's five year housing land supply figures are currently being updated as part of the annual monitoring process and an updated five year housing position will be published later this year. In the interim, when considering the planning balance in the determination of planning applications, increased weight should be given to housing delivery in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 14).

- 8.5 The amendments are assessed as follows:

The size/ siting of the building in respect of the approved plans.

There have been concerns raised that the footprint and siting of the building in not in line with the plans. Amended plans have been submitted during the course of the application which shows the situation on site.

Length of site:

Approved plans: 39.3m

Submitted plans: 38.6m

Length of building:

Approved plans: 31.7m

Submitted plans and as implemented: 32m

Distance from building to southern pavement:

Approved plans: 6.1m

Submitted plans and as implemented 5.4m

Width of building:

Approved plans: 9.6m

Submitted plan and as implemented: 9.6m

- 8.6 The submitted plans show the building as 0.3m longer than the approved plans, and the distance from the building to the southern pavement as 0.7m less in length. Officers have re-visited the site and confirmed that the submitted plans align with the existing situation on site. The building is in line with the bay of the property to the east. Cars were parked on the parking area with no overhang.

- 8.7 It is not considered that the deviations from the approved scheme, in terms of siting or size and impact on the acceptability of the scheme in general. The Inspector confirmed that the scale and height of the proposed development would not harm the character and appearance of the area, and these changes are considered minor in that context.
- 8.8 The size/position/spacing of windows and detailing between windows is incorrect to the western elevation. The 2nd floor doors facing onto the roof terraces are incorrectly positioned. The parapet roof line is incorrect. The approved elevation shows a stepped parapet detail, with double height glazing in places. The main entrance door and bin store door have been switched to western elevation
- 8.9 These are relatively minor changes to the elevations which are considered to be acceptable and would not warrant refusal of the application.
- 8.10 The roof terrace balcony should feature obscure glazed panels but is clear glazed.
- 8.11 The obscure glazed panels were shown on the original plans, however clear glazing was accepted when the materials were approved by condition. Given that this is a high density area, with houses in close proximity such that there is a degree of mutual overlooking, the Inspector made it clear he was satisfied that the distance to neighbouring dwellings would ensure that the living conditions of neighbouring occupiers would not be unduly harmed. He did not see fit to insist that the glazing was obscure via condition.
- 8.12 Meter boxes shown on Marmion Road and flues on the Mainstone Road elevation were not shown on the approved plans. This is also in conflict with condition 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.
- 8.2 The application explains that, with regard to the meter boxes, there is no other compromise the disabled access to the office. With regard to the flues, as the gas supplies enter from the front elevation, the application states that it was difficult to locate the boilers at the rear. Therefore the boilers are located at the front of the units and thus the flues on the front elevation. The application states that an issue such as this is difficult to anticipate. The flues are dark coloured to match the window door frames.
- 8.3 Although it is acknowledged that these alterations are not considered to enhance the appearance the building, they are minor in nature and would not warrant refusal of the application. The condition can be amended accordingly.
- 8.4 There has been concern raised by a resident regarding emissions from the flues; however the Council's Building Control officer has confirmed that there would be no danger to the public from the emissions and the condensate would not be hot. Given that the flues are above head height and only project marginally from the building, any potential nuisance caused by the plumes is not

considered so significant to warrant refusal of the application. The Council's Highways team has no objections to the application.

- 8.5 The planting of two trees to the southern end of the site; this has not been undertaken
- 8.6 The applicant has advised that it is not possible to plant two trees in the ground to the front of the development, as set out on the approved plans, as this will compromise other conditions such as the provision of car parking spaces and accessible access. The trees were shown on the original plans and, as such, a condition was applied to ensure they were planted to soften the appearance of the development.
- 8.7 The Council's Arboriculture officer has confirmed that, even if the approved scheme had been implemented, in order for two trees to establish successfully and live for many years, large rooting areas need to be available for the trees. It is not considered that there is room to plant two new trees within the locations shown on the plans that will successfully establish and grow to their full potential as per the condition set out within the appeal decision.
- 8.8 Furthermore the planting of two semi-mature trees at this location would restrict the number of available car parking spaces, reducing to a maximum of three, perhaps two spaces. It would also result in parked cars overhanging the public footway.
- 8.9 Additionally it is noted that a highway tree has been in existence to the west of the development within Mainstone Road since 2015 and this is doing well. However, due to services beneath the footway there is no scope for further planting to the north of this tree outside the development to soften views on this aspect.
- 8.10 Therefore, given that: there is no room to plant trees that will successfully establish; there were no trees originally sited here prior to the development; there is a new tree on the public footpath on Mainstone Road, it is not considered that the trees are required to ensure that the development is acceptable. Therefore the amendment to the plans is considered acceptable and it is recommended that condition 14 can be deleted.
- 8.11 However the applicant has agreed to provide seven off-site trees within the vicinity of the site/ Stoneham Park area. The funds can be secured via legal agreement.

#### **8.8 Other Considerations**

Objections have been raised with regard to the tarmacked footpath on Mainstone Road. The application states that the footpath was reinstated in tarmac based on a recommendation from BHCC Highways Engineer. Condition 16 of the planning permission requested details of a scheme of works to raise the existing kerb and footway and other highway works. Although highways works appear to have been undertaken the details of the scheme have not been

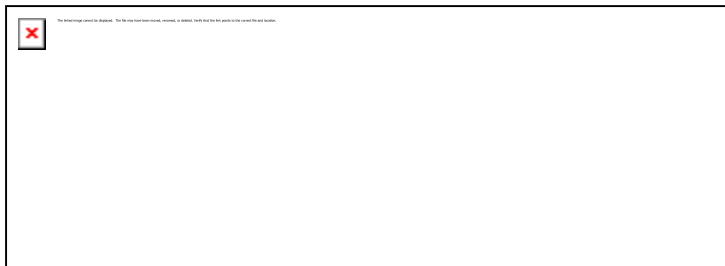
submitted to the LPA for approval; it is therefore recommended that this condition be re-applied to any new permission.

**9. EQUALITIES**

9.1 The dwellings shall comply with Building Regulations Optional Requirements G2(36(2)(b)) (water efficiency) and M4(2) (accessible and adaptable dwellings)

Developer Contributions:

- A contribution of £2,690 towards the planting of seven trees within the vicinity of the site.



Signature of Reviewing Officer: Nicola Hurley  
Dated: 21 November 2018



COUNCILLOR REPRESENTATION

Cllr Robert Nemeth - Wish Ward  
BH2018/01894 – 1A Marmion Road Road

I would like this application to go to Planning Committee. I may withdraw this request if matters are resolved in advance.





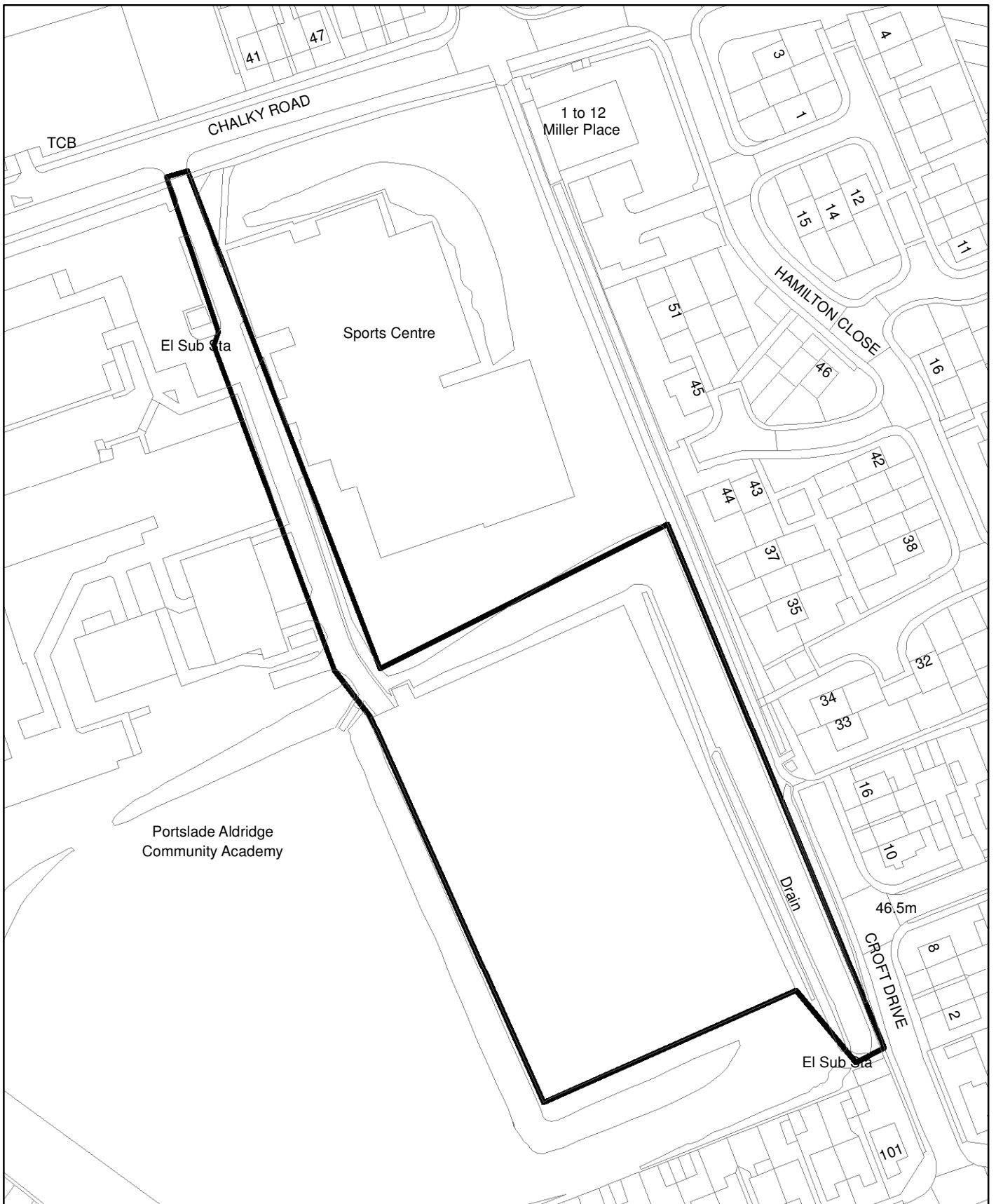
# **ITEM D**

**Portslade Sports Centre  
Chalky Road  
Portslade  
BH2018/02918  
Full Planning**

**DATE OF COMMITTEE: 5<sup>th</sup> December 2018**



# BH2018\_02918 Portslade Sports Centre Chalky Rd Portslade



**Scale: 1:1,250**



<b><u>No:</u></b>	<b>BH2018/02918</b>	<b><u>Ward:</u></b>	<b>North Portslade Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Portslade Sports Centre Chalky Road Portslade BN41 2WS</b>		
<b><u>Proposal:</u></b>	<b>Replacement of existing artificial grass surface and associated works including replacement floodlights, fencing, hard standing areas and installation of equipment storage.</b>		
<b><u>Officer:</u></b>	James Kidger, tel: 292106	<b><u>Valid Date:</u></b>	28.09.2018
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	23.11.2018
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	12.12.2018
<b><u>Agent:</u></b>	Tom Betts Unit 3 Aerial Way Hucknall Business Park Watnall Road, Hucknall Nottingham NG15 6DW		
<b><u>Applicant:</u></b>	Brighton & Hove City Council Leisure Facilities Team 1st Floor Hove Town Hall Norton Road Hove BN3 3BQ		

**1. RECOMMENDATION**

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 any comments received from Sport England and the following Conditions and Informatives:

Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

**Reason:** For the avoidance of doubt and in the interests of proper planning.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan	01		20 September 2018
Block Plan	02		20 September 2018
Floor Plans Proposed	05	01	20 September 2018
Lighting scheme	06	01	20 September 2018
Elevations Proposed	17-1069 BM22583 0360 09		28 September 2018

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 floodlights hereby permitted shall not be in use other than between the hours of 0800 to 2200 Mondays to Fridays and 0800 to 2000 Saturdays, Sundays, Bank and Public Holidays.

**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to comply with policies QD26 and QD27 of the Brighton & Hove Local Plan.

4. The replacement pitch hereby permitted shall not be in use other than between the hours of 0800 to 2200 Mondays to Fridays and 0800 to 2000 Saturdays, Sundays, 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.
5. The lighting units shall be installed in such a manner as to ensure that light sources and reflectors are not directly visible from the habitable room windows of any property directly abutting the site. Any method or equipment for shielding the light sources proposed shall be subject to approval and testing on site and written confirmation of acceptability by the Council before the floodlights are first brought into use. There shall be no subsequent variation of the lights without the written approval of the Council.  
**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to comply with policies QD26 and QD27 of the Brighton & Hove Local Plan.
6. At no time and under no circumstances shall the light from the floodlights into the habitable room windows of adjacent buildings exceed a level of 5 lux vertical illuminance.  
**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to comply with policies QD26 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 AND APPLICATION DESCRIPTION**

- 2.1 Planning permission is sought for a replacement artificial grass pitch along with replacement floodlights and fencing.
- 2.2 The site is part of Portslade Sports Centre and is located within the grounds of Portslade Aldridge Community Academy.

**3. RELEVANT HISTORY**

BH2007/01265 - replacement floodlights - **approved** 28th June 2007.

**4. REPRESENTATIONS**

- 4.1 Thirty seven (37) representations have been received, objecting to the proposed development for the following reasons:
  - Loss of hockey facilities (36).
  - Noise disturbance (1).

4.2 One hundred and seven (107) representations have been received, supporting or commenting on the proposed development for the following reasons:

- Improved footballing facilities (106).
- Trees on the boundary should not be removed or damaged (1).

## 5.1 CONSULTATIONS

5.2 **Environmental Health:** No objection subject to recommended conditions

5.3 **Sports Facilities and Development:** Support

5.4 **Healthy Lifestyles Team:** Support

## 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 and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only - site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.

6.3 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

CP16 Open space

CP17 Sports provision

CP18 Healthy city

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

SU10 Noise Nuisance

QD26 Floodlighting

QD27 Protection of amenity

## **8. CONSIDERATIONS & ASSESSMENT**

8.1 The main planning considerations material to this application are the principle of the development proposed, its design and appearance, and the impact on the amenity of neighbouring properties.

### **8.2 Principle of development**

Policies CP17 (Sports Provision) and CP18 (Healthy City) encourage the enhancement of sports facilities and development which promotes active living. The proposed development is considered in line with these objectives. The new pitch, unlike the existing, would meet current FA technical standards and this improvement would encourage the continued and future sporting use of the site to the benefit of the local community.

Policy QD26 considers floodlighting and states:

"Proposals for floodlighting will be required to keep to the minimum necessary level of light intensity and to an appropriate number, height, design and size of structures and fittings necessary to minimise light pollution and harm to amenity. Conditions will be imposed in order to limit the hours of use and frequency."

8.3 The impact from the proposed floodlights is considered in detail in the applicant's Design and Access Statement and separate lighting report. Light spillage would be kept to a minimum and would be below the threshold for an Environmental Zone E2 (a village or relatively dark outer suburban location).

8.4 In addition, the council's Environmental Health team have noted that the design submitted "achieves a higher standard than that recommended in the Institution of Lighting Professionals 'Guidance Notes for the Reduction of Obtrusive Light'. This is the nationally recognised reference document for lighting performance."

8.5 The proposed floodlighting is therefore considered to accord with policy QD26, subject to conditions controlling its installation and hours of use.

8.6 The proposed replacement pitch would be unsuitable for hockey, and this provision would be lost on the site should the development proceed. However, the council's Playing Pitch Strategy 2017 identifies an excess provision of hockey pitches in the city (four pitches against an identified need of three) and as such the loss of the hockey pitch is considered acceptable in this instance. This is particularly so when set against the gain in footballing provision that would result, improvement of which is one of the main aims of the Strategy.

8.7 Overall the proposed development is considered acceptable in principle subject to its design and its impact neighbouring amenity. These factors are discussed below.

### **8.8 Design and appearance**

The proposed development would have a very similar appearance to the existing site. The only significant changes would be a small increase in the area



of hardstanding surrounding the pitch, and an increase in the height of the ball-stop fencing to 4.5m. Neither of these are considered detrimental to the appearance of the site, in the latter case due to the lower ground level of the site when compared to the neighbouring houses.

8.9 Impact on neighbouring amenity

The main issue in amenity terms is light spillage from the proposed replacement floodlights. The lighting report accompanying the application shows the anticipated spillage at the nearest residential areas to be 2-5 lux at surface level and 5-10 lux at a 1.8m elevation. For comparison, the light levels under the floodlights would reach 300 lux at surface level and 200 lux at 1.8m.

8.10 As discussed above this is considered a good standard and the spillage would be minimal. In addition, although no comparative figures have been provided, the spillage is also likely to be lower than the existing floodlights. As such no significant harm to neighbouring amenity would result from the proposed replacement floodlights.

8.11 The proposed ball-stop fencing would use neoprene washers to reduce noise from ball strikes and is anticipated to be substantially quieter than the existing fencing.

8.12 Transport

The proposed development is expected to result in a small increase in trips to and from the site. This is considered manageable in view of the existing facilities.

8.13 Summary

The proposed development is considered compliant with policies CP17, CP18 and QD26 and with the aims of the Playing Pitch Strategy 2017. It would not be significantly harmful either to the character of the area or to neighbouring amenity. The application is therefore recommended for approval.

**9. EQUALITIES**

9.1 No implications identified.



# **ITEM E**

**2 Sackville Gardens  
Hove**

**BH2018/02525  
Full Planning**

**DATE OF COMMITTEE: 5<sup>th</sup> December 2018**



# BH2018\_02525 2 Sackville Gardens



**Scale: 1:1,250**



<b><u>No:</u></b>	<b>BH2018/02525</b>	<b><u>Ward:</u></b>	<b>Westbourne Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>2 Sackville Gardens Hove BN3 4GH</b>		
<b><u>Proposal:</u></b>	<b>Demolition of existing garage and erection of 1no semi-detached three storey dwellinghouse (C3).</b>		
<b><u>Officer:</u></b>	Michael Tucker, 292359	tel: <b><u>Valid Date:</u></b>	09.08.2018
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	04.10.2018
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Stewart Nicholson Ltd 34 Hill Drive Hove BN3 6QL		
<b><u>Applicant:</u></b>	Mr & Mrs Henderson & van Gils Henderson 2 Sackville Gardens Hove BN3 4GH		

## 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 **REFUSE** planning permission for the following reasons:

- The proposed development by reason of its constrained footprint and scale would fail to respect the context of the surrounding area and pattern of development. The dwelling fails to respect the uniformity and rhythm of the character of the street and is considered to represent an incongruous addition that would harm the Sackville Gardens Conservation Area, contrary to Policies HE6 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton & Hove City Plan Part One.

### Informatives:

- 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.
- This decision is based on the drawings received listed below:

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Floor plans/elevations/sect proposed			9 August 2018
Location and block plan			9 August 2018

## 2. SITE LOCATION & APPLICATION DESCRIPTION

- The application relates to the site of a two-storey pair of semi-detached dwellinghouses on the western side of Sackville Gardens, adjacent to 189

Kingsway, the site of a recently approved 5-8 storey hotel. Planning permission is sought to demolish the existing flat roofed single-storey garage and erect a three-bedroom two-storey dwelling with accommodation in the roof adjoining the existing building at 2 Sackville Gardens.

### **3. RELEVANT HISTORY**

PRE2017/00322 - Erection of 1no. three bedroom house (C3).

### **4. REPRESENTATIONS**

4.1 Twelve (12) letters have been received, supporting the proposal for the following reasons:

- Design in keeping with conservation area
- family homes are in demand
- blocks the view of the block of flats to the rear
- improvement on the existing garage

4.2 One (1) letter has been received from Councillor Cobb, supporting the proposal and requesting it be presented to the planning committee. A copy of their representation is attached.

### **5. CONSULTATIONS**

5.1 **Environmental Health:** No comment received

5.2 **Heritage:** Objection

The principle of a new two-storey dwelling in the proposed location is not supported. The proposal will negatively impact the important consistent rhythm and uniformity of the pairs of dwellings in the street and as such will cause harm to the streetscape and Sackville Gardens conservation area.

5.3 **Sustainable Transport:** No objection

Recommended approval subject to securing satisfactory cycle parking and car free housing by condition.

### **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

6.3 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 and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only - site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.

- 6.4 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  
CP12 Urban design  
CP13 Public streets and spaces  
CP14 Housing density  
CP15 Heritage

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

TR7 Safe Development  
TR14 Cycle access and parking  
SU9 Pollution and nuisance control  
SU10 Noise Nuisance  
QD5 Design - street frontages  
QD14 Extensions and alterations  
QD27 Protection of amenity  
HO5 Provision of private amenity space in residential development  
HO13 Accessible housing and lifetime homes  
HE6 Development within or affecting the setting of conservation areas

#### Supplementary Planning Documents:

SPD03 Construction & Demolition Waste  
SPD09 Architectural Features  
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 development, the impact of the proposal on the Sackville Gardens conservation area and the standard of accommodation the proposed dwelling would provide. The impact on neighbouring amenity, transport and sustainability are also material considerations.
- 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.

8.3 The Council's most recent land supply position was published in the 2017 SHLAA Update (February 2018) which showed a marginal surplus (5.0 years supply). However, the inspector for the recent planning appeal on Land south of Ovingdean Road (APP/Q1445/W/17/3177606) considered that the Council's delivery timescales for two sites were over-optimistic and concluded that there would be a five year supply shortfall of at least 200 dwellings. The Council's five year housing land supply figures are currently being updated as part of the annual monitoring process and an updated five year housing position will be published later this year. In the interim, when considering the planning balance in the determination of planning applications, increased weight should be given to housing delivery in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).

**8.4 Principle of Development:**

Pre-application advice was previously given under PRE2017/00322. In the officer's response, it was stated that the principle of a dwelling in this location was unacceptable, due to the harm the proposed dwelling would cause to the Sackville Gardens conservation area, as well as the reduction in the separation between the historic buildings of the conservation area and the recently approved 5-8 storey building at 189 Kingsway. While there are some minor differences between the previously proposed dwelling and the current application, the massing of the proposed dwelling visible from the street is largely unchanged and is therefore still considered to be unacceptable in principle.

**8.5 Impact on Sackville Gardens conservation area:**

The existing buildings on the application site form a uniform semi-detached pair of buff coloured brick with large projecting gable, modest matching dormers, projecting bays and central entrances underneath a portico. This uniform pair makes a positive contribution to the street and conservation area with their retention of original architectural features.

8.6 Similarly to the existing buildings on the application site, the majority of the buildings on Sackville Gardens are uniform semi-detached pairs or substantial symmetrical single houses with gaps either side. This pattern of development is continued along Sackville Gardens with few exceptions and creates a continuous rhythm along the street. Due to its height, design and narrow footprint compared to other buildings on Sackville Gardens, the proposed dwelling would appear as a large side extension and would interrupt the important uniformity and rhythm of the semi-detached pairs in the street. The impact of this interruption would be significant and cause harm to the streetscape and surrounding Sackville Gardens conservation area contrary to Policy HE6 of the Brighton & Hove Local Plan.

8.7 The proposed dwelling is therefore, by reason of its height and constrained footprint, considered to represent an incongruous addition to the street that

would cause unacceptable harm to the Sackville Gardens conservation area, contrary to Policy HE6 of the Brighton & Hove Local Plan.

**8.8 Standard of Accommodation:**

While not adopted policy, the Government's Nationally Described Space Standards do provide a useful guide as to the suitability of the standard of accommodation provided by a proposed dwelling. The proposed three-level, three-bedroom dwelling would have approximately 140sqm of internal floorspace, with bedspaces for 6 people. This compares to a minimum of 108sqm for a dwelling of a similar scale, set out in the Space Standards. All habitable rooms would have access to sufficient outlook and natural light.

8.9 Approximately 51sqm of outdoor amenity space is proposed for the new dwelling. While this is judged to be an adequate amount for a dwelling of this scale, the closeness of the access route into the car park of the approved development at 189 Kingsway may affect the degree to which this space is useable.

8.10 If the proposal were otherwise acceptable then the standard of accommodation would be satisfactory, in line with Policies HO5 and QD27 of the Brighton & Hove Local Plan.

**8.11 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.

8.12 There is not considered to be any significant detrimental impact on the existing building at 2 Sackville Gardens as a result of the proposal. The rear garden area, however, would be significantly overlooked by the approved 5-8 storey building at 189 Kingsway.

**8.13 Sustainable Transport:**

It is not anticipated that the proposed development would have a significant impact on the surrounding highways and transport network. While two cycle parking spaces are proposed in the rear garden, they are not in a convenient location. If the development were otherwise acceptable, details of satisfactory cycle parking would be secured by condition.

8.14 One car parking space is included in the proposal, which is in line with SPD14. The site is located within a CPZ and due to the permit uptake of the last 12 months it is considered appropriate to make the development car free. For this reason, if the development were otherwise acceptable this would be secured by condition.

**8.15 Sustainability:**

Policy CP8 of the Brighton & Hove City Plan Part One requires new development to demonstrate a high level of efficiency in the use of water and

energy. Policy CP8 also requires new development to achieve 19% above Part L for energy efficiency, and to meet the optional standard for water consumption. These measures could be secured via a suitably worded condition, if the proposal was otherwise acceptable.

## **9. EQUALITIES**

9.1 None identified



PLANNING COMMITTEE LIST  
5<sup>th</sup> December 2018

COUNCILLOR REPRESENTATION

Cllr Denise Cobb  
BH2018/02525 – 2 Sackville Gardens

I am supporting this application.



# **ITEM F**

**Media House  
26 North Road  
Preston  
Brighton**

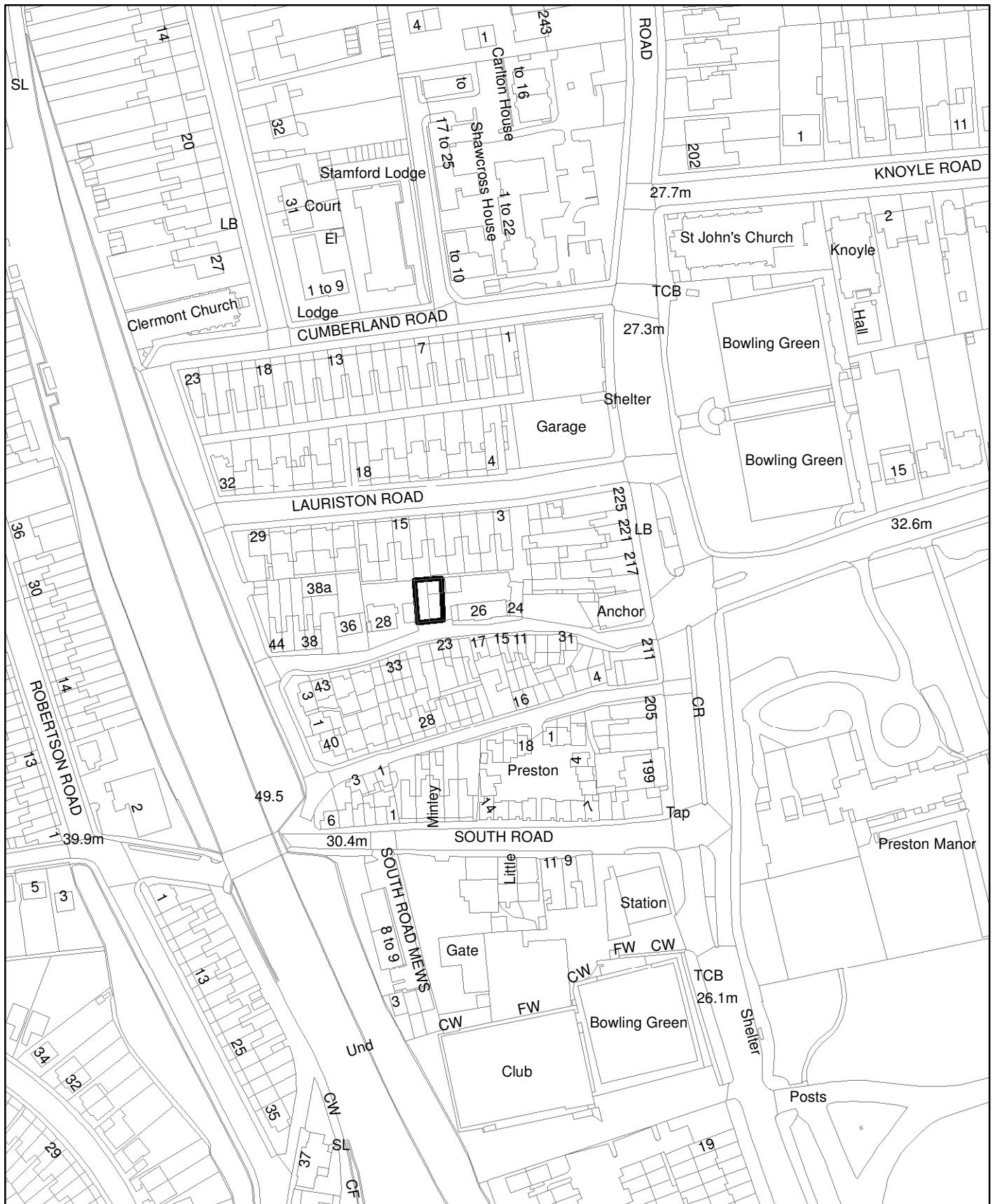
**BH2018/02219  
Variation of Conditions**

**DATE OF COMMITTEE: 5<sup>th</sup> December 2018**





# BH2018\_02219 26 North Rd Preston Brighton



Scale: 1:2,047



<b><u>No:</u></b>	<b>BH2018/02219</b>	<b><u>Ward:</u></b>	<b>Withdean Ward</b>
<b><u>App Type:</u></b>	<b>Removal or Variation of Condition</b>		
<b><u>Address:</u></b>	<b>Media House 26 North Road Preston Brighton BN1 6SP</b>		
<b><u>Proposal:</u></b>	<b>Variation of condition 1 of application BH2017/01596 (Change of use of the Coach House from office (B1) to 1no three bedroom residential dwelling (C3) with associated erection of a single storey side extension and revised fenestration) to allow amendments to approved drawings.</b>		
<b><u>Officer:</u></b>	James Kidger, tel: 292106	<b><u>Valid Date:</u></b>	11.07.2018
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	05.09.2018
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	DowsettMayhew Planning Partnership 63A Ship Street Brighton BN1 1AE		
<b><u>Applicant:</u></b>	Mr C Weatherstone		

## 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	TA1052/01		11 July 2018
Floor Plans Proposed	TA1052/10	B	11 July 2018
Floor Plans Proposed	TA1052/11	A	11 July 2018
Elevations Proposed	TA1052/12	A	11 July 2018
Elevations Proposed	TA1052/13		11 July 2018
Sections Proposed	TA1052/14	B	11 July 2018

2. The development hereby permitted shall be commenced before the 7th of November 2020.

**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 dwellinghouse(s) 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, HE6 and QD27 of the Brighton & Hove Local Plan.

4. The ground floor window in the rear elevation of the development hereby permitted shall be obscure glazed and non-opening, unless the parts of the window 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. 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.

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 AND APPLICATION DESCRIPTION**

- 2.1 The site is located on the north side of North Road and is within the Preston Village Conservation Area. The previously allowed scheme permits the change of use of the former coach house to a three bedroom dwelling along with associated works.

- 2.2 Planning permission is sought to vary the previously allowed scheme to permit a greater area of glazing to the front (south) elevation, and to reconfigure the internal layout to provide an additional bedroom.

**3. RELEVANT HISTORY**

BH2017/01596 - change of use of Coach House from office to three bedroom dwelling - **approved** 7th November 2017.

#### **4. REPRESENTATIONS**

4.1 Seven (7) representations have been received, objecting to the proposed development for the following reasons:

- Overdevelopment of the site.
- Potential for use as HMO.

#### **5. CONSULTATIONS**

5.1 **Economic Development:** No comment received

5.2 **Environmental Health:** No objection

5.3 **Highway Authority:** No objection subject to previously recommended conditions

5.4 **Planning Policy:** No objection

#### **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 and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only - site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.

6.3 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
- CP3 Employment Land
- CP8 Sustainable Buildings
- CP9 Sustainable Transport
- CP12 Urban design
- CP14 Housing Density

CP15 Heritage

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

TR7 Safe Development

TR14 Cycle access and parking

QD14 Extensions and alterations

QD27 Protection of amenity

HE6 Development within or affecting the setting of conservation areas

Supplementary Planning Documents:

SPD14 Parking Standards

## **8. CONSIDERATIONS & ASSESSMENT**

8.1 The main planning considerations material to this application are the standard of accommodation to be provided and the impact of the proposed changes on the character of the area.

### 8.2 Principle of development

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 Council's most recent land supply position was published in the 2017 SHLAA Update (February 2018) which showed a marginal surplus (5.0 years supply). However, the inspector for the recent planning appeal on Land south of Ovingdean Road (APP/Q1445/W/17/3177606) considered that the Council's delivery timescales for two sites were over-optimistic and concluded that there would be a five year supply shortfall of at least 200 dwellings. The Council's five year housing land supply figures are currently being updated as part of the annual monitoring process and an updated five year housing position will be published later this year. In the interim, when considering the planning balance in the determination of planning applications, increased weight should be given to housing delivery in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).

The change to the Council's land supply position since the previous scheme was considered is not material to the proposed variation, as it would still provide the single dwelling previously approved.

### 8.3 Standard of accommodation

The previously allowed scheme was for a three bedroom dwelling. The proposed variation would reconfigure the internal layout to provide a fourth bedroom with a corresponding reduction in living space.

The standard of accommodation to be provided would remain adequate and the living space, though reduced, would retain sufficient circulation space and outlook.

8.4 It is noted that the size of the bedrooms and the total floor area of the proposed dwelling are both in excess of the level prescribed in the government's Nationally Described Space Standards. Though the Council has not yet adopted these standards as policy they are nonetheless a further indication that the standard of accommodation to be provided would be adequate.

8.5 Character of the area

The previously allowed scheme provided for high-level windows to the ground floor front elevation facing North Road. The proposed variation is for full length windows to better suit the revised internal layout. This greater area of glazing is not considered harmful to the streetscape.

8.6 Neighbouring amenity

No further external changes, other than the windows discussed above, are proposed to the previously allowed scheme. As such there would be no additional impact on the amenity of neighbouring properties.

8.7 Summary

The proposed variation of the previously allowed scheme would preserve the setting of the Preston Village Conservation Area and would not be harmful to the amenity of neighbours or future occupiers. The application is therefore recommended for approval.

**9. EQUALITIES**

9.1 No implications identified.



Signature of Reviewing Officer:

Dated: 14 November 2018





# **ITEM G**

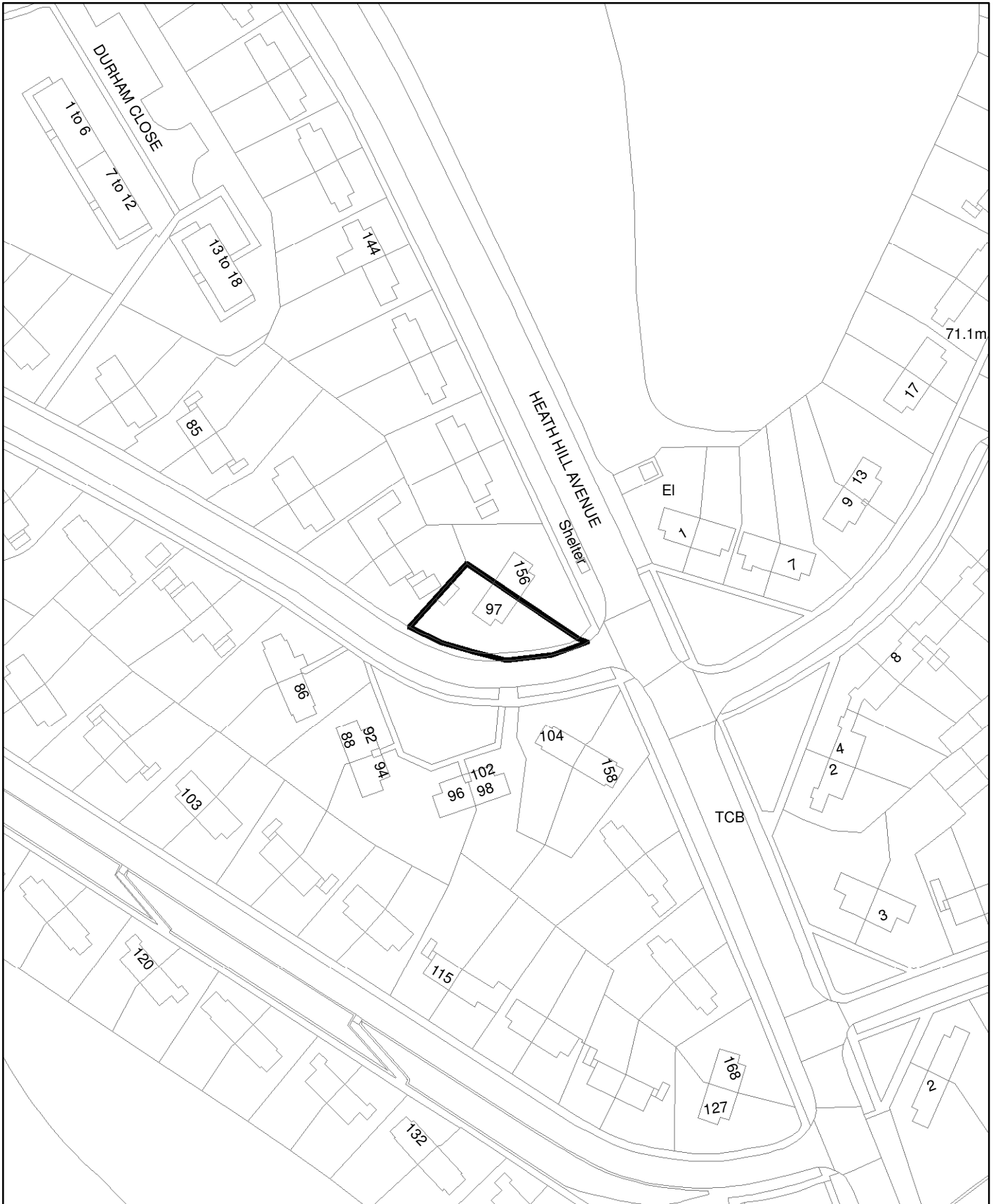
**97 Hornby Road  
Brighton**

**BH2018/01884  
Full Planning**

**DATE OF COMMITTEE: 5<sup>th</sup> December 2018**



# BH2018\_01884 97 Hornby Road Brighton



N



Scale: 1:1,250



<b><u>No:</u></b>	<b>BH2018/01884</b>	<b><u>Ward:</u></b>	<b>Moulsecomb And Bevendean Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>97 Hornby Road Brighton BN2 4JH</b>		
<b><u>Proposal:</u></b>	<b>Change of use from three bedroom single dwelling (C3) to six bedroom small house in multiple occupation (C4) with alterations to fenestration and provision of cycle storage.</b>		
<b><u>Officer:</u></b>	Michael Tucker, 292359	tel: <b><u>Valid Date:</u></b>	11.06.2018
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	06.08.2018
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	14.12.2018
<b><u>Agent:</u></b>	Mr Paul Joyce 2 Port Hall Road Brighton BN1 5PD		
<b><u>Applicant:</u></b>	Mr George Birtwell C/O Lewis & Co Planning 2 Port Hall Road Brighton BN1 5PD		

## 1. RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **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	COU.01	A	31 October 2018

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.  
**Reason:** To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
3. The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development at all times.  
**Reason:** To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan and SPD14: Parking Standards

4. No extension, enlargement or other alteration 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 for this reason would wish to control any future development to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

5. The development hereby approved shall be implemented in accordance with the proposed layout detailed on the proposed floorplan drawing no. COU.01.A received on 31st October 2018 and shall be retained as such thereafter. The layout of the kitchen/dining/living room shall be retained as communal space at all times and shall not be used as bedrooms.

**Reason:** To ensure a suitable standard of accommodation for occupiers to comply with policy QD27 of the Brighton & Hove Local Plan.

Informatives:

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

**2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1 The application site is a semi-detached, two-storey property on the northern side of Hornby Road. The application seeks planning permission to change the use of the property from a residential dwelling (C3) to a six-bedroom small House in Multiple Occupation (C4).

**3. RELEVANT HISTORY**

- 3.1 None identified.

**4. REPRESENTATIONS**

- 4.1 One (1) letter has been received, objecting to the proposal for the following reasons:

- Additional traffic
- Noise

- 4.2 **Councillor Yates** objects to the application. A copy of the representation is attached to the report.

- 4.3 **Councillor Marsh** objects to the application. A copy of the representation is attached to the report.

**4.4 Councillor Meadows** objects to the application. A copy of the representation is attached to the report.

## **5. CONSULTATIONS**

**5.1 Private Sector Housing:** No comment

The applicant will need to apply for a HMO license should the application be approved.

**5.2 Sustainable Transport:** No objection

Recommended approval. Further cycle parking details should be requested by condition.

## **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 and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only - site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.

**6.3** 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  
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  
QD14 Extensions and alterations  
QD27 Protection of amenity  
HO5 Provision of private amenity space in residential development

## **8. CONSIDERATIONS & ASSESSMENT**

8.1 The main considerations in the determination of this application relate to the principle of the proposed change of use, the visual impact of the proposed external alterations, the impact of the proposal on neighbouring amenity and the standard of accommodation the proposed HMO would provide. Sustainable transport is also a material consideration.

### **8.2 Principle of Development:**

Policy CP21 of the Brighton and Hove City Plan Part One specifically addresses the issue of changes of use to either class C4, a mixed C3/C4 use or to a sui generis House in Multiple Occupation and states that:

*'In order to support mixed and balanced communities and to ensure that a range of housing needs continue to be accommodated throughout the city, applications for the change of use to a Class C4 (Houses in multiple occupation) use, a mixed C3/C4 use or to a sui generis House in Multiple Occupation use (more than six people sharing) will not be permitted where:*

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

8.3 A mapping exercise has been undertaken which indicates that there are 23 neighbouring properties within a 50m radius of the application property, none of which have been identified as being in HMO use. The percentage of neighbouring properties in HMO use within the radius area is thus 0.0%.

8.4 Based upon the existing percentage of neighbouring properties in HMO use, which is less than 10%, the proposal to change of use to a four bed house in multiple occupation would not be in conflict with the aims of policy CP21.

### **8.5 Design and Appearance:**

8.6 The only external alterations proposed as part of this change of use would be minor changes to the ground floor front and rear fenestration and the side elevation. On the front elevation a front-facing window would be inserted into the side extension. At the rear the existing door and window would trade places. On the side elevation a window would be blocked up at first floor and a door inserted at ground floor. The opening style of the new windows would match the rest of the house, while the new door would be of a different design. The combined effect of these external alterations is not considered to have an adverse impact on the design and appearance of the property.

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



This application is not located in an area that currently has above 10% of properties within 50m of the application site being HMO's. While any additional HMO's have the potential for increasing the cumulative impact of such properties and the harm to amenity with which they are often associated, in this instance the existing numbers of HMO's in the area do not give cause to refuse the application on the grounds of potential amenity impact.

#### **8.8 Standard of Accommodation:**

Whilst the Local Planning Authority does not have adopted space standards, for comparative purposes the Government's Technical Housing Standards - National Described Space Standards March 2015 document states that "in order to provide one bedspace, a single bedroom has a floor area of at least 7.5m<sup>2</sup> and is at least 2.15m wide" and with respect of a double bed "has a floor area of at least 11.5m<sup>2</sup>" and "one double (or twin bedroom) is at least 2.75m wide and every other double (or twin) bedroom is at least 2.55m wide".

The applicant seeks to alter the internal layout of the property to create 2no ground floor bedrooms and 4no first floor bedrooms, with 1no bathroom on each floor.

The bedrooms meet the minimum national space standards and are adequate in terms of size, circulation space and layout, providing good levels of natural light and outlook.

The communal area consists of an open plan kitchen/dining/living area approximately 21.7sqm in area, which would be tight for a six-bedroom property. However, since the communal area is of a functioning layout, the bedrooms are all of an adequate size and there is approximately 70sqm of private amenity space in the rear garden, the standard of accommodation the proposal would afford to future occupants is considered to be acceptable.

If however the communal space was converted to a bedroom in future, this would severely restrict the level of shared space available to the occupants. Therefore, a condition will be applied restricting the use of this room to communal use only to ensure an acceptable layout and level of communal space is retained.

#### **8.9 Sustainable Transport:**

There appears to be parking onsite for several vehicles and the site is not in a CPZ so on-street parking is available. The proposed change of use is therefore not considered to have a significant or negative impact on the highway and the Highway Authority has no objections in this instance.

8.10 The amount of cycle parking proposed is adequate.

#### **8.11 Other Matters:**

At the time of the site visit, it was noted that the works were being undertaken, with rubble in the front garden and the interior of the house completely stripped out.

- 9. EQUALITIES**
- 9.1 None identified

COUNCILLOR REPRESENTATION

Cllr Anne Meadows

BH2018/01884 – 97 Hornby Road Brighton

Change of use from three bedroom single dwelling (C3) to six bedroom small house in multiple occupation (C4) with alterations to fenestration and provision of cycle storage.

I am writing to object to this planning applications as the loss of family homes should be resisted at all times. It is also just around the corner of 148 heath Hill Avenue and 140 Heath Hill Avenue which are already HMO's in the area. This application will not stay at a six bedroom HMO but will increase because of the land available with this property causing concern to neighbours and residents alike as rubbish, noise nuisance etc. will increase for those residents who live next door.

In addition your map of HMO's is out of date and needs to be refreshed as it doesn't list all the HMO's in the area.

Cllr Mo Marsh

I would like to add my objections to Cllr Meadows on the same grounds



# **ITEM H**

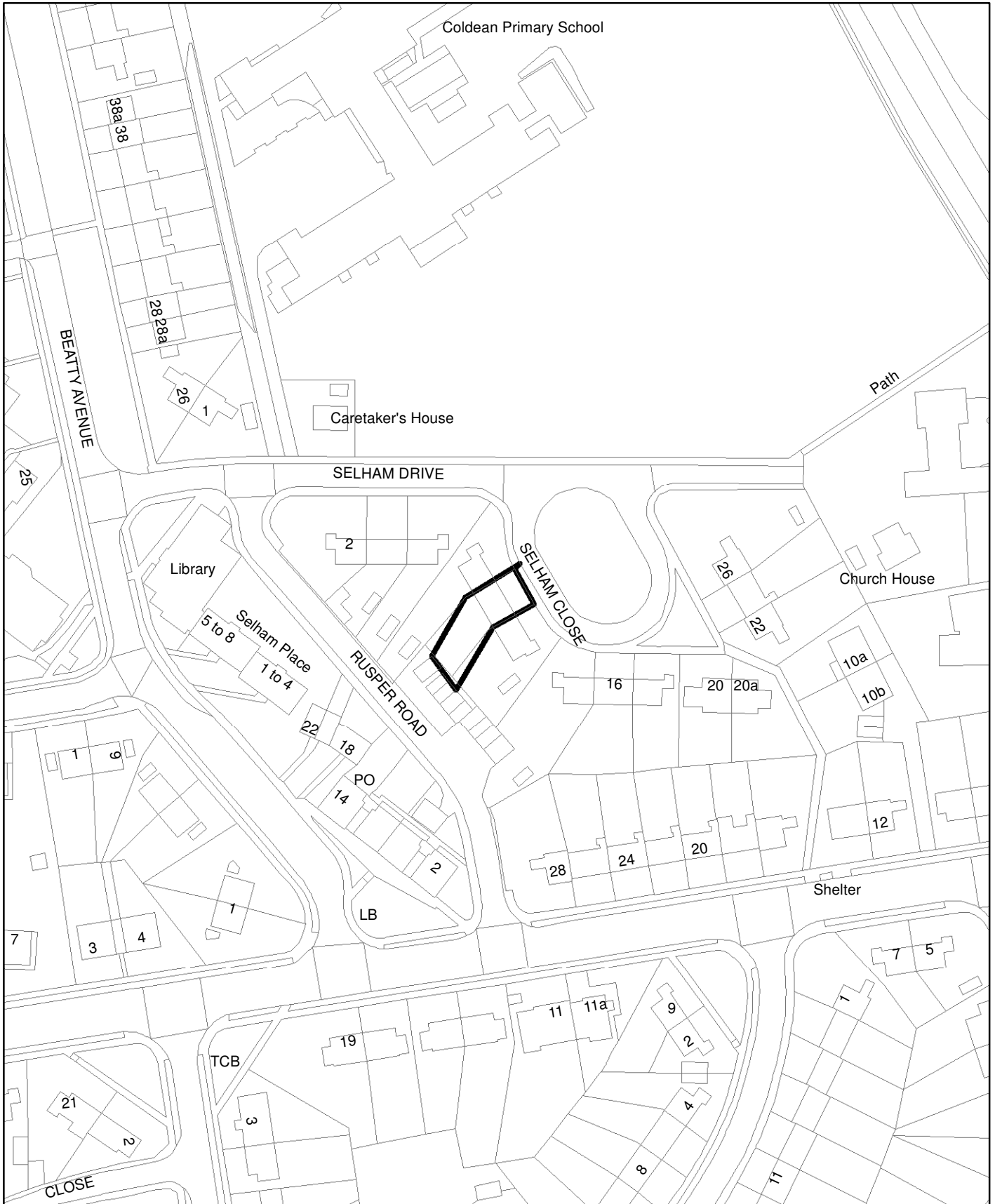
**10 Selham Close  
Brighton**

**BH2018/01160  
Full Planning**

**DATE OF COMMITTEE: 5<sup>th</sup> December 2018**



# BH2018\_01160 10 Selham Close Brighton



N



Scale: 1:1,250





<b><u>No:</u></b>	<b>BH2018/01160</b>	<b><u>Ward:</u></b>	<b>Hollingdean And Stanmer Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>10 Selham Close Brighton BN1 9EH</b>		
<b><u>Proposal:</u></b>	<b>Change of Use from residential dwelling to 6no bedroom small House in Multiple Occupation (C4) incorporating revised fenestration, sound proofing, cycle stands and associated works (Retrospective)</b>		
<b><u>Officer:</u></b>	Joanne Doyle, tel: 292198	<b><u>Valid Date:</u></b>	13.04.2018
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	08.06.2018
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Lewis And Co Planning SE Ltd Road Brighton BN1 5PD	Lewis & Co Planning	2 Port Hall Road
<b><u>Applicant:</u></b>	Mr George Birtwell Brighton BN1 5PD	C/o Lewis & Co Planning	2 Port Hall Road

## 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	COU.01	-	13 April 2018

2. Within three months of the date of this permission, details of secure cycle parking facilities for the occupants of, and visitors to, the development shall be submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use within six months of the date of this permission 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.
3. The development hereby approved shall be used in accordance with the proposed layout detailed on the proposed floorplans, drawing no. COU.01 received on 13.04.2018, and shall be retained as such thereafter. The layout of

the kitchen/dining/living room shall be retained as communal space at all times and shall not be used as bedrooms.

**Reason:** To ensure a suitable standard of accommodation for occupiers to comply with policy QD27 of the Brighton & Hove Local Plan.

4. No extension, enlargement, alteration or provision within the curtilage of the 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 site relates to a two storey mid-terrace property, located on the west side of Selham Close. The area is residential in nature. The property is not located in a conservation area, but there is an Article Four Directive in place restricting the conversion of single dwelling houses to houses of multiple occupation (C4 or sui generis use class).
- 2.2 Planning permission is sought for a change of use from a three bedroom dwelling (C3) to a six bedroom small House in Multiple Occupation (C4) with alterations to fenestration. The external alterations include blocking up and a change of window openings to the front and rear elevation and replacement of French doors with a window opening to the rear elevation.

## **3. RELEVANT HISTORY**

- 3.1 None

## **4. REPRESENTATIONS**

- 4.1 **Fifty eight (58)** letters of representation have been received objecting to the proposal for the following reasons:
  - Noise nuisance and anti-social behaviour
  - Litter problems
  - Already too many HMO's in the area

- Extra strain on services and parking
- Plans look inadequate to cater for a HMO
- Area needs more family homes

**4.2 Councillor Hill objects** to the application. A copy of the representation is attached to the report.

## **5. CONSULTATIONS**

### **5.1 Transport Planning: No Objection**

The proposed cycle parking should be secure and covered. The plans show Sheffield stands to the front of the property; therefore a condition will be attached for details of policy compliant cycle parking.

## **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);
- The 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  
 CP9 Sustainable transport  
 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  
 QD14 Extensions and Alterations  
 QD27 Protection of amenity  
 HO5 Provision of private amenity space in residential development

Supplementary Planning Documents:  
SPD12 Design Guide for Extensions and Alterations  
SPD14 Parking Standards

## **8. CONSIDERATIONS & ASSESSMENT**

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

### **8.2 Principle of Development:**

The proposal seeks consent for the change of use from a dwellinghouse (C3) to a small house in multiple occupation (C4). 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.

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:

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.

8.3 A mapping exercise has taken place which indicates that there are 36 neighbouring properties within a 50m radius of the application property; 1 other property has been identified as being in HMO use within the 50m radius. The percentage of neighbouring properties in HMO use within the radius area is therefore 2.77%.

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

### **8.5 Design and Appearance:**

The alterations to the fenestration to the front and rear are considered acceptable in design terms.

### **Standard of Accommodation:**

Whilst the Local Planning Authority does not have adopted space standards for comparative purposes the Government's recent Technical Housing Standards - National Described Space Standards March 2015 document states that "in order to provide one bedspace, a single bedroom has a floor area of at least 7.5m<sup>2</sup> and is at least 2.15m wide" and with respect of a double bed "has a floor area of at least 11.5m<sup>2</sup>" and "one double (or twin bedroom) is at least 2.75m wide and every other double (or twin) bedroom is at least 2.55m wide".

The changes to the internal layout of the property result in 2no bedrooms at ground floor level with an open planned kitchen living and dining area and shower room and 4no bedrooms and 2no shower rooms at first floor level.

The bedrooms meet the minimum national space standards and are adequate in terms of size, circulation space and layout to cater for the furniture needed and with good levels of natural light and outlook within the unit.

The communal area, consisting of an open planned kitchen, lounge and dining area, measuring approximately 20sqm, would be fairly tight for a 6 person property, with the plans only detailing space for a 4 person sofa. However, the communal space does have a functioning layout, the property benefits from a large rear garden space and the bedroom sizes are adequate in terms of size and circulation space. On this basis, with access to a large rear garden, a functional communal space and bedrooms with adequate amounts of useable floor space, the future occupants would likely benefit from an acceptable standard of accommodation and the application can be supported on this basis.

If however the communal space was converted to a bedroom in future, this would severely restrict the level of shared space available to the occupants. Therefore, a condition will be applied restricting the use of this room to communal use only to ensure an acceptable layout and level of communal space is retained.

#### **8.6 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.

The proposed change of use from a C3 dwellinghouse to six bedroom C4 HMO would result in a more intensive use of the property and a greater impact on the immediate and surrounding area. It is considered that the increased impact likely to be caused in this case would not be of a magnitude which would cause demonstrable harm to neighbouring amenity and would not warrant the refusal of planning permission.

The proposed external works would not result in amenity harm.

#### **8.7 Sustainable Transport:**

Uplift in the number of trips could be expected as a result of the proposals. However, it is not considered that this would be substantial or amount to a severe impact upon surrounding highway and transport networks.

Cycle parking is proposed in the form of Sheffield stands to the front of the property; however these are not covered or secure therefore a condition will be attached for details of policy compliant cycle parking.

9. **EQUALITIES**

9.1 None identified

Cllr Tracey Hill  
BH2018/01160 – 10 Selham Close, Brighton

I object to this application.

Six adults living in a mid terraced house is over-development. There will be negative impact on the immediate neighbours on both sides and on others living nearby which will not be mitigated through soundproofing, as much of the inconvenience of living near HMOs is noise in the street as people come and go at different times.

This application is similar to that at 81 Hawkhurst Road which has caused considerable disruption to neighbours because as soon as the application was approved, building works started to convert the house to a use well above that approved in the application. It was clear that the developers planned all the time to house 9 people, and this will likely be the case here. This application should be refused, but if it is approved there needs to be a removal of permitted development rights and a limit to the number of occupants. I would also like to see a written confirmation from the developers that they will not commence any building works designed to enable more than the stated number of occupants without PRIOR permission.





# **ITEM I**

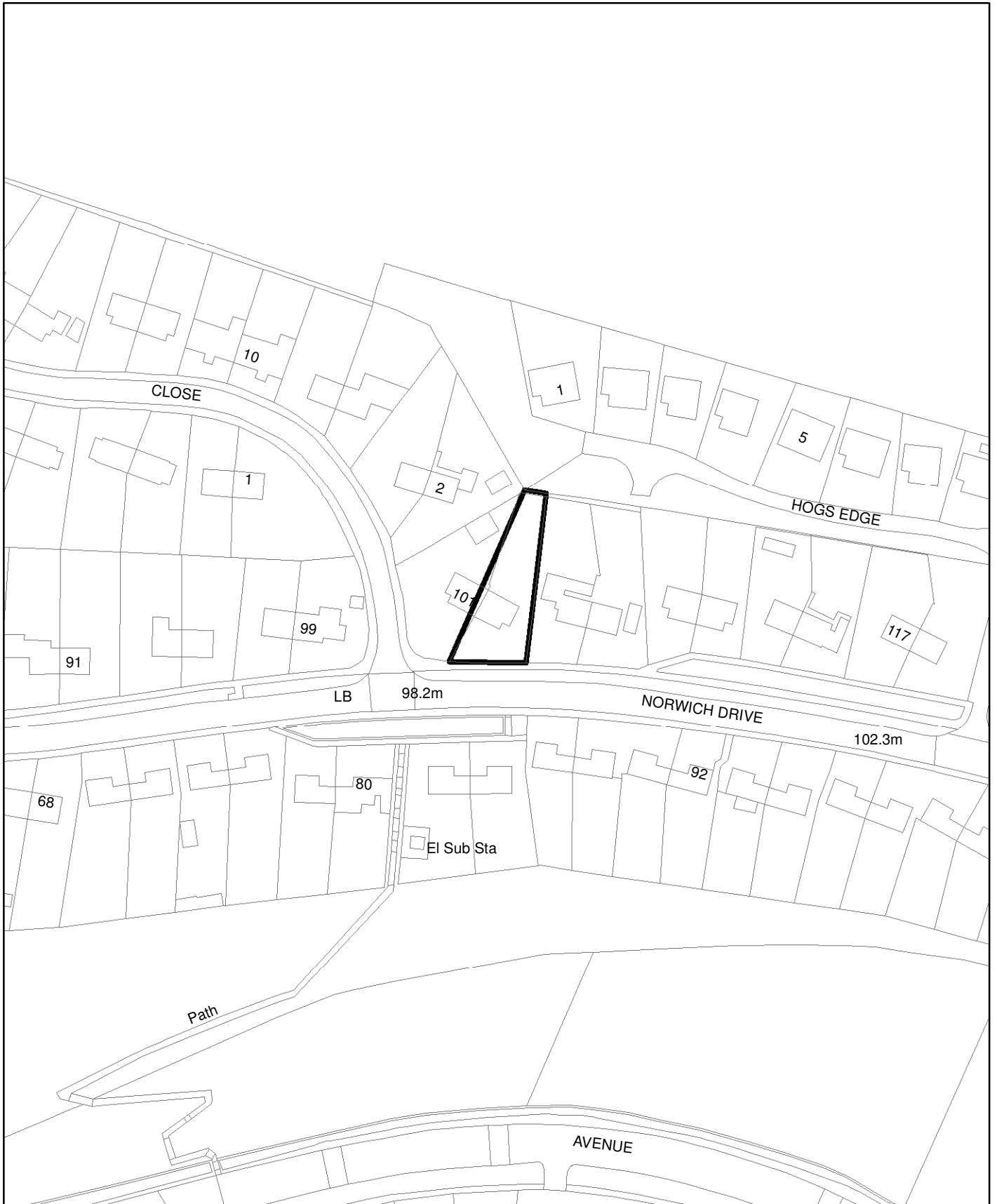
**103 Norwich Drive  
Brighton**

**BH2018/01118  
Full Planning**

**DATE OF COMMITTEE: 5<sup>th</sup> December 2018**



# BH2018\_01118 103 Norwich Drive Brighton



Scale: 1:1,250



<b><u>No:</u></b>	<b>BH2018/01118</b>	<b><u>Ward:</u></b>	<b>Moulsecoomb And Bevendean Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>103 Norwich Drive Brighton BN2 4LG</b>		
<b><u>Proposal:</u></b>	<b>Change of use from three bedroom dwelling house (C3) to six bedroom small house in multiple occupation (C4) with alterations to fenestration. (Part-Retrospective)</b>		
<b><u>Officer:</u></b>	Joanne Doyle, tel: 292198	<b><u>Valid Date:</u></b>	10.04.2018
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	05.06.2018
<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>	Rivers Birtwell C/O Lewis & Co Planning 2 Port Hall Road Brighton BN1 5PD		

## 1. RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **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	COU.01	-	10 April 2018

2. 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.

3. The development hereby approved shall be implemented in accordance with the proposed layout detailed on the proposed floorplans, drawing no. COU.01 received on 10.04.2018, and shall be retained as such thereafter. The layout of

the kitchen/dining/living room shall be retained as communal space at all times and shall not be used as bedrooms.

**Reason:** To ensure a suitable standard of accommodation for occupiers to comply with policy QD27 of the Brighton & Hove Local Plan.

4. No extension, enlargement, alteration or provision within the curtilage of the 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 site relates to a two storey semi-detached property, located on the south west side of Norwich Drive. The area is residential in nature.
- 2.2 The property is not located in a conservation area, but there is an Article Four Directive in place restricting the conversion of single dwelling houses to houses of multiple occupation (C4 or sui generis use class).
- 2.3 Planning permission is sought for a change of use from a three bedroom dwelling (C3) to a six bedroom small House in Multiple Occupation (C4) with alterations to fenestration (part-retrospective).

**3. RELEVANT HISTORY**

None

**4. REPRESENTATIONS**

- 4.1 Four (4) letters of representation have been received objecting to the proposal for the following reasons:
  - Noise nuisance and environmental disturbance
  - Anti-social behaviour
  - Parking issues
  - Set a precedence for HMO's within the area

- Negative impact on local community and facilities
- Families priced out of area

**4.2 Councillor Marsh objects** to the application. A copy of the representation is attached to the report.

**4.3 Councillor Meadows objects** to the application. A copy of the representation is attached to the report.

**4.4 Councillor Yates objects** to the application. A copy of the representation is attached to the report.

## **5. CONSULTATIONS**

**5.1 Transport Planning: No objection**  
No objection subject to cycle parking condition.

## **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);
- The 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

CP9 Sustainable transport

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

QD14 Extensions and Alterations

QD27 Protection of amenity  
HO5 Provision of private amenity space in residential development

Supplementary Planning Documents:

SPD12 Design Guide for Extensions and Alterations

SPD14 Parking Standards

**8. CONSIDERATIONS & ASSESSMENT**

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

**8.2 Principle of Development:**

The proposal seeks consent for the change of use from a dwellinghouse (C3) to a small house in multiple occupation (C4). 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.

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:

8.3 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:

8.4 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.

8.5 A mapping exercise has taken place which indicates that there are no properties in HMO use within the 50m radius. The percentage of neighbouring properties in HMO use within the radius area is therefore 0%.

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

**8.7 Design and Appearance:**

The proposed blocking up of 2 no. window openings to the side elevation, the increased window opening to the rear elevation and the alteration to the ground floor window in the front elevation are considered acceptable in design terms.



### **8.8 Standard of Accommodation:**

Whilst the Local Planning Authority does not have adopted space standards for comparative purposes the Government's recent Technical Housing Standards - National Described Space Standards March 2015 document states that "in order to provide one bedspace, a single bedroom has a floor area of at least 7.5m<sup>2</sup> and is at least 2.15m wide" and with respect of a double bed "has a floor area of at least 11.5m<sup>2</sup>" and "one double (or twin bedroom) is at least 2.75m wide and every other double (or twin) bedroom is at least 2.55m wide".

The bedrooms meet the minimum national space standards and are adequate in terms of size, circulation and layout to cater for the furniture needed and with good levels of natural light and outlook within the unit.

The changes to the internal layout of the property result in 2no bedrooms at ground floor level with an open planned kitchen living and dining area and shower room and 4no bedrooms and 1no shower room at first floor level.

The communal area, consisting of an open planned kitchen, lounge and dining area, measuring approximately 21sqm, would be fairly tight for a 6 person property. However, the communal space does have a functioning layout, the property benefits from a large rear garden space and the bedroom sizes are adequate in terms of size and circulation space. On this basis, with access to a large rear garden, a functional communal space and bedrooms with adequate amounts of useable floor space, the future occupants would likely benefit from an acceptable standard of accommodation and the application can be supported on this basis.

If however the communal space was converted to a bedroom in future, this would severely restrict the level of shared space available to the occupants. Therefore, a condition will be applied restricting the use of this room to communal use only to ensure an acceptable layout and level of communal space is retained.

### **8.9 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.

The proposed change of use from a C3 dwellinghouse to six bedroom C4 HMO would result in a more intensive use of the property and a greater impact on the immediate and surrounding area. It is considered that the increased impact likely to be caused in this case would not be of a magnitude which would cause demonstrable harm to neighbouring amenity and would not warrant the refusal of planning permission.

8.10 The proposed external works would not result in amenity harm.

**8.11 Sustainable Transport:**

Uplift in the number of trips could be expected as a result of the proposals. However, it is not considered that this would be substantial or amount to a severe impact upon surrounding highway and transport networks.

8.12 Cycle parking is not proposed; a condition will be attached requiring details of this.

**9. EQUALITIES**

9.1 None identified

Cllr Daniel Yates  
BH2018/01118 – 103 Norwich Drive, Brighton

Reasons for objection:

The impact of this HMO on the surrounding residents, community and properties could be significant due to the nature and intensification of occupation on this site:

- 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.

It would also be helpful if the officer report could outline the impact of this being granted would have on the councils ability to meet its commitments within city plan part one, especially the requirements and the council's ability to meet its housing needs assessment.

I would ask that officers check the previously held additional licensing register to check their impact on the 10% rule is properly taken into consideration.

I also note that in the recent appeal determination regarding 25 Wheatfield Way applying to increase from a 6 person HMO to a nine person HMO the inspector stated that "the increase in noise and general disturbance arising from the occupation by a maximum of 3 additional tenants would lead to significant harm. " Should the recommendation on this application be to approve I would like this application to come to committee please.

Should the committee be minded to approve this application I would ask them to consider the removal of permitted development rights to ensure that any subsequent enlargement of alteration be fully considered before being approved for development on this site.

Cllr Mo Marsh

I totally concur with Cllr Yates' comments, please add my name to these objections.

Cllr Anne Meadows

Please add me too.



**Information on Pre-application Presentations and Requests 2018**

<b>Date</b>	<b>Address</b>	<b>Ward</b>	<b>Proposal</b>	<b>Update</b>
06/02/18	Gala Bingo Site, Eastern Road, Brighton	Queen's Park	Residential-led mixed use redevelopment for c.400 homes set over c. 2,900sqm commercial and community uses.	Further round of pre-app is anticipated.
06/03/18	Preston Barracks (Watts Site), Lewes Road, Brighton	Hollingdean & Stanmer	Reserved matters for multi-storey car park & Business School.	Application BH2018/00689 approved 08/11/18.
06/03/18	29-31 New Church Road, Hove	Westbourne	Mixed use development.	Application BH2018/02126 under consideration.
06/03/18 & 03/04/18	Toad's Hole Valley, Hove	Hangleton & Knoll	Mixed use development comprising residential, neighbourhood centre, secondary school, B1 floorspace, SNCI enhancements, accesses from highway, landscaping and parking.	Transport issues presented to members 06/03/18. All other issues presented on 03/04/18. Negotiations & discussions continuing.
08/05/18	Longley Industrial Estate, New England Street, Brighton	St Peter's & North Laine	Mixed use scheme, 3000sqm B1 with 200-250 'build-to-rent' residential units above, 1000sqm communal space, disabled car parking, public realm improvements.	Application BH2018/02598 under consideration.
08/05/18	119-131 London Road (Co-op and Boots), Brighton	St Peter's & North Laine	Mixed use redevelopment to re-provide retail and student accommodation above.	Application BH2018/02699 under consideration.
08/05/18	Rear of Lyon Close,	Goldsmid	Mixed use scheme 160 units (C3)	Application BH2018/01738

**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.**

	Hove		and 1000sqm office (B1) floorspace.	submitted.
05/06/18	Former Peter Pan amusements, Madeira Drive, Brighton	Queen's Park and East Brighton	Mixed use leisure/commercial including outdoor pool (temporary 5yrs).	Application BH2018/01973 submitted.
17/07/18	Enterprise Point, Melbourne Street, Brighton	Hanover & Elm Grove	Purpose Built Student Housing (350 bedspaces), with some employment space at ground floor and affordable housing block	Application BH2018/02751 submitted
14/08/18	KAP, Newtown Road, Hove	Hove Park	Mixed Use residential / B1 scheme. Approx. 150 units	Application BH2018/03353 received and being validated.
14/08/18	21 – 24 Melbourne Street, Brighton	Hanover & Elm Grove	Co-living (100 units) C3 / B1	
11/09/18	Sackville Trading Estate, Sackville Road, Hove	Hove Park	Mixed residential and commercial development.	
03/10/18	Urban Fringe at Coldean Lane, NW of Varley Halls, Brighton	Hollingdean & Stanmer	Residential development.	Member and officer pre-app and Design review undertaken. Application BH2018/03541 received and being validated.
03/10/18	Urban Fringe Site at The Whitehawk Estate, Brighton	East Brighton	Residential redevelopment.	Member and officer pre-app and Design review undertaken.
09/10/18	Land at former Belgrave Nursery, Clarendon Place, Portslade	South Portslade	Residential redevelopment.	Member and officer pre-app and Design review undertaken.
06/11/18	Outer Harbour Development, West	Rottingdean Coastal	Mixed Use Residential-led development – significant	Pre-app discussions in progress and PPA agreed. 1st Design

**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.**

	Quay, Brighton Marina		changes to later phases of Outer Harbour Development	Review 03/10/18. Public consultation event end of October. 2 <sup>nd</sup> Design Review 27/11/18.
04/12/18 Requested	Vantage Point and Circus Parade, New England St/New England Rd/Elder Place, Brighton	St Peters and North Laine	Mixed use office-led redevelopment, incl residential, retail, dance studio, student flats, car park, public realm improvements.	Presented at Design Review Panel 04/7/18, amended and then re-presented on 30/10/18. LPA provided written feedback 04/10/18 and discussions on-going.
04/12/18 Requested	Outer Harbour Development, West Quay, Brighton Marina	Rottingdean Coastal	Mixed Use Residential-led development – significant changes to later phases of Outer Harbour Development	Second presentation following 06/11/18.

**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**

**APPEALAPPNUMBER**

**ADDRESS**

**DEVELOPMENT DESCRIPTION**

**APPEAL STATUS**

**APPEAL RECEIVED DATE**

**APPLICATION DECISION LEVEL**

**BRUNSWICK AND ADELAIDE**

BH2017/04141

60 Western Road Hove BN3 1JD

Display of externally illuminated fascia sign and externally illuminated hanging sign and internally illuminated framed sign. (Retrospective)

APPEAL IN PROGRESS

17/10/2018

Delegated

**WARD**

**APPEALAPPNUMBER**

**ADDRESS**

**DEVELOPMENT DESCRIPTION**

**APPEAL STATUS**

**APPEAL RECEIVED DATE**

**APPLICATION DECISION LEVEL**

**CENTRAL HOVE**

BH2018/00301

Flat 2 3 St Aubyns Hove BN3 2TG

Erection of single storey rear extension with rooflights.

APPEAL IN PROGRESS

16/10/2018

Delegated

**WARD**

**APPEALAPPNUMBER**

**ADDRESS**

**DEVELOPMENT DESCRIPTION**

**APPEAL STATUS**

**APPEAL RECEIVED DATE**

**APPLICATION DECISION LEVEL**

**CENTRAL HOVE**

BH2018/00552

126 - 128 Church Road Hove BN3 2EA

Change of use at 126 Church Road from shop (A1) to restaurant and bar (A3/A4) with alterations to rear incorporating new extension at basement level and stairs and handrail at first floor level. Alterations to shopfront at 126-128 Church Road.

APPEAL IN PROGRESS

06/11/2018

Delegated

**WARD**

**APPEALAPPNUMBER**

**ADDRESS**

**DEVELOPMENT DESCRIPTION**

**APPEAL STATUS**

**GOLDSMID**

BH2017/03523

145 Sackville Road Hove BN3 3HD

Change of use from financial and professional services (A2) to hot food take-away (A5) with installation of extraction ductwork to rear.

APPEAL IN PROGRESS

APPEAL RECEIVED DATE 11/10/2018  
APPLICATION DECISION LEVEL Delegated

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**WARD** **GOLDSMID**  
APPEALAPPNUMBER BH2017/04139  
ADDRESS 9 The Upper Drive Hove BN3 6GR  
DEVELOPMENT DESCRIPTION Creation of additional storeys to existing block D to provide an enlarged two bedroom flat at first floor level and 2no additional flats at second and third floor level.  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 05/11/2018  
APPLICATION DECISION LEVEL Planning (Applications) Committee

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**WARD** **GOLDSMID**  
APPEALAPPNUMBER BH2018/00045  
ADDRESS First Floor Flat 19 Glendale Road Hove BN3 6ES  
DEVELOPMENT DESCRIPTION Roof alterations incorporating rear dormer and insertion of front rooflights.  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 11/10/2018  
APPLICATION DECISION LEVEL Delegated

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**WARD** **GOLDSMID**  
APPEALAPPNUMBER BH2018/00207  
ADDRESS 47 Montefiore Road Hove BN3 6EP  
DEVELOPMENT DESCRIPTION Creation of dormer with balcony to east elevation and creation of dormer to north elevation and installation of 4no rooflights.  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 17/10/2018  
APPLICATION DECISION LEVEL Delegated

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**WARD** **GOLDSMID**  
APPEALAPPNUMBER BH2018/00603  
ADDRESS 29 Denmark Villas Hove BN3 3TD  
DEVELOPMENT DESCRIPTION Erection of first floor extension with rooflights and revised fenestration to facilitate the conversion of existing rear stables to form annexe.  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 17/10/2018  
APPLICATION DECISION LEVEL Delegated

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**WARD** **HANGLETON AND KNOLL**  
APPEALAPPNUMBER BH2018/01267

<u>ADDRESS</u>	11 Olive Road Hove BN3 7GY
<u>DEVELOPMENT DESCRIPTION</u>	Removal of existing garage and conservatory and the erection of part single, part two storey side and rear extension and alterations to front entrance.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	16/10/2018
<u>APPLICATION DECISION LEVEL</u>	Delegated
<b><u>WARD</u></b>	<b>HANOVER AND ELM GROVE</b>
<u>APPEALAPPNUMBER</u>	BH2018/00810
<u>ADDRESS</u>	12-14 Wellington Road Brighton BN2 3AA
<u>DEVELOPMENT DESCRIPTION</u>	Conversion and extension of existing detached summer house to form one bedroom dwelling.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	18/10/2018
<u>APPLICATION DECISION LEVEL</u>	Delegated
<b><u>WARD</u></b>	<b>HANOVER AND ELM GROVE</b>
<u>APPEALAPPNUMBER</u>	BH2018/01540
<u>ADDRESS</u>	63 Southampton Street Brighton BN2 9UT
<u>DEVELOPMENT DESCRIPTION</u>	Removal of existing lean to & erection of a single storey rear extension including alterations to rear access steps and use of flat roof as roof terrace.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	16/10/2018
<u>APPLICATION DECISION LEVEL</u>	Delegated
<b><u>WARD</u></b>	<b>HOLLINGDEAN AND STANMER</b>
<u>APPEALAPPNUMBER</u>	BH2018/01232
<u>ADDRESS</u>	12 Wolverstone Drive Brighton BN1 7FB
<u>DEVELOPMENT DESCRIPTION</u>	Erection of a porch to the front elevation.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	17/10/2018
<u>APPLICATION DECISION LEVEL</u>	Delegated
<b><u>WARD</u></b>	<b>HOVE PARK</b>
<u>APPEALAPPNUMBER</u>	BH2017/03190
<u>ADDRESS</u>	203 Old Shoreham Road Hove BN3 7EB
<u>DEVELOPMENT DESCRIPTION</u>	Erection of two storey 3no bedroom dwelling with parking accessed from Cranmer Avenue.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	11/10/2018
<u>APPLICATION DECISION LEVEL</u>	Delegated
<b><u>WARD</u></b>	<b>HOVE PARK</b>

APPEALAPPNUMBER BH2017/03830  
ADDRESS 19 Shirley Drive Hove BN3 6NQ  
DEVELOPMENT DESCRIPTION Erection of first floor side extension over existing garage and a porch to the front elevation and a porch to the side elevation.  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 23/10/2018  
APPLICATION DECISION LEVEL Planning (Applications) Committee

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**WARD** **HOVE PARK**  
APPEALAPPNUMBER BH2018/01876  
ADDRESS 20 Leighton Road Hove BN3 7AD  
DEVELOPMENT DESCRIPTION Certificate of lawfulness for proposed loft conversion incorporating rear dormers and front rooflights.  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 23/10/2018  
APPLICATION DECISION LEVEL Delegated

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**WARD** **MOULSECOOMB AND BEVENDEAN**  
APPEALAPPNUMBER BH2016/06372  
ADDRESS 117 Milner Road Brighton BN2 4BR  
DEVELOPMENT DESCRIPTION Change of use from six bedroom small house in multiple occupation (C4) to eight bedroom house in multiple occupation (Sui Generis) (Retrospective)  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 15/10/2018  
APPLICATION DECISION LEVEL Delegated

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**WARD** **MOULSECOOMB AND BEVENDEAN**  
APPEALAPPNUMBER BH2017/03820  
ADDRESS 50 Heath Hill Avenue Brighton BN2 4FH  
DEVELOPMENT DESCRIPTION Erection of three storey building to provide student halls of residence of 33 units.  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 16/10/2018  
APPLICATION DECISION LEVEL Not Assigned

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**WARD** **MOULSECOOMB AND BEVENDEAN**  
APPEALAPPNUMBER BH2018/01089  
ADDRESS 76 Barcombe Road Brighton BN1 9JR  
DEVELOPMENT DESCRIPTION Certificate of Lawfulness for proposed loft conversion and new two storey rear extension, 2no rear dormers and insertion of 7no rooflights.

APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 24/10/2018  
APPLICATION DECISION LEVEL Delegated

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**WARD** **MOULSECOOMB AND BEVENDEAN**  
APPEALAPPNUMBER BH2018/02316  
ADDRESS 166 Heath Hill Avenue Brighton BN2 4LS  
DEVELOPMENT DESCRIPTION Application for removal of condition 5 of BH2018/00095 (Change of use from dwelling house (C3) to six bedroom small house in multiple occupation (C4) incorporating conversion of garage into habitable space) relating to removal of permitted development rights.  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 18/10/2018  
APPLICATION DECISION LEVEL Delegated

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**WARD** **NORTH PORTSLADE**  
APPEALAPPNUMBER BH2018/01407  
ADDRESS Henge Way Land Next To 2 Brackenbury Close Portslade BN41 2ES  
DEVELOPMENT DESCRIPTION Erection of 1no two bedroom dwelling house (C3) incorporating vehicle crossover.  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 23/10/2018  
APPLICATION DECISION LEVEL Delegated

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**WARD** **PATCHAM**  
APPEALAPPNUMBER BH2017/02490  
ADDRESS 4 Keymer Road Brighton BN1 8FB  
DEVELOPMENT DESCRIPTION Erection of 1no two storey two bedroom house (C3).  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 11/10/2018  
APPLICATION DECISION LEVEL Delegated

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**WARD** **PATCHAM**  
APPEALAPPNUMBER BH2018/00419  
ADDRESS 10 Carden Avenue Brighton BN1 8NA  
DEVELOPMENT DESCRIPTION Conversion of existing ground floor extension to form 1no. two bedroom apartment.  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 11/10/2018  
APPLICATION DECISION LEVEL Delegated

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

BH2018/01564

85 Rotherfield Crescent Brighton BN1 8FH

Erection of 1no two bedroom semi-detached dwelling incorporating parking and associated works.

APPEAL IN PROGRESS

29/10/2018

Delegated

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

BH2018/00719

Flat 1 37 Springfield Road Brighton BN1 6EX

Erection of single storey rear extension.

APPEAL IN PROGRESS

05/11/2018

Delegated

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

BH2018/00866

27 Prestonville Road Brighton BN1 3TL

Rear extensions to 1st and 2nd floor levels of existing maisonette including erection of rear dormer with roof terrace &amp; associated alterations.

APPEAL IN PROGRESS

12/10/2018

Delegated

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

BH2018/01544

95 Stanford Avenue Brighton BN1 6FA

Roof alterations incorporating dormers to rear elevation and insertion of front rooflight.

APPEAL IN PROGRESS

29/10/2018

Delegated

**WARD****APPEALAPPNUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****QUEEN'S PARK**

BH2017/03937

57 Richmond Street Brighton BN2 9PD

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

APPEAL IN PROGRESS

APPEAL RECEIVED DATE 15/10/2018  
APPLICATION DECISION LEVEL Delegated

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**WARD**

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

**REGENCY**

BH2018/00276

107-109 Dyke Road Brighton BN1 3JE

Erection of two additional storeys to create 1no one bedroom flat and 1no studio flat, and associated works including the amalgamation of existing ground floor A5 units, and reconfiguration of existing first floor residential accommodation.

APPEAL IN PROGRESS

24/10/2018

Delegated

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**WARD**

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

**ROTTINGDEAN COASTAL**

BH2018/01166

2 Shepham Avenue Saltdean Brighton BN2 8LS

Erection of a single storey rear extension, roof alterations including gable extension, rear dormer & 4no. front rooflights (retrospective).

APPEAL IN PROGRESS

16/10/2018

Delegated

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**WARD**

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

**ST. PETER'S AND NORTH LAINE**

BH2018/00124

7 Caledonian Road Brighton BN2 3HX

Change of use from 6 bedroom small house in multiple occupation (C4) to 9 bedroom house in multiple occupation (Sui Generis).

APPEAL IN PROGRESS

30/10/2018

Delegated

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**WARD**

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

**ST. PETER'S AND NORTH LAINE**

BH2018/00482

66 Buckingham Road Brighton BN1 3RQ

Conversion of existing maisonette (C4) into 2no. studio flats (C3) incorporating replacement of existing pitched roof with a Mansard Roof, single dormer to the front & rear elevations.

APPEAL IN PROGRESS

18/10/2018

Delegated

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<b><u>WARD</u></b>	<b>ST. PETER'S AND NORTH LAINE</b>
<b><u>APPEALAPPNUMBER</u></b>	BH2018/00641
<b><u>ADDRESS</u></b>	38A Upper Gardner Street Brighton BN1 4AN
<b><u>DEVELOPMENT DESCRIPTION</u></b>	Part change of use of existing storage building (B8) to office (B1) with extension to existing building and two storey bridged extension between the existing properties fronting Upper Gardner Street.
<b><u>APPEAL STATUS</u></b>	APPEAL IN PROGRESS
<b><u>APPEAL RECEIVED DATE</u></b>	06/11/2018
<b><u>APPLICATION DECISION LEVEL</u></b>	Not Assigned

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<b><u>WARD</u></b>	<b>ST. PETER'S AND NORTH LAINE</b>
<b><u>APPEALAPPNUMBER</u></b>	BH2018/01113
<b><u>ADDRESS</u></b>	Flat 3 4 Compton Avenue Brighton BN1 3PN
<b><u>DEVELOPMENT DESCRIPTION</u></b>	Insertion of 2no rooflights to side roof slope and replacement of timber windows with sliding sash UPVC windows to rear and side elevations.
<b><u>APPEAL STATUS</u></b>	APPEAL IN PROGRESS
<b><u>APPEAL RECEIVED DATE</u></b>	24/10/2018
<b><u>APPLICATION DECISION LEVEL</u></b>	Delegated

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<b><u>WARD</u></b>	<b>ST. PETER'S AND NORTH LAINE</b>
<b><u>APPEALAPPNUMBER</u></b>	BH2018/01313
<b><u>ADDRESS</u></b>	13 Buckingham Street Brighton BN1 3LT
<b><u>DEVELOPMENT DESCRIPTION</u></b>	Erection of single storey side/rear extension incorporating landscaping and alterations to rear retaining wall. Installation of front and rear rooflights.
<b><u>APPEAL STATUS</u></b>	APPEAL IN PROGRESS
<b><u>APPEAL RECEIVED DATE</u></b>	29/10/2018
<b><u>APPLICATION DECISION LEVEL</u></b>	Delegated

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<b><u>WARD</u></b>	<b>ST. PETER'S AND NORTH LAINE</b>
<b><u>APPEALAPPNUMBER</u></b>	BH2018/01344
<b><u>ADDRESS</u></b>	53 Clifton Street Brighton BN1 3PG
<b><u>DEVELOPMENT DESCRIPTION</u></b>	Erection of two storey rear extension to rear outrigger and single storey rear/side infill extension. Roof alterations incorporating rear dormer, 1no rooflight to front roofslope and associated alterations.
<b><u>APPEAL STATUS</u></b>	APPEAL IN PROGRESS
<b><u>APPEAL RECEIVED DATE</u></b>	29/10/2018
<b><u>APPLICATION DECISION LEVEL</u></b>	Delegated

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<b><u>WARD</u></b>	<b>ST. PETER'S AND NORTH LAINE</b>
<b><u>APPEALAPPNUMBER</u></b>	BH2018/01384
<b><u>ADDRESS</u></b>	118B Upper Lewes Road Brighton BN2 3FD
<b><u>DEVELOPMENT DESCRIPTION</u></b>	Roof alterations incorporating rear dormer, front rooflight and associated internal alterations.
<b><u>APPEAL STATUS</u></b>	APPEAL IN PROGRESS
<b><u>APPEAL RECEIVED DATE</u></b>	23/10/2018
<b><u>APPLICATION DECISION LEVEL</u></b>	Not Assigned
<b><u>WARD</u></b>	<b>WESTBOURNE</b>
<b><u>APPEALAPPNUMBER</u></b>	BH2016/06391
<b><u>ADDRESS</u></b>	123 - 129 Portland Road Hove BN3 5QY
<b><u>DEVELOPMENT DESCRIPTION</u></b>	Creation of additional floor to provide 1no one bedroom flat and 3no two bedroom flats (C3) with associated alterations.
<b><u>APPEAL STATUS</u></b>	APPEAL IN PROGRESS
<b><u>APPEAL RECEIVED DATE</u></b>	30/10/2018
<b><u>APPLICATION DECISION LEVEL</u></b>	Planning (Applications) Committee
<b><u>WARD</u></b>	<b>WESTBOURNE</b>
<b><u>APPEALAPPNUMBER</u></b>	BH2017/03293
<b><u>ADDRESS</u></b>	Garages Rear Of 187 Kingsway Hove BN3 4GL
<b><u>DEVELOPMENT DESCRIPTION</u></b>	Demolition of existing garages and erection of 2no 2 storey plus basement residential dwellings.
<b><u>APPEAL STATUS</u></b>	APPEAL IN PROGRESS
<b><u>APPEAL RECEIVED DATE</u></b>	24/10/2018
<b><u>APPLICATION DECISION LEVEL</u></b>	Delegated
<b><u>WARD</u></b>	<b>WESTBOURNE</b>
<b><u>APPEALAPPNUMBER</u></b>	BH2018/00202
<b><u>ADDRESS</u></b>	106 Montgomery Street Hove BN3 5BD
<b><u>DEVELOPMENT DESCRIPTION</u></b>	Demolition of existing lower ground floor rear extension and erection of two-storey rear extension to lower ground and ground floor flats.
<b><u>APPEAL STATUS</u></b>	APPEAL IN PROGRESS
<b><u>APPEAL RECEIVED DATE</u></b>	23/10/2018
<b><u>APPLICATION DECISION LEVEL</u></b>	Delegated
<b><u>WARD</u></b>	<b>WESTBOURNE</b>
<b><u>APPEALAPPNUMBER</u></b>	BH2018/00296
<b><u>ADDRESS</u></b>	122 Cowper Street Hove BN3 5BL
<b><u>DEVELOPMENT DESCRIPTION</u></b>	Erection of single storey rear extension with 2no rooflights.
<b><u>APPEAL STATUS</u></b>	APPEAL IN PROGRESS

APPEAL RECEIVED DATE 29/10/2018  
APPLICATION DECISION LEVEL Delegated

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**WARD** **WESTBOURNE**  
APPEALAPPNUMBER BH2018/01150  
ADDRESS 87-89 Cowper Street Hove BN3 5BN  
DEVELOPMENT DESCRIPTION Application for removal of condition 4 of BH2017/04200 (Conversion of existing six bedroom House in Multiple Occupation (C4) to form 2no dwellings (C3) with associated alterations.) relating to the removal of permitted development rights.  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 17/10/2018  
APPLICATION DECISION LEVEL Delegated

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**WARD** **WOODINGDEAN**  
APPEALAPPNUMBER BH2017/02039  
ADDRESS 16 Briarcroft Road Brighton BN2 6LL  
DEVELOPMENT DESCRIPTION Demolition of existing garage and erection of single storey side extension with pitched roof to create new semi-detached three bedroom dwelling (C3).  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 29/10/2018  
APPLICATION DECISION LEVEL Delegated

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**WARD** **WOODINGDEAN**  
APPEALAPPNUMBER BH2018/01180  
ADDRESS 34 Crescent Drive South Brighton BN2 6RB  
DEVELOPMENT DESCRIPTION Erection of side and rear extensions with associated alterations, landscaping and levelling garden.  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 17/10/2018  
APPLICATION DECISION LEVEL Delegated

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**WARD** **WOODINGDEAN**  
APPEALAPPNUMBER BH2018/01668  
ADDRESS 22 Seaview Road Brighton BN2 6DF  
DEVELOPMENT DESCRIPTION Roof alterations including front and rear gable end extensions and side dormers. Erection of part one part two storey rear extension with associated alterations.  
APPEAL STATUS APPEAL IN PROGRESS

APPEAL RECEIVED DATE 24/10/2018  
APPLICATION DECISION LEVEL Delegated

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# PLANNING COMMITTEE: 5<sup>th</sup> December 2018

Agenda Item

Brighton & Hove City Council



**Brighton & Hove  
City Council**

## 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:	BH2016/02663
Description:	Demolition of existing commercial units (B8) and erection of buildings ranging from four storeys to seventeen storeys in height comprising a mixed use development of no.186 residential apartments (C3), 1,988 sqm of offices (B1) and 226sqm of retail (A1) with car parking at basement level.
Decision:	
Type of Appeal	Informal Hearing against refusal
Date:	18/12/2018 The Jubilee Library
Site Location:	Unit 1-3 Ellen Street Hove



**APPEAL DECISIONS**

	<b>Page</b>
<b>A –19 SOUTHDOWN AVENUE, BRIGHTON – PRESTON PARK</b>	<b>235</b>
<p>Application BH2017/03801 - Appeal against refusal to grant planning permission for conversion of existing redundant officer space into two self-contained flats; ground floor 2 bed, basement, 1 bed <b>APPEAL DISMISSED</b> (delegated decision)</p>	
<b>B – LAND TO THE EAST OF THE VALE, SALTDEAN, BRIGHTON– ROTTINGDEAN COASTAL</b>	<b>239</b>
<p>Application BH2015/01890 – Appeal against refusal to grant planning permission for erection of 6, 3 bedroom dwellings (C3), detached garages and 2 no detached single story outbuildings <b>APPEAL ALLOWED</b>(committee decision)</p>	
<b>C – 76 GREENBANK AVENUE, SALTDEAN, BRIGHTON – ROTTINGDEAN COASTAL</b>	<b>247</b>
<p>Application BH2017/03816; Enforcement Case, ENF 2017/00232 – Breach of planning control, without planning permission erection of a single storey extension and raised platform at the rear of the property. <b>APPEAL DISMISSED</b> (and Enforcement Notice upheld)</p>	
<b>D – LAND AT 103 HALLAND ROAD, BRIGHTON – MOULSECOOMB &amp; BEVENDEAN</b>	<b>251</b>
<p>Application Q1445/C/18/3195091; - Breach of planning control, without planning permission material change of use from 6 bedroom house in multiple occupation (C4) to a 9 bedroom HMO (sui generis) <b>APPEAL ALLOWED</b> (planning permission granted in the terms set out in the formal decision)</p>	
<b>E – LAND AT 2 BARROWFIELD LODGE, HOVE – HOVE PARK</b>	<b>255</b>
<p>Application Q1445/C/18/3195706 – Breach of planning control unauthorised installation of a 4 no. air source heat pumps at the front elevation of the dwelling at ground floor level and timber structures concealing the pumps. <b>APPEAL DISMISSED</b> (enforcement notice upheld)</p>	

**F 289 FRESHFIELD ROAD, BRIGHTON - HANOVER & ELM  
GROVE**

**259**

Application BH2018/00858– Appeal against refusal to grant planning permission for proposed two storey side extension. **APPEAL DISMISSED** (delegated decision)









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## Appeal Decision

Site visit made on 30 October 2018

**by Cullum J A Parker BA(Hons) MA MRTPI IHBC**

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

**Decision date: 02 November 2018**

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**Appeal Ref: APP/Q1445/W/18/3198972**  
**19 Southdown Avenue, Brighton, BN1 6EH**

- 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 John Garrett against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/03801, dated 16 November 2017, was refused by notice dated 22 February 2018.
  - The development proposed is described as '*conversion of existing redundant office space into two self-contained flats; ground floor 2 bed and basement 1 bed*'.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - i) Whether it has been demonstrated that the relevant parts of the appeal building used for employment use are redundant and incapable of meeting alternate employment uses; and,
  - ii) The effect of the proposal on the character and appearance of the Preston Park Conservation Area; and,
  - iii) The effect of the proposal on the living conditions of future occupiers.

### Reasons

#### *Employment use*

3. Policy CP3 of the *Brighton and Hove City Plan Part 1 March 2016* (BHCP) seeks to safeguard employment sites and premises by a variety of means. One of these includes that the loss of unallocated premises last used in employment only being permitted where the premises can be demonstrated as redundant and incapable of meeting the needs of alternative employment use.
4. In this case, the Appellant considers that the property was formerly used as residential dwelling many years ago and the proposal seeks a conversion of a later office use back into residential. I do not have any evidence whether or not the building was formerly used as a residential property.
5. However, it is clear that the most recent use of the property subject of this appeal was as an employment use. Accordingly, the Appellant needs to

demonstrate that the premises is now redundant and incapable of meeting the needs of alternative employment uses.

6. Little evidence has been submitted to support the loss of the employment premises – for example one would typically see evidence that the property has been marketed without success or evidence that the space no longer works in practical terms. Neither has been submitted here. Accordingly, I find that the proposal would not accord with Policy CP3 of the BHCP which seeks the aforesaid aims.

#### *Character and appearance*

7. The appeal site is located within the Preston Park Conservation Area. The significance of the conservation area appears to derive in part from the mixture of buildings from the Edwardian period. The appeal site itself is an example of a 'corner shop' with an Edwardian style and proportioned appearance. The contribution to the character and appearance of the conservation area's significance is not only the visual appearance of the building but its link to the past, where such employment uses were part of the fabric of local life.
8. The proposal would see the loss of the traditional shop frontage and the insertion of sliding sash windows. The Council's Heritage Officer observes that *'it would be highly unusual to see sliding sash windows on a shop front, especially on a corner shop front'*. I concur; the use of such windows as proposed would not only look odd but erode the distinctive character of the building and its contribution to the conservation area.
9. As such, I find that the proposal would result in a negative impact on the Preston Park Conservation Area which would fail to preserve or enhance its character or appearance. For similar reasons, it would result in less than substantial harm to the significance of the conservation area as set out in Paragraph 196 of the *National Planning Policy Framework* (the Framework). No public benefits have been cited by the Appellant. Whilst I note the proposal would result in the creation of new residential units, this does not overcome the need to conserve heritage assets in a manner appropriate to their significance.
10. I therefore conclude that the proposal would be contrary to Policy HE6 of the *Brighton and Hove Local Plan* and Policies CP12 and CP15 of the BHCP, which, amongst other aims, seek to conserve or enhance the city's built heritage. It would also conflict with national policy as cited above.

#### *Living conditions*

11. The proposal would create living accommodation within the basement that would not be served by natural light. The Appellant has suggested that they are willing to insert light wells to provide light. However, that is not shown in the scheme before me and I am unable to ascertain whether such changes would result in a high standard of amenity for future occupiers as sought by Paragraph 127 f) of the Framework. Instead, the proposal as submitted would result in occupiers being subjected to very low levels of natural light within parts of the proposed residential units.
12. The proposal would therefore have a materially harmful impact on the living conditions of potential future occupiers. As such it would be contrary to Policy

QD27 of the BHLF which seeks to protect amenity of existing or future occupiers and the provisions of the Framework already cited.

**Conclusions**

13. The proposed development would not accord specific policies of the adopted development plan, nor with the plan when taken as a whole. There are no material considerations which indicate a decision otherwise than in accordance with the development plan.
14. For the reasons given above, I conclude that the appeal should be dismissed.

*Cullum J A Parker*

INSPECTOR





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## Appeal Decision

Site visit made on 8 August 2018

by **Timothy C King BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 November 2018

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**Appeal Ref: APP/Q1445/W/17/3182804**

**Land to the east of The Vale, Brighton BN2 7AB**

- 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 Boran Investments against the decision of Brighton & Hove City Council.
  - The application Ref BH2015/01890, dated 27 May 2015, was refused by notice dated 28 February 2017.
  - The development proposed is erection of 6no three bedroom dwellings (C3), detached garages and 2no detached single storey outbuildings.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the erection of 6no three bedroom dwellings (C3), detached garages and 2no single storey detached single storey outbuildings at land to the east of The Vale, Brighton BN2 7AB, in accordance with the terms of the application Ref BH2015/01890, dated 27 May 2015, subject to the conditions set out in the attached Schedule.

### Preliminary Matters

2. Following the issuing of the revised National Planning Policy Framework (the Framework) in July 2018 the main parties were asked whether they wished to make any additional comments on the appeal in light of this. Whilst the Council had no observations to make the appellant put forward further representations and I have had regard to these.
3. During the appeal process I received a copy of a s106 Agreement, dated 6 August 2018, made between Brighton & Hove City Council and the appellant, Boran Investments Ltd, in respect of financial contributions towards Affordable Housing and also Sustainable Transport initiatives in the locality. This directly relates to two of the reasons for refusal cited by the Council in its decision notice and I will discuss the implications under the relevant headings of the main issues.

### Main Issues

4. These are as follows:
  - 1) The effects of the proposal on the ecology and biodiversity of the area;
  - 2) whether the proposal should provide for a contribution towards affordable housing; and

- 3) whether the proposal should provide for a contribution towards sustainable transport infrastructure in the immediate vicinity.

## **Reasons**

### *Background*

5. The proposal involves the erection of three sets of semi-detached dwellings along with garages and outbuildings on open land off the east side of The Vale. Slightly set back from what appears as an unadopted road the dwellings would sit opposite a series of existing dwellings on the developed west side.
6. Both main parties in their final comments make reference to a successful appeal relating to a substantial area of land immediately to the east, the expanse of which is in stark contrast to the narrow, rather linear form of the current appeal site. Together, these two sites form part of an Urban Fringe site, identified as 'Site 42' in the Council's Urban Fringe Assessments. These are areas of land that lie between the defined built-up urban boundary and that of the South Downs National Park.
7. In April 2018, subsequent to the Council's decision on the site the subject of the current appeal, planning permission was granted at appeal for a total of 45 new dwellings on this adjoining piece of land, known as land south of Ovingdean Road. In granting planning permission the Inspector acknowledged the benefits that the proposed housing would bring, but she also found that the proposal would give rise to some harm to the ecology and biodiversity of the site. Nonetheless, she was satisfied that, having regard to the proposed mitigation strategies, the degree of harm would be limited.

### *Ecology and biodiversity*

8. The Ecology Partnership, specialist consultants commissioned by the appellant, initially surveyed the site in 2015, identifying the habitats present. The objection raised by the Council in this regard at the application stage was that the various reports accompanying the application had not been prepared in accordance with recognised technical guidance and, as such, were considered insufficient to assess the impacts of the proposed development and to inform appropriate mitigation, compensation and enhancement. In the circumstances, the Council required further information on habitats likely to be impacted on, reptiles, invertebrates, notable plants and on the cumulative effects with other developments.
9. In June 2017, just prior to the appeal being lodged, an updated Ecological Impact Assessment was produced with reference to the proposal's likely impacts on on-site habitats, protected species known to be present at the site and local cumulative impacts taking into account the extant planning permission for the adjoining site. The Council still raised concerns on this issue, and stated a requirement that appropriate surveys be carried out taking into account all factors, particularly with the proposed housing development on the adjoining site being allowed.
10. Subsequently, a letter dated 20<sup>th</sup> July 2018 has been submitted by the Ecology Partnership which represents the final update. The study finds that grassland within the site is considered to be relatively species-poor and that the majority of the species present at the site are primarily those associated with poorly managed grassland and disturbed ground. As regards the presence of



- protected species, both faunal and floral, there is some evidence of pipistrelles, serotines and slow worms with a badger sett also having been identified, estimated to be distanced between 20m and 25m from the site boundary.
11. The site, due to its relatively small size, was found not to have the significant value of the more expansive adjacent piece of land as it does not appear to support habitats for the variety of species found thereon. Accordingly, there largely appears to be confinement and combination impacts would not be of significance.
  12. The trees at the site are already protected by a group Tree Preservation Order. The proposed development would maintain all mature trees and the hawthorn habitat with new trees planted along its common boundary with the adjoining site. This would ensure that the ecological functionality of the land would be retained. Drawing no 02 Rev D indicates that root systems would be protected in accordance with recognised requirements. New mixed hedge growth would take place with existing rough grass re-seeded with grass/wild flower mix to provide habitats for wildlife and insects.
  13. Policy CP10 of the Brighton and Hove City Plan Part One, (CPP1) amongst other things, serves to conserve existing biodiversity, protecting it from the negative indirect effects of development. To help achieve this, particularly in instances of proposals for development, up-to-date information about the biodiversity which may be affected is required. In this connection paragraph 170 of the Framework says that planning decisions should contribute to and enhance the natural and local environment by, amongst other things, minimising impacts on and providing net gains for biodiversity.
  14. Policy QD18 of the Brighton and Hove Local Plan 2005 (LP) states that where a proposal could directly or indirectly affect a species of animal or plant, or its habitat protected under national legislation, measures will be required to avoid any harmful impact of a proposed development on such species and their habitats. It confirms that permission will not be granted for any development that would be liable to cause demonstrable harm to such species and their habitats.
  15. The Framework continues in this vein with its paragraph 175 indicating that if a proposed development would result in the loss or deterioration of irreplaceable habitats or give rise to significant harm to biodiversity and cannot be adequately mitigated then planning permission should be refused. Given the findings of the latest survey combined with the extent of the mitigation measures to be undertaken on the adjacent site such scenarios do not arise.
  16. In the circumstances I am satisfied that the information currently held is sufficient to allow for a condition requiring that, prior to the commencement of development, an ecological mitigation strategy, based on the most up-to-date information at that time, be carried out in accordance with relevant Best Practice Guidance. The Council has suggested such a condition be imposed in the event that the appeal is allowed and planning permission is granted for the development. The appellant is agreeable to this approach. The mitigation strategy would be submitted to the Council for subsequent written approval and, if acceptable, would then be implemented, accordingly.
  17. Such an approach would satisfy the requirements of CPP1 Policy CP10 and LP Policy QD18, the objectives of the Council's Supplementary Planning Document

'Nature Conservation and Development', and also advice in paragraphs 170 and 175 of the Framework. In the circumstances, I conclude that the proposal, with adequate safeguards employed, would not be harmful to the local ecology or biodiversity.

*Affordable housing contribution*

18. Policy CP20 of CPP1, adopted in March 2016, requires the provision of affordable housing on all sites of between 5 and 9 (net) dwellings, and a target of 20% affordable housing should be provided as an equivalent financial contribution. The Council has indicated that, in this particular instance, the contribution would total £223,250 towards the provision of affordable housing elsewhere. This would be paid in two equal instalments.
19. The policy also states that this target may be applied more flexibly where the Council considers this to be justified with consideration given to the accessibility of the site, the costs relating to the development (and, in particular, financial viability), whether affordable housing would prejudice the realisation of other planning objectives, and the need to achieve a successful housing development.
20. The Court of Appeal's judgement of May 2016 reinstated, and gave legal effect to, the Written Ministerial Statement (WMS) of November 2014 which states that affordable housing and tariff style planning obligations should not be sought from developments of 10 units or less. At this point the government's Planning Practice Guidance (PPG) was updated, accordingly. The intention of this is to prevent a disproportionate burden on small scale developments.
21. In the circumstances the PPG post-dates the adoption of CPP1 and is a weighty material consideration. Nonetheless, the WMS does not reduce the weight that should be given to the statutory development plan. The primacy of the development plan therefore remains in that planning applications must be decided in accordance with the development plan unless material considerations indicate otherwise. The WMS therefore represents a consideration which has to be balanced against the plan and the evidence base supporting the Council's application of the policy.
22. The Council considers that Policy CP20, and its requirements, should hold good because there are sufficient local circumstances to justify an appropriate exception to the government's approach. These circumstances include the significant need for affordable housing over the plan period to 2030, a constrained housing land supply, and that the delivery from smaller development sites has been a fairly constant source of supply whereas larger schemes are impacted by economic trends and housing market fluctuations.
23. The WMS is clearly a material planning consideration to which I attach considerable weight as it represents the clearest and most up-to-date expression of national policy. Nonetheless, taking everything into account, and in using discretion in applying where the balance should lie, I conclude that the provision of affordable housing is necessary to make the proposal acceptable, is directly related to the development, and is fairly and reasonably related in scale and kind to the development. Consequently, it would satisfy the tests of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraphs 55 and 56 of the Framework.

24. The completion of the s106 Agreement means there is a clear mechanism to secure much needed affordable housing in accordance with CPP1 Policy CP20.

*Sustainable transport contribution*

25. The S106 agreement also makes provision for a sustainable transport infrastructure contribution. The requirement for contributions towards off-site sustainable transport infrastructure improvements is set out within the Council's adopted Developer Contributions Technical Guidance. The quantum of proposed residential development equates here to a figure of £9,000. This is required to provide an accessibility kerb, hardstanding and bus stop cage road markings at the nearby eastbound bus stop on Ovingdean Road, with similar markings also to be provided at the 'Ovingdean Road' bus stop on Falmer Road.
26. Such infrastructure contributions are supported by CPP1 Policies CP7 and CP9 which seek, through the provision of infrastructure contributions, to provide measures that will help to manage and improve mobility and lead to a transfer of people onto sustainable forms of transport to reduce the impact of traffic and congestion and increase physical activity. The proposed development would be in line with this and would also accord with the tests set out in Regulation 122 of the Community Infrastructure Regulations 2010 and paragraphs 55 and 56 of the Framework.

*Other considerations*

27. I have had due regard to the representations received from interested parties raising objections to the proposed development; both at the application stage and also during the appeal process. One objector has referred to The Vale as being a designated 'Greenway', which is protected by LP Policy QD19. This policy has, in fact, been superseded with the adoption of the City Plan Part One document in March 2016, which is concerned with the wider issue of Biodiversity.
28. I also note that local objectors submitted an independent landscape assessment in 2015, compiled by 'Landvision Landscape Assessment'. I have had regard to this but, given that the Council considered at the application stage that the landscape and visual impacts of the proposal are acceptable and, more recently, with the planning permission granted on the adjoining site, there has been a significant material change in circumstances. Given this, I am satisfied that the proposal would not be harmful to the landscape. Neither do I consider that, in light of the extant permission, the proposal would constitute an overdevelopment of the site. Reference is made to a Council study whereby a limitation of 45 dwellings already granted on the adjoining piece of land would apply as a total across the two sites. However, this is not adopted policy.
29. Concerns have been raised that, although planning permission was refused in 1999 for three bungalows at the site, objectors do not feel that the then reasons for refusal have been addressed with the current proposal. I have not been provided with papers relating to this previous application but it is important to note that since this time the local development plan has changed with the adoption of the Brighton and Hove Local Plan in 2005 and the City Plan Part One in 2016. Further the government's National Planning Policy Framework, first published in 2012, was revised and reissued in 2018.

30. There are also concerns raised regarding highway safety. The local highway authority, having assessed the proposal with respect to the proposed dwellings' access points and additional traffic generated does not, though, consider that this would give rise to an increased highway risk. I have not been provided with any updated assessment on the proposal subsequent to planning permission being granted for the adjacent development, but I have had regard to the appeal decision letter for the proposal whereby the appointed Inspector noted that the highway authority was satisfied that, subject to proposed improvements, the development would not have an adverse effect on highway safety. Neither do I have any reason to believe that the road system could not accommodate the construction traffic.
31. It has been suggested that the proposed outbuildings could be converted for use as additional dwellings. Should this occur then a material change of use would have taken place. In the absence of any planning permission for such the Council holds enforcement powers to regularise the planning position. Nonetheless, I will impose a condition requiring that the outbuildings shall only be used for purposes incidental to their respective main dwellings.
32. Representations have been made relating to potential flooding, rain-water run-off and possible problems with sewage. I note that the Council did not raise objections in this regard, but these are also engineering related matters and are mainly controllable under current Building Regulations.

### **Conclusions and Conditions**

33. I have concluded that the proposal is acceptable on all three main issues and, although having given due regard to the various points raised in respect of the considered impacts, none of these, even when taken together, outweigh the planning merits of the proposal.
34. For the above reasons, and having had regard to all matters raised, the appeal succeeds. In terms of conditions I have had regard to the advice within the PPG. Some pre-commencement conditions, suggested by the Council and agreed by the appellant, are imposed as they strike at the heart of the planning permission, are necessary to ensure a satisfactory standard of development, but insufficient details have yet to be provided. These include the required ecological mitigation strategy, details relating to a comprehensive landscaping scheme and also samples of building materials which will all need to be approved by the Council.
35. I have imposed a condition requiring that the development be implemented in accordance with the approved plans and, in the interests of sustainable transport, that details be submitted relating to cycle storage facilities for subsequent written approval. As mentioned, a condition is also imposed relating to the use of the outbuildings.
36. The Council has suggested imposing conditions relating to both energy and water efficiency standards and also one to ensure compliance with the Building Regulations Optional Requirement for accessible and adaptable dwellings. However, these are matters controllable under the current Building Regulations, and it is not necessary for such requirements to also be imposed by way of planning conditions.

37. Finally, the PPG says that conditions restricting the future use of permitted development (PD) rights will rarely pass the test of necessity and should only be used in exceptional circumstances. It comments that blanket removal of freedoms to carry out small scale domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity. However, in this particular instance I find that, due to the shallow depth of the site transferring itself to the arrangement of the various curtilages, and the potential for clutter from additional outbuildings erected, the entitlement should be removed. This does not mean that any such development proposed would be unacceptable, but that planning permission would be required in this regard, allowing the Council to retain control in order to assess any future proposals' merits and impacts.

*Timothy C King*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this permission.
- 2) The development hereby approved shall be carried out in accordance with the following plans: Drawings Nos 01 Rev B, 02 Rev D, 04 Rev D, 05 Rev C, 06 Rev C, 07 Rev C, 08 Rev B, 09 Rev C, 12 Rev B, LLD783/01 and LLD783/02.
- 3) No development shall take place until samples of the external materials to be used for the construction of the dwellings and associated buildings hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall take place until details of both hard and soft landscape works, including hard-surfacing materials and boundary treatments, have been submitted to and approved in writing by the local planning authority. Details of soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedule of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and details of the existing trees to be retained, including their spread, girth and species. Development shall be carried out in accordance with the approved details prior to first occupation of any dwelling, or otherwise in accordance with a programme agreed with the local planning authority. Any trees or plants which, within a period of 5 years from the completion of the development, die, are removed, become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.
- 5) Prior to the commencement of the development an ecological mitigation strategy, informed by up-to-date ecological surveys carried out in accordance with relevant Best Practice Guidance, shall be submitted to and approved in writing by the local planning authority. The approved strategy shall thereafter be carried out in full.
- 6) No occupation of the dwellings hereby approved shall take place until full details of cycle storage facilities have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with these details.
- 7) The outbuildings hereby approved shall only be used for purposes incidental to their respective main dwellings.
- 8) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any order revoking, re-enacting or modifying that Order), no extensions or alterations to the dwellings hereby approved, which would otherwise be permitted by Schedule 2, Part 1, Classes A, B, C, D and E of that Order, shall be carried out.

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## Appeal Decisions

Site visit made on 26 October 2018

**by Sandra Prail MBA, LLB (Hons), Solicitor (non-practising)**

**an Inspector appointed by the Secretary of State**

**Decision date: 15 November 2018**

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### **Appeal A Ref : APP/Q1445/C/18/3197869**

#### **Land at 76 Greenbank Avenue, Saltdean, Brighton, BN2 8QQ.**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mrs Pamela Young against an enforcement notice issued by Brighton & Hove City Council.
- The notice was issued on 23 January 2018.
- The breach of planning control as alleged in the notice is without planning permission the erection of a single storey extension and raised platform at the rear of the property.
- The requirements of the notice are to remove the raised, timber platform which extends from the ground floor level to the rear and sides of the property.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

**Summary of Decision: the appeal is dismissed and the enforcement notice is upheld**

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### **Appeal B Ref : APP/Q1445/W/18/3197872**

#### **Land at 76 Greenbank Avenue, Saltdean, Brighton, BN2 8QQ.**

- 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 Mrs Pamela Young against the decision of Brighton & Hove City Council.
- The application ref. BH2017/03816 undated but submitted to the Council on 17 November 2017 was refused by notice dated 12 January 2018.
- The development proposed is enlargement of existing conservatory, erection of single storey rear extension, creation of raised decking with railings, privacy screens and steps into garden (part-retrospective).

**Summary of Decision: the appeal is dismissed**

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### **Preliminary Matters**

1. I undertook an accompanied site visit to the appeal property and unaccompanied site visits to the neighbouring properties either side.
2. At the site visit the Appellant sought confirmation that a plan submitted in January 2018 was being taken into account. This issue was raised with the parties in correspondence. The Council confirmed that the January plan had not

been formally accepted. I must determine this appeal based on the application before me and the January plan is not cited in the decision notice. Nevertheless, I shall consider the January plan as a material consideration in making my determination.

### **Appeal A Ground (a) appeal and deemed application**

#### **Appeal B**

3. The reasons for issue of the enforcement notice and refusal of planning permission both concern the raised platform, the main issue is therefore the same in both appeals.

#### Main Issue

4. The main issue in the determination of these appeals is the effect of the raised platform on the living conditions of current and future occupiers of neighbouring residential properties with particular regard to outlook.

#### Living conditions

5. The appeal site comprises a detached bungalow located in a residential area. The site sits on sloping ground the ground level at the front of the property being higher than the ground level at the rear of the property. The appeals concern a raised platform at the rear of the property. The platform comprises wooden decking that sits above the ground level of the rear garden and extends to the rear and sides of the property.
6. The development plan (including the Brighton & Hove City Plan Part One and saved policies in the Brighton & Hove Local Plan) mirrors the National Planning Policy Framework (the Framework) in emphasising the need for development to respect the amenities of neighbours. Policy QD27 of the Local Plan provides that planning permission will not be granted where it would cause loss of amenity to adjacent users or residents.
7. Due to the sloping nature of the site the decking sits in a substantially elevated position. It is of relatively substantial size in its domestic garden setting. It is visually prominent from the properties on both sides and affords clear sideways views into windows of neighbouring properties. It dominates the outlook from the neighbouring gardens and creates an overbearing outlook particularly from the conservatory at no. 78. The Appellant comments that the occupier of no 78 has made no attempt to have blinds or obscure glazing fitted to the conservatory windows but the onus is on the Appellant to design a scheme that does not create undue harm not upon a neighbour to seek to mitigate harm caused by development.
8. I conclude that by virtue of its size, elevated position and separation distances from neighbours the raised platform creates a dominant feature with harmful overbearing impact to adjacent neighbours. It is likely to prevent the quiet enjoyment of residential gardens and creates an oppressive outlook from habitable rooms of neighbouring properties.
9. My attention is drawn to other decking in the area but I do consider that similar decking is so widespread as to be characteristic of the area. In any event any harm caused by other development does not justify the harm identified in this case.



10. The Appellant describes the decking as an accessible area for a wheelchair bound family member. I have taken these needs fully into account but there is no justification before me as to why decking of this scale is necessary. I have balanced the need for disabled facilities but I am not persuaded on the evidence before me that the needs could not be accommodated by alternative measures that do not create the identified harm.
11. I have considered the effect of the January plan on the identified harm. The proposed reduction in the width of the decking would not alleviate the identified harm as it would remain highly visible to neighbours.
12. I have considered whether conditions could overcome the harm. I have taken into account the Planning Practice Guidance. I do not consider that measures such as opaque screening and landscaping would alleviate the harm.
13. I conclude that the development causes undue harm to the living conditions of current and future neighbours with particular regard to outlook contrary to relevant policies in the development plan (including policy QD27 of the Local Plan) and the Framework.
14. For the reasons given above I conclude that the appeals should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application and the section 78 application.

#### Other matters

15. Neighbours raise a number of matters such as dustbins, fire safety and property valuations which are not relevant to these appeals and are not matters which I have taken into account.

### **Conclusions**

#### Appeal A

16. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed planning application.

#### Appeal B

17. For the reasons given above I conclude that the appeal should be dismissed.

### **Formal Decisions**

#### **Appeal A: APP/Q1445/C/18/3197869**

18. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

#### **Appeal B: APP/Q1445/W/18/3197872**

19. The appeal is dismissed.

*S. Prail*

**Inspector**



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## Appeal Decision

Site visit made on 26 October 2018

**by Sandra Prail MBA, LLB (Hons), Solicitor (non-practising)**

an Inspector appointed by the Secretary of State

**Decision date: 14 November 2018**

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**Appeal Ref : APP/Q1445/C/18/3195091**

**Land at 103 Halland Road, East Moulsecoomb, Brighton, BN2 4PG.**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Rivers Birtwell Ltd against an enforcement notice issued by Brighton & Hove City Council.
- The notice was issued on 2 January 2018.
- The breach of planning control as alleged in the notice is without planning permission the material change of use from 6 bedroom House in Multiple Occupation (C4) to a 9 bedroom House in Multiple Occupation (sui generis).
- The requirements of the notice are to cease the use of the property as a large House in Multiple Occupation (sui generis).
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 as amended.

**Summary of Decision: the appeal is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out in the Formal Decision.**

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### Ground (a) appeal and deemed application

#### Main Issue

1. The main issue in the determination of this appeal is the effect of the development on the living conditions of current and future occupiers of the property with particular regard to adequacy of accommodation.

#### Living conditions

2. The appeal site is a two storey semi detached property which has been substantially extended and is located in a mainly residential area. The property has a licence for a 9 bed 9 person House in Multiple Occupation (HMO). An application for planning permission for the development already carried out has been refused on appeal.
3. The development plan (including the Brighton & Hove City Plan Part One and saved policies in the Brighton & Hove Local Plan (the Local Plan)) mirrors the National Planning Policy Framework (the Framework) in emphasising the need for development to provide an adequate standard of accommodation for occupants. Policy QD27 of the Local Plan provides that planning permission will not be granted where it would cause material nuisance or

loss of amenity to proposed, existing or adjacent users, residents or occupiers.

4. The reasons for issue of the notice include the effect of the development on the provision of a mixed and balanced community in the area and the impact of the level of activity on the living conditions of nearby residents. However, in its representations the Council accepts that following the decision on appeal their only concern relates to washing and toilet facilities for occupiers.
5. The appeal site comprises nine bedrooms with shared bathroom, shower room and toilet together with a communal living room including kitchen. I agree with the previous Inspector on appeal that the development does not provide a good standard of amenity for occupants due to the inadequacy of the bathroom facilities. The washing and toilet facilities are insufficient for the number of occupiers and poorly arranged to serve the needs of nine residents. The development causes harm to the living conditions of current and future occupiers with regard to the adequacy of accommodation and is contrary to the development plan (including policy QD27 of the Local Plan) and the Framework.
6. In its representations the Appellant proposes a new scheme shown on drawing no. SG.02.B dated 28 June 2017 (the alternative scheme). The alternative scheme includes two further toilets and an additional shower. It remains within the description of development and therefore within the remit of the deemed application. I note that the Council agrees that implementation of the alternative scheme would remedy the identified harm and I have no reason to conclude otherwise. I therefore shall grant planning permission for the alternative scheme.
7. I have considered whether conditions should be imposed on the permission and have taken into account the Planning Practice Guidance. The Council proposes four conditions in the event that the appeal is allowed.
8. The first proposed condition restricts the occupation to a maximum of 9 person. I agree that this is necessary and reasonable to ensure that bathroom facilities are appropriate to the number of occupants. The second condition restricts permitted development without the consent of the Council and the third condition concerns the provision of cycle parking. I agree that these are reasonable and necessary and accord with the development plan. The fourth condition concerns the alternative scheme and requires the revised layout to be retained. I agree that this is necessary and reasonable and have amended the text to state that the scheme will be implemented within a 3 month period to ensure that it is precise and enforceable.
9. For the reasons given above I conclude that the ground (a) appeal should succeed and planning permission will be granted. The appeals under grounds (f) and (g) do not therefore need to be considered.

## **Formal Decision**

10. The appeal is allowed and the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the use of the land at 103 Halland Road, East Moulsecoomb, Brighton, BN2 4PG as shown on the plan attached to the notice as a nine bedroom House in Multiple Occupation subject to the following conditions:
- 1) The development hereby approved shall be occupied by a maximum of nine persons;
  - 2) 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;
  - 3) Within 3 months of the date of this approval, details of secure cycle parking facilities for the occupants of and visitors to the development shall be submitted and approved in writing by the local planning authority. The approved facilities shall be fully implemented and made available for use within one month of the agreement of details and shall be retained thereafter for use at all times;
  - 4) Within 3 months of the date of this decision the layout shown on drawing SG 02.B dated 28 June 2017 shall be fully implemented and shall be thereafter retained.

*S. Prail*

**Inspector**



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## Appeal Decision

Unaccompanied site visit made on 26 October 2018

**by Sandra Prail MBA, LLB (Hons), Solicitor (non-practising)**

an Inspector appointed by the Secretary of State

**Decision date: 14 November 2018**

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**Appeal Ref : APP/Q1445/C/18/3195706**

**Land at 2 Barrowfield Lodge, Barrowfield Drive, Hove, BN3 6TQ.**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Peter Hayes against an enforcement notice issued by Brighton & Hove City Council.
- The notice was issued on 3 January 2018.
- The breach of planning control as alleged in the notice is without planning permission the unauthorised installation of 4 no. air source heat pumps at the front elevation of the dwelling at ground floor level and timber structures concealing the pumps.
- The requirements of the notice are (i) remove the 4 no. air source heat pumps from the front elevation of the dwelling at ground floor level, (ii) remove the timber structures concealing the air source heat pumps.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

**Summary of Decision: the appeal is dismissed and the enforcement notice is upheld**

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### Ground (a) appeal and deemed application

#### Main Issues

1. The main issues in the determination of this appeal are the effects of the development on (i) the character and appearance of the host dwelling and surrounding area and (ii) the living conditions of occupiers of nearby residential dwellings with particular regard to noise and disturbance.

#### Character and appearance

2. The appeal site is a flat within a two storey building with basement. The surrounding area is predominantly residential and characterised by attractive, traditional buildings many with projecting bays and gable roof forms. Whilst the host building has some unsympathetic features overall it is an attractive building which retains many of its original features and is finished in a mixture of brick corbelling, hanging tiles and stone.
3. The notice concerns four air source heat pumps with timber screening. These pumps are located in front of the principal elevation of the property, two within the recess between two projecting bays and two straddling a projecting bay and a second recess.

4. The development plan (including the Brighton & Hove City Plan Part One (the City Plan) and saved policies in the Brighton & Hove Local Plan (the Local Plan)) mirrors the National Planning Policy Framework (the Framework) in recognising the importance of development that respects its setting. Saved policy QD14 of the Local Plan provides that planning permission for extensions and alterations to existing buildings will only be granted if certain specified criteria are met. One of these criteria is that development is well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area. I have also taken into account as a material consideration Supplementary Planning Document 12: Design Guide for extension and alterations (SPD 12) which states that small storage structures should be sited to minimise views from the street and neighbours, be designed attractively in appropriate materials and be screened by landscape planting.
5. I do not agree with the Appellant that the development has enhanced the streetscene. The units are prominent. The screening partly obscures features of the building. The timber screening is out of character with the host dwelling its lattice design at odds with the exterior of the host dwelling. The units are not well designed nor well sited and materials are not appropriate to the host dwelling or surrounding area. They detract from the character and appearance of the host property and the surrounding area.
6. The development causes harm to the character and appearance of the host dwelling and surrounding area contrary to the development plan, the Framework and SPD 12.
7. I have considered whether the identified harm could be controlled by conditions. I have taken into account the Planning Practice Guidance but find that no conditions would adequately control the identified harm. I do not consider a requirement to plant climbers would mitigate the harm.

#### Living conditions

8. Policy QD27 of the Local Plan provides that development should not have an adverse impact on neighbours with regard to factors including noise.
9. I note the comments of neighbours concerned about potential disturbance. The Council produces a noise assessment report which concludes that the predicted night time noise levels do not comply with the Council's criteria. It also concludes that noise mitigation measures are possible which if implemented would result in the noise impact for residents being low.
10. On the evidence before me I am satisfied that the living conditions of nearby residents with regard to noise and disturbance could be adequately controlled by condition.

#### Conclusion

11. Whilst I have found that the harm by reason of noise may be controlled by condition I have also found harm to the character and appearance of the host dwelling and surrounding area. I have considered the environmental benefits of the heating system but this does not outweigh the identified harm and that harm means that planning permission should not be granted. I am not persuaded on the evidence before me that the sustainability



benefits could not be secured by alternative measures that do not create the identified harm.

**Formal Decision**

12. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

*S. Prail*

**Inspector**



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## Appeal Decision

Site visit made on 29 October 2018

**by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI**

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

**Decision date: 16 November 2018**

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**Appeal Ref: APP/Q1445/D/18/3208439**  
**289 Freshfield Road, Brighton BN2 9YF**

- 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 and Mrs Bob and Lindsay Collis against the decision of Brighton & Hove City Council.
  - The application, Ref. BH2018/00858, dated 16 March 2018, was refused by notice dated 21 May 2018.
  - The development proposed is a two storey side extension.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are (i) the effect of the proposed extension on the character and appearance of the host building and its surroundings, and (ii) the effect on the living conditions for nearby occupiers in respect of their outlook.

### Reasons

3. On the first issue, the Council has three concerns in terms of the design of the extension. These are that the extension would be too wide; the roof would be insufficiently set down, and that the variable width would be a contrived layout.
  4. I saw on my visit that the host dwelling forms one half of an attractive semi-detached pair with No. 291. As the pair have a pleasing balance and symmetry it is important for these aspects of the overall building not to be compromised, and to this end the Council's Supplementary Planning Document (SPD) 12: 'Design Guide for Extensions and Alterations' 2013 sets out some minimum requirements.
  5. Whilst the set back of the extension from the front elevation of 0.5m would meet the SPD requirement, the set down of just 0.15m from the ridge would be less than the minimum of 0.5m. In addition, the width of the extension's frontage, at 3.3m, would be 0.3m over the maximum width – in this case 3m which is half that of the house. Again, this is in conflict with the SPD, and whilst the differences are small I consider that they are sufficiently important harm the balance and symmetry that Nos. 289 and 291 exhibit as a pair.
  6. The Council also criticises the reduced width at the rear as a contrived design to make the most of the limited width of the side garden, and argues that a single
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width extension would be preferable in terms of design and appearance. However, whilst I see the Council's point I take the view that the rearward position of this part of the extension would reduce any adverse visual impact to an acceptable level. Had the contrivance taken the form of an angled flank wall to accommodate the extension I would have agreed with the Council on this point.

7. Nevertheless, because of the extension's inadequate set down from the ridge and its excessive width I conclude on this issue that the proposal would be harmful to the character and appearance of both the semi-detached pair and its immediate surroundings, including the street scene of Freshfield Road. This would be in conflict with Policy QD14 of the Brighton & Hove City Plan 2016 ('the Local Plan'); the Council's SPD and Section 12: 'Achieving Well-Designed Places' of the National Planning Policy Framework 2018 ('the Framework').
8. Turning to the second issue, the effect on neighbours' outlook, at its nearest point the proposed extension would be less than a metre away from the boundary with No. 287 Freshfield Road and that dwelling only just over 4m into its site. Having regard to these modest distances; the two storey height of the extension, and the fact that No. 287 is positioned on lower ground, I consider that the Council is correct to conclude that the appeal scheme would be overbearing in the outlook from the rear windows and garden of its closest neighbour to the south. This would conflict with Local Plan Policy QD27 and Framework paragraph 127f).
9. I have had regard to the points raised in the grounds of appeal. However, I consider that the extension would read much more with the pair of Nos. 289 & 291 itself rather than the two pairs of Nos. 293 & 295, with in any event the latter's side extension appearing as more subservient than the appeal scheme. I have also agreed with the appellant as regards the absence of harm from the variable width. In respect of my conclusion on living conditions of adjoining occupiers, the Council do not allege a loss of privacy or sunlight. And in respect of an overbearing impact, whilst the Notice of Refusal refers to 'houses' in the plural as being adversely affected, the officer's report refers specifically to No. 287 by reference to its number. I agree that it is only the outlook from this house that would be harmed rather than also No. 285.
10. I have, however, carefully considered the objections from the occupiers of No. 285, but in my view that house is sufficiently far from the proposed extension not to be materially affected. Furthermore, if I had allowed the appeal I do not share the opinion that the temporary construction period would have led to insurmountable problems.
11. Overall, whilst I am not entirely in agreement with both the Council's and neighbours' objections to the appeal proposal, for the reasons explained I consider on balance that on both the main issues the harm caused would be unacceptable and in conflict with local and national policy. The appeal should therefore be dismissed.

*Martin Andrews*

INSPECTOR