

<u>No:</u>	BH2017/03152	<u>Ward:</u>	Hove Park Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	39 Dyke Road Avenue Hove BN3 6QA		
<u>Proposal:</u>	Erection of part one part two storey rear extension to facilitate three new blocks on existing care home.		
<u>Officer:</u>	Molly McLean, tel: 292097	<u>Valid Date:</u>	03.10.2017
<u>Con Area:</u>	Tongdean	<u>Expiry Date:</u>	28.11.2017
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	
<u>Agent:</u>	C C Gladding Architects 75 Ormskirk Business Park New Court Way Ormskirk L39 2YT		
<u>Applicant:</u>	Mr Weissbraun 220 The Vale London		

1. RECOMMENDATION

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

Conditions:

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

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

Plan Type	Reference	Version	Date Received
Location Plan	2386	a	13 November 2017
Floor Plans Proposed	2386/NWRD/1	c	19 September 2017
Elevations Proposed	2386/NWRD/2	d	19 September 2017
Elevations Proposed	2386/NWRD/2	e	3 October 2017
Topographical Survey			19 September 2017
Parking Layout Proposed			27 March 2018
Arboricultural Report	METHOD STATEMENT		13 June 2018
Arboricultural Report	IMPACT ASSESSMENT		13 June 2018
Tree Survey	ROOT PROTECTION PLAN		13 June 2018
Tree Survey	TREE PLAN		13 June 2018
Tree Survey	PROTECTIVE FENCING PLAN		13 June 2018
Detail	CARE NEEDS ASSESSMENT		19 September

			2017
Design and Access Statement			19 September 2017

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

3. No development above ground floor slab level of any part of the development hereby permitted shall take place until samples of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):
 - a) samples of all brick, render and tiling (including details of the colour of render/paintwork to be used)
 - b) samples of all hard surfacing materials
 - c) samples of the proposed window, door and balcony treatments
 - d) details of all other materials to be used externally
Development shall be carried out in accordance with the approved details.
Reason: To ensure a satisfactory appearance to the development and to comply with policies QD14 and HE6 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton & Hove City Plan Part One.

4. The development hereby permitted shall not commence until full details of existing and proposed ground levels (referenced as Ordnance Datum) within the site and on land and buildings adjoining the site by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures, have been submitted to and approved by the Local Planning Authority. The development shall then be implemented in accordance with the approved level details.
Reason: As this matter is fundamental to the acceptable delivery of the permission to safeguard the amenities of nearby properties and to safeguard the character and appearance of the area, in addition to comply with policy QD27 of the Brighton and Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

5. Prior to first occupation of the development hereby permitted, details of all boundary treatments to include type, position, design, dimensions and materials shall be submitted to and approved in writing by the Local Planning Authority. The approved detail shall be implemented in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner.
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.

6. Prior to completion or first occupation of the development hereby approved, whichever is the sooner; details of treatment of all parts on the site not covered

by buildings shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. Details shall include:

- 1) a scaled plan showing all existing vegetation and landscape features to be retained and trees and plants to be planted;
- 2) location, type and materials to be used for soft and hard landscaping including specifications, where applicable for:
 - a) permeable paving
 - b) tree pit design
 - c) underground modular systems
 - d) Sustainable urban drainage integration
 - e) use within tree Root Protection Areas (RPAs);
- 3) a schedule detailing sizes and numbers/densities of all proposed trees/plants;
- 4) specifications for operations associated with plant establishment and maintenance that are compliant with best practise; and
- 5) types and dimensions of all boundary treatments

There shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees unless agreed in writing by the Local Planning Authority. Unless required by a separate landscape management condition, all soft landscaping shall have a written five-year maintenance programme following planting. Any new tree(s) that die(s), are/is removed or become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Unless further specific permission has been given by the Local Planning Authority, replacement planting shall be in accordance with the approved details

Reason: Required to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality in accordance with SPD 06 and QD16 of the Brighton & Hove Local Plan.

7. Prior to the commencement of the development hereby approved (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: Required prior to the commencement of development in order that the Local Planning Authority may be satisfied that the trees to be retained will not be damaged during development works and to ensure that, as far as is possible, the work is carried out in accordance with the approved details pursuant to section 197 of the Town and Country Planning Act 1990 in accordance with SPD06 and QD16 of the Brighton & Hove Local Plan

8. The development hereby permitted shall not be commenced (including demolition and all preparatory work) until the protection measures identified in the submitted arboricultural method statement received on the 13/06/18 are in place and retained throughout the construction process. The fences shall be erected in accordance with British Standard BS5837 (2012) Trees in relation to design, demolition and construction - Recommendations and shall be retained until the completion of the development and no vehicles, plant or materials shall be driven or placed within the areas enclosed by such fences.
Reason: As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to comply with policies QD16 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One and SPD06:Trees and Development Sites.
9. The Arboricultural Method Statement received 13/06/18 and associated tree plans submitted in support of the application shall be adhered to in full, subject to the pre-arranged tree protection monitoring and site supervision, detailed in the report, by a suitably qualified tree specialist.
Reason: Required to safeguard and enhance the character and amenity of the site and locality and to avoid any irreversible damage to retained trees pursuant to section 197 of the Town and Country Planning Act 1990 in accordance with SPD06 & QD16 of the Brighton & Hove Local Plan.
10. The completed schedule of site supervision and monitoring of the arboricultural protection measures as approved in condition 9 shall be submitted for approval in writing by the Local Planning Authority within 28 days from completion of the development hereby permitted. This condition may only be fully discharged on completion of the development, subject to satisfactory written evidence of compliance through contemporaneous supervision and monitoring of the tree protection throughout construction by a suitably qualified and pre-appointed tree specialist.
Reason: In order to ensure compliance with the tree protection and arboricultural supervision details submitted under condition (insert condition(s)) pursuant to section 197 of the Town and Country Planning Act 1990 in accordance with SPD 06 and QD16 of the Brighton & Hove Local Plan.
11. 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.
12. Prior to first occupation of the development hereby permitted, a car park layout plan shall have been submitted to and approved in writing by the Local Planning

Authority. This should include a minimum of 3 disabled parking spaces. The approved scheme shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.

Reason: To ensure the development provides for the needs of disabled staff and visitors to the site, to ensure the provision of satisfactory facilities for pedestrians and to comply with Policies CP9 of the Brighton & Hove City Plan Part One and TR18 of the Brighton & Hove Local Plan.

13. The development hereby permitted shall not be first occupied until a scheme of Travel Plan measures to promote sustainable transport to and from the site has been submitted to and been approved in writing by the Local Planning Authority. The Scheme should include but not be limited to, the following measures:
- The provision of up to date public transport information within the building and to users of the building;
 - Promotion of sustainable travel for staff trips including personal travel planning;
 - Sustainable transport promotional material being readily available to staff and patients including cycle and bus routes and timetable brochures and car club information.

The above works must be implemented prior to the occupation of the building and thereafter be maintained as such.

Reason: To ensure the development maintains a sustainable transport strategy and to comply with policies TR4 of the Local Plan and CP9 of the City Plan Part One.

14. The development hereby permitted shall not be first occupied until a scheme to enhance the nature conservation interest of the site has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall accord with the standards described in Annex 6 of SPD 11 and shall be implemented in full prior to the first occupation of the development hereby approved and thereafter retained.
- Reason:** To increase the biodiversity of the site, to mitigate any impact from the development hereby approved and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

15. Construction of the development shall not commence until details of the proposed means of foul and surface sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.
- 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.

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. With regard to condition 6, The following British Standards should be referred to:
 - a) BS: 3882:2015 Specification for topsoil
 - b) BS: 3936-1:1992 Nursery Stock - Part 1: Specification for trees and shrubs
 - c) BS: 3998:2010 Tree work - Recommendations
 - d) BS: 4428:1989 Code of practice for general landscaping operations (excluding hard surfaces)
 - e) BS: 4043:1989 Recommendations for Transplanting root-balled trees
 - f) BS: 5837 (2012) Trees in relation to demolition, design and construction – Recommendations
 - g) BS: 7370-4:1993 Grounds maintenance part 4. Recommendations for maintenance of soft landscape (other than amenity turf).
 - h) BS: 8545:2014 Trees: from nursery to independence in the landscape – Recommendations
 - i) BS: 8601:2013 Specification for subsoil and requirements for use

3. A formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection points for the 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 application relates to a large two-storey property currently in use as a 22 bed care home for the elderly. The building is situated in the Tongdean Conservation Area and the plot is subject to a Tree Protection Order.

- 2.2 Planning permission is sought for the erection of a part two, part one-storey rear extension to form three new blocks on the existing care home. The extension would facilitate 13 new bedrooms in the building.

3. RELEVANT HISTORY

BH2017/02620: Display of non-illuminated sign. Refused 29/11/2017.
BH2016/02131: Erection of single storey rear extension. Approved 19/08/16.

4. REPRESENTATIONS

- 4.1 Twelve (12) letters have been received objecting to the application on the following grounds:
 - The proposed development by reason of its bulk, footprint, height and design would relate poorly to adjoining houses and would be out of character with the surrounding area and represents overdevelopment of the site
 - The proposal is contrary to the Tongdean Conservation Area and policies HE6, HO11 of the Brighton & Hove Local Plan and the City Plan Part One

- The proposal would further detract from the overall character and appearance of the building which the Tongdean Conservation Area specifically names as desirable to preserve contrary to Policy HE8
- The extension would result in significant and direct overlooking of neighbouring properties and gardens, resulting in a lack of privacy and a loss of outlook
- The proposal would cause material nuisance and a loss of amenity to existing residents contrary to Policy QD27 of the Brighton & Hove Local Plan.
- The development will exacerbate existing traffic problems in the area
- The loss of garden and trees would cause harm to the character of the Tongdean Conservation Area
- The enlargement of the building would go beyond the scale of a residential property and would appear as a large commercial property which would not be sympathetic to the character of the area
- The development would result in light and noise pollution to neighbouring properties 24/7.
- The development would pose a risk to the mature trees adjoining the site.
- The proposed plan does not show the extension to my house
- The red line denotes land belonging to 26 Chalfont Drive
- There are legal covenants attached to the building which restrict further extensions
- The development would threaten the biodiversity of the site

4.2 Councillor Brown objects to the application. Comments attached.

5. CONSULTATIONS

5.1 Adult Social Care: Support.

5.2 Adult Social Care would support this application to increase the current nursing capacity by 13 rooms. Adult Social Care require an increase in nursing provision in Brighton & Hove and would therefore support developments in this market area.

5.3 The application highlights that all rooms will be en-suite and will be able to support people with a diagnosis of dementia. I have met the proprietors who are committed to providing services for both publicly funded and private people. There have been no ongoing concerns regarding the standards if care provided by the home and they have received a good overall CQC report.

5.4 Arboriculture:

Initial comments received 16/02/18

The proposal will result in the loss of four trees protected by Tree Preservation Order plus impact and threaten the retention of 9 others. One fine semi mature Oak on the frontage would be lost plus a number of other trees protected by virtue of the Conservation Area status would also be threatened. In view of

these losses and potential for damage to other trees the Arboricultural Team would recommend that consent is refused.

- 5.5 This site is subject to a Tree Preservation Order (TPO 1993 number 4), it also lies within the Tongdean Conservation Area and is located within part of the city that has better tree cover than most. This is due to two main factors, the first being better quality soils located some distance from the high salt winds of the seafront and the second, more important element being larger garden plot size. The garden of this site benefits from a good mix of tree cover along with some mature shrubs around the perimeter of the site. The neighbouring plots to the North also contain trees protected by the above order and are also contained within the Conservation Area. The plot to the South is not within the Conservation Area but does also contain some trees subject of the TPO. At the time of my site visit there appears to have been some tree works recently undertaken at the frontage of the site where a number of trees and shrubs appear to have removed without prior notification. Details of the group have been provided in the Arboriculturist report submitted with this application and referred to as G1.
- 5.6 The proposed development comprises a large rear extension sited alongside Tongdean Place plus additional car parking on the frontage. The Arboricultural report submitted with this application highlights the loss of two small trees within the rear garden (Holly and Cherry - not subject to TPO); these are of low amenity value and there is no objection to the loss. However, the construction of the new extension will have an impact on two large Horse Chestnut tree just off site abutting the North boundary fence. One of these trees is protected by the TPO the other by the conservation area status. Both trees will suffer considerable root damage caused by the excavation and this has been given little regard in the Arboricultural Consultants report.
- 5.7 Within the front garden the proposed car park and drive changes call for the removal of two TPO protected Sycamore trees. These trees are prominent specimens of quality in the landscape. Changes to the car park will also impact on the trees to the adjoin site (TPO protected) and other conservation area trees contained within the front garden. All of these trees are very prominent and important to the local street scene.
- 5.8 To address these comments, the applicant has submitted further tree surveys and has revised the site layout to retain the two trees at the front of the site.
- 5.9 Further comments received 16/04/18
These arboricultural observations are the second at this site due to a revision in the proposed plan (received 02/04/18) that makes changes to the car parking spaces at the front of the site.
- 5.10 Whilst this minor amendment allows for the retention of three trees subject to a tree preservation order at the front of the site, we anticipate further root damage to protected trees in adjacent gardens on the southern and north boundaries adjacent to the driveway from the likely improvements that will be made as part of the development process.

- 5.11 There are two large horse chestnut trees, within a neighbouring garden, on the northern boundary, marked as G6 within the arboricultural report, in the NE corner of the proposed development, and plan. These are large trees, one subject to a tree preservation order and the other one protected by virtue of its position within a conservation area.
- 5.12 I disagree with the statement from the arboricultural implications study that "The impact table below shows the proposed development having a minor encroachment into the root protection area of G6. It is felt that due to the species, condition, site conditions and limited extent of encroachment the proposal will not have a detrimental impact on the safe useful life expectancy the trees".
- 5.13 The two mature horse chestnut trees are growing very close to the boundary fence and a large percentage of the roots will be within the proposed development site. No protection of roots will take place on the development side as this will be needed for the development. In addition to this no mention within the report has been made about the overhanging branches to the proposed development and this will result in the overhanging branches being removed back to the boundary to facilitate the development. This will equate to virtually 50% of the crown required for removal. Large pruning wounds to this particular species of tree will lead to major cavities and decay leading to limb failure in future years.
- 5.14 The combination of root severance on the south-side of the trees, and the heavy facilitation pruning, will result in two large trees with north-heavy crowns and damaged roots and will leave the trees vulnerable to structural failure.
- 5.15 Two significant protected trees on the shared boundary will still be lost in at the north east corner of the due to the rear extension of the proposed development. I view of these impacts the arboriculture team recommend refusal.
- 5.16 *Further to these comments, the applicant has further amended the tree report to include additional protection measures to ensure the retention of the protected trees to the north-eastern corner of the site. The applicant's arborist has maintained that they do not envisage significant work to the front driveway and the trees at the front of the site would not be affected.*
- 5.17 Final comments received 06/06/18
Comments provided in response to revised plans received 22/05/18. If the applicant is building a very large extension to the property, and proposing further parking spaces that will increase the amount of people visiting the site, it is likely that improvements will be undertaken to the main driveway. The arboriculturist states that there will be 'no likely improvements'. He also reiterates in paragraph 10 that there will be no significant works to the driveway.
- 5.18 Paragraph's 5, 6 and 7 are about the two Horse chestnuts marked as G6 on the plans. Both these trees are protected by their position within a conservation area and one tree has a tree preservation order on it. Their response states that

'they intend to ensure that this group can be retained and protected'. Within a revised arboricultural implications assessment (AIA) TRE/ODRAB/Rev B dated 21st May section 5 Mitigation Proposals explores this:

- "5.1.2 The encroachment for each of the two trees is 12.5% of the total RPA of the tree. It is felt that this is minimal in relation to impacts. However, this impact can be reduced should the following design principal be implemented: -
- The extension should have a designed foundation to reduce the amount of excavation required for its construction. This can be achieved by constructing the extension with a pile and beam foundation."

5.19 Whilst I agree that the footprint of the building may encroach by 12.5%, you can be assured that the building activity to construct this will be within the majority of the root protection area (RPA) on the development side; especially within the recess between block B and Block C on the northern boundary, and the northern boundary itself between the proposed development and the boundary fence. Contractors will compact the soil and roots within this area from walking, use of machinery, storage of building materials and the need for scaffolding to be erected and removed. There will a lot of roots on this side due to the greater proportion of soft landscape on this side. No mitigation to improve the trees rooting area after the development has been completed has been proposed for this incursion.

5.20 The damage to this area caused by building activities has not been explored thoroughly and no ground protection has been proposed within the full RPA of these trees. I recommend that this forms part of the tree protection plan and AMS. Protective fencing and ground protection should be inspected by the applicant's arboriculturist before the development starts. This should be amended within tree protection plans and the AMS. Arboricultural Site supervision should form part of the AMS for any building activity within the RPA of any retained trees.

5.21 Their arboriculturist has recommended a way to minimise the impacts of the building footprint by recommending that 'The extension should have a designed foundation to reduce the amount of excavation required for its construction. This can be achieved by constructing the extension with a pile and beam foundation.' This would be welcomed as there will be less impact to the RPA on this side. I would recommend that the term 'should' be changed to the term 'must'.

5.22 As I understand it, Block A and Block B are proposed for two storey buildings and Block C is proposed for one storey and the northern elevation of the new development A, B and C will be 2-3m south of the northern boundary fence. I cannot see how a crown lift to G6 to allow a ground clearance of 4m can be enough to allow this development to proceed. For example, if the building is a maximum 3m from the boundary and Block B will be 6m high for its two storeys plus a pitched roof, and Block C will be 3m high plus a pitched roof, for its one storey, and we have to allow for scaffolding to be erected to these heights at a 1.5m width closer to the trees, more drastic pruning will need to take place. I

suggest that the pruning required will be closer to the boundary overhang pruning I mentioned within my previous comments.

- 5.23 I believe that the development will have a significant impact to these trees marked as G5 on the plans, but referred to a G6 in the reports in the NW corner of the site within the adjacent property and 2 Tongdean Place. A significant amount of pruning will take place to these trees and roots damage will also take place. In my previous comments this one of my reasons for refusal due to the impact on these trees.
- 5.24 I believe that an informative should be attached to any decision informing the owners of the trees of the impact that the development will have on their trees, and that their condition may deteriorate in the future due to the construction of it that may lead to the removal or pressure to prune in future years post development.
- 5.25 Additional tree planting can be secured by condition.
- 5.26 The plan marked ODRA/MS/01 Rev. B shows tree protective fencing and the fencing protecting G3, G4 and T4 is welcomed. However I have concerns about the lack protective fencing at the front of the site. At present the protective fencing proposed is adjacent to proposed parking spaces 11-14 only. The majority of this front green between the entrance drives is the RPA of the three large trees here. I would recommend that the whole of this green is fenced off as a construction exclusion zone.
- 5.27 If the Local Planning Authority is minded to approve the application, several planning conditions are recommended to mitigate the impact on trees.
- 5.28 *Further to these comments, the applicant submitted a further Arboriculture Method Statement, Arboriculture Impact Assessment and tree plan documents on 13th June 2018. The tree plan marked ODRA/MS/01 Rev. C received 13/06/18 denotes a ground protection zone for the trees in the north eastern corner of the site in response to the comments above. This plan also includes tree protection fencing around the front garden area as suggested. It is considered that the revised tree documents satisfy the recommendations outlined by the Arboriculture team.*
- 5.29 Ecology:** No objection subject to conditions.
- 5.30 Policy Context
Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 states that: "Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity." The Duty applies to all public authorities in England and Wales, including all local authorities. Conserving biodiversity includes restoring and enhancing species and populations and habitats, as well as protecting them.

- 5.31 The National Planning Policy Framework (NPPF) states that "the planning system should contribute to and enhance the natural and local environment by... minimising impacts on biodiversity and providing net gains in biodiversity where possible..." (paragraph 109).
- 5.32 The NPPF sets out principles that local planning authorities should seek to apply when determining planning applications to conserve and enhance biodiversity; these include encouraging opportunities to incorporate biodiversity in and around developments, and refusing planning permission for developments that would result in the loss or deterioration of irreplaceable habitats, including ancient woodland, unless the need for, and the benefits of, the development in that location clearly outweigh the loss (paragraph 118).
- 5.33 Designated sites and Protected Species
Surveys were carried out in accordance with best practice and are sufficient to inform appropriate mitigation, compensation and enhancement.
- 5.34 The site comprises planted shrubbery, scattered trees, scrub, ruderal vegetation, and ornamental pond and amenity grassland. Habitat within the footprint of the works includes amenity grassland, planted shrubbery, scattered trees, bare ground, buildings and hard standing. Habitats to be impacted are of relatively low ecological value although they may support protected species. Trees should be retained and protected in accordance with BS5837:2012.
- 5.35 Bats
All species of bats are fully protected under the Wildlife and Countryside Act 1981, as amended, and the Conservation of Habitats and Species Regulations 2010, making them European Protected Species. Buildings on site were assessed as having negligible potential for bats. However, as a precautionary approach, it is recommended that hanging tiles on the main building are soft stripped under the supervision of a suitably qualified and experienced ecologist.
- 5.36 Reptiles
Slow worms, grass snakes, common lizards and adders are protected against intentional killing or injuring under Schedule 5 of the Wildlife and Countryside Act 1981, as amended. There is suitable reptile habitat within the south west corner of the site although this lies outside the footprint of the proposed works. No further surveys are required, but there should be storage or materials or equipment in this area.
- 5.37 Breeding birds
The site has the potential to support breeding birds. Under Section 1 of the Wildlife and Countryside Act 1981 (as amended), wild birds are protected from being killed, injured or captured, while their nests and eggs are protected from being damaged, destroyed or taken. To avoid disturbance to nesting birds, any removal of scrub/trees that could provide nesting habitat should be carried out outside the breeding season (generally March to August). If this is not reasonably practicable within the timescales, a nesting bird check should be carried out prior to any demolition/clearance works by an appropriately trained,

qualified and experienced ecologist, and if any nesting birds are found, advice should be sought on appropriate mitigation.

5.38 Other species

There are local records of hedgehogs and there is suitable habitat for hedgehogs on site. The hedgehog is a Species of Principal Importance under Section 41 of the NERC Act. It is recommended that a hedgehog box is provided on site and that holes are made in the boundary fences to allow hedgehogs to move through the site.

5.39 The proposed development is considered unlikely to have any impacts on any other protected species and therefore no specific mitigation is required. If protected species are encountered during works, works should stop and advice should be sought from an ecologist on how to proceed.

5.40 Mitigation Measures/Enhancement Opportunities

The site offers opportunities for enhancement that will help the Council address its duties and responsibilities under the NERC Act and NPPF. Opportunities include but are not limited to the provision of bird and bat boxes and the use of species of known wildlife benefit within the landscaping scheme. Bird boxes should target species of conservation concern such as house sparrow and swift. Advice on plant species of known wildlife value is provided in Annex 7 of the Council's SPD11.

5.45 Summary

In summary, provided the recommended mitigation measures are implemented, the proposed development is unlikely to have a significant impact on biodiversity and can be supported from an ecological perspective. The site offers opportunities for enhancement that will help the Council meet its duties and responsibilities under the NERC Act and NPPF.

5.46 **Heritage:** Comment.

5.47 Statement of Significance

This is an unlisted historic building in the Tongdean Conservation Area. The Conservation Area Character Statement describes the general character of this area as:

'a well-to-do residential suburb with impressive individual large houses, imposing boundary walls and extensive mature greenery. Its special interest derives from the grouping of individually-designed large houses dating mainly from early 20th century on generous plots, with mature street trees and dense garden and boundary planting.'

5.48 and specifically refers to this property:

'Of the surviving Edwardian houses on the west side, the most notable is number 39, now the Victoria Oaklands nursing home, built by 1901 in a competent Old English vernacular style influenced by Norman Shaw. The elevations are a mixture of red brick, tile hanging and half-timbering, with stone

mullions and dressings to some windows. It has an attractive high brick boundary wall.'

5.49 The Proposal and Potential Impacts

Pre-application advice was provided in March 2017. This advice noted the conflict of the proposed development with the requirements to preserve or enhance the character of the conservation area, as the generous settings for the buildings are identified as an important characteristic.

5.50 Comments on the design were that the southern elevation was more successful than the northern elevation, and from Tongdean Place the development appears imposing and dominant, and would benefit from breaks in the plane associated with stepped roofs, and larger windows openings to relieve the large areas of masonry.

5.51 As stated in the pre-application advice provided in March 2017, the size of the proposed development would involve a significant change in the relationship of the built area to the size of the plot, and would therefore conflict with the requirements to preserve or enhance the character of the conservation area, as the generous settings for the buildings are identified as an important characteristic of this conservation area. For this reason the proposal would cause harm to the character of the conservation area, however this would be considered to be less than substantial harm. The case officer will therefore need to balance this harm against the public benefits of the increased capacity of the care home.

5.52 It is however noted that the position of the proposed extension is not readily visible from the public realm due to the gated entrance to Tongdean Place preventing access. This would inevitably limit the perceived impact of the development from the public realm, and would not be considered to affect the appearance of the conservation area.

5.53 Regarding the proposed design, it is considered that the south elevation is far more successful than the north. Alterations in the massing and scale have been undertaken from the pre-app proposal to the current proposal, however as seen from Tongdean Place (north elevation) the development appears imposing and dominant, and would benefit from breaks in plane associated with the stepped roofs, following the contours of the site.

5.54 UK Power Network: No objection.

5.55 Southern Water: No objection.

Southern Water required a formal application for a connection to the public foul sewer to be made by the applicant. If recommended for approval, a condition should be attached requiring details of the sewerage disposal prior to commencement.

5.56 Sustainable Transport: No objection.

- 5.57 Cycle parking:
The applicant is proposing 8 cycle parking spaces and this is welcomed and accords with the City Council's Parking Standards SPD14. Details of the cycle parking facilities should be secured by condition.
- 5.58 The cycle parking access may be impeded if a car is parked in the adjacent parking space; therefore either the cycle parking should be relocated as part of the cycle parking condition above or a minimum of 1.1m turning space in front of the cycle parking access is created and incorporated into the changes to the car park layout.
- 5.59 Details of showers and changing facilities for staff should be provided. Parking Standards SPD14 requires convenient facilities for all residential institutions of 500m² and on the basis to cater for a minimum of 10% of staff.
- 5.60 Car parking:
The applicant is proposing an increase in car parking spaces from 9 to 12 car parking spaces plus 2 disabled spaces.
- 5.61 For this application the City Council's maximum car parking standards is 9 and for disabled parking the minimum standard is 3.
- 5.62 Therefore this proposal does not accord with Parking Standards SPD14 and the applicant has not provided evidence to warrant such parking other than to state that it fulfils their operational needs.
- 5.63 The Highway Authority therefore requests that the car park layout is amended via condition with a reduction in the number of car parking spaces to a level closer to the standards whilst increasing the number of disabled parking spaces from 2 to 3.
- 5.64 Any parking must not obstruct pedestrian and cycle access/ routes; however for the applicant's information the 1.2m side areas either side of disabled bays may be shared with pedestrian entrances/ cycle access and other disabled bays.
- 5.65 Trip Generation & Travel Plan Measures
There is forecast to be an increase in trip generation as a result of this proposal, however it is not considered that the impact on surrounding highway and transport networks would be significant enough to warrant reason for refusal in this instance.
- 5.66 The Highway Authority does request Travel Plan Measures via condition to mitigate this increase and promote sustainable travel to users of the site.

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
CP8 Sustainable buildings
CP9 Sustainable transport
CP10 Biodiversity
CP11 Flood risk
CP12 Urban design
CP19 Housing mix

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
QD14 Extensions and alterations
QD15 Landscape design
QD16 Trees and hedgerows
QD18 Species protection
QD27 Protection of amenity
HO11 Residential care and nursing homes
HE6 Development within or affecting the setting of conservation areas

Supplementary Planning Documents:

SPD06 Trees & Development Sites
SPD11 Nature Conservation & Development
SPD14 Parking Standards

8. **CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations relating to the application are the principle of the development, the design and appearance of the proposal on the surrounding

Conservation Area, the impact of the extension upon neighbouring amenity, the standard of accommodation proposed, the impact on trees and wildlife and transport issues.

- 8.2 The application relates to a two-storey detached property on Dyke Road Avenue. The property is Edwardian, built in 1901 with Old English vernacular consisting of red brick, tile hanging and half-timbering, with stone mullions and dressings to some windows. The building is situated within the Tongdean Conservation Area, and is described in the Tongdean Character Statement as the 'most notable of the surviving Edwardian houses', albeit the property is not listed. The plot is subject to a Tree Protection Order.
- 8.3 The property is currently in use as Oaklands care home for the elderly (use class C2). The building as existing provides 22 bedspaces. Planning permission is sought for the erection of a part two, part three-storey rear extension to the northwest of the site forming three new blocks on the existing care home. The extension would facilitate an extra 13 bedrooms.
- 8.4 The proposed extension would extend into the rear garden of the property by 35m. The two blocks closest to the main building would be two-storeys, with a maximum height of 9m from immediate ground level. The block closest to the rear of the plot would be single storey, with a maximum height of 5m. The structure would be built in brickwork with clay tiles to match the existing building.
- 8.5 The application has been submitted following pre-application advice provided in 2017. The applicant was advised at this stage that the Local Planning Authority would have concerns with an extension of the size and bulk proposed, however significant weight would be given to the public benefit of additional care home bedrooms in this instance in accordance with Local Plan Policy HO11 which supports the provision of such accommodation. It was recommended that the bulk of the extension should be reduced, the design should be improved and transport and arboriculture assessments should be undertaken.
- 8.6 Principle of development
Policy HO11 of the Brighton & Hove Local Plan states that planning permission will be granted for extensions to existing residential care and nursing homes where it can be demonstrated that the proposal:
- a. will not adversely affect the locality or neighbouring properties by way of noise or disturbance; or by way of size, bulk or overlooking;
 - b. provides adequate amenity space - (a minimum depth of 10m and not less than 25m² per resident - although a lower standard may apply for nursing homes where residents are less mobile);
 - c. is accessible to people with disabilities; and
 - d. provides for operational parking in accordance with the council's standards.
- 8.7 The applicant has submitted a care needs assessment document with the planning application submission, which sets out the need for additional care home bedrooms in Brighton & Hove. Policy HO11 of the Brighton & Hove Local Plan and Policy CP19 of the Brighton & Hove City Plan seek to secure

additional care home accommodation for the elderly and the Local Planning Authority supports applications for the extension of existing care homes in principle. The Adult Social Care team have supported the application, and welcome the provision of additional bedrooms in established care homes in the City.

8.8 The impact of the development on neighbouring properties is assessed fully below. With regard to criterion b of Policy HO11, it is acknowledged that the nursing home accommodates residents who are less mobile and therefore the amenity space provided in the proposed layout- a communal room and garden area- is considered acceptable in this instance. The property would be accessible to people with disabilities and the proposed parking layout is assessed in further detail below.

8.9 Design and appearance

The existing building comprises a two-storey Edwardian building set within a large plot with a front garden/driveway area and spacious garden area to the rear. The front elevation consists of brickwork, mock-tudor gables and clay-tile detailing. The rear elevation is simpler, with two gable features and brick/clay tile walls. On the northern side of the rear elevation, some modern extensions are evident. These additions are unsightly and do not contribute to the character of the host property.

8.10 The application seeks to extend the property from the northern end of the rear elevation. The extension would project into the rear garden by 35m. The first two blocks closest to the host property would be two storeys in height and the third block would be single-storey. The extension would be constructed in materials to match the host property. The structure would be visible along Tongdean Place, a private road serving two houses. The extension would not be readily visible from Dyke Road Avenue or elsewhere in the Conservation Area.

8.11 The Heritage Officer has noted that the proposed extension would involve a significant change in the relationship of the built area to the plot which would be uncharacteristic of the prevailing Tongdean Conservation Area. In addition, the proposed elevations are considered to appear imposing and dominant, particularly when viewed from Tongdean Place. The Heritage Officer has however acknowledged that the potential visual harm is considered to be less than significant in this instance. Attempts have been made to 'break up' the bulk of the elevations since pre-application discussions and the proposed design is a reflection of this suggestion.

8.12 The bulk of the extension is beyond that which would be expected of a building with the character of a dwellinghouse, particularly within its immediate surrounding which is predominantly residential. It is however acknowledged that the property has been in use as a care home for many years and the need for its expansion has been adequately demonstrated in the care needs assessment submitted with the application, supported by comments from the Council's Adult Social Care team who welcome the provision of additional bedrooms in established care homes. In this instance it is therefore considered that the

potential visible harm caused by the extension does not outweigh the benefit of the additional care home accommodation in this instance, and whilst the works would not preserve or enhance the Conservation Area, it would not be visible from surrounding public streets and the Heritage Officer has confirmed that the harm would be less than significant. Overall it is considered that the negative impact of the design and appearance of the extension would not outweigh the public benefit in this instance.

8.13 Impact on neighbouring amenity

The proposed extension would be situated opposite the rear elevations of properties along Chalfont Drive to the south. There would be a separation distance of at least 22m from the rear building lines of these properties, and a separation distance of at least 11m from the rear garden boundaries.

8.14 It is noted that an extension of this size and bulk would have an impact on the amenity of nos 26, 28 and 30 Chalfont Drive. The proposed two-storey structure would introduce windows at first floor level where a perception of mutual overlooking between the application site and the properties along Chalfont Drive would result. In addition, there would be a perception of overlooking to the rear garden areas of these properties.

8.15 Notwithstanding this, it is considered that a separation distance of at least 22m between building lines, and 11m between the extension and rear garden boundaries would not cause a significant level of overlooking between properties that is uncharacteristic of dwellinghouses in residential areas. For example, there is a similar separation distance between rear building lines for the properties on the opposite side of Chalfont Drive. On this basis it is considered that the harm caused by perceived and actual overlooking between the extension and the rear elevations of 26, 28 and 30 Chalfont Drive is not of a magnitude to warrant refusal in this instance.

8.16 It is unlikely that no significant overshadowing or loss of light would occur to neighbouring properties in this instance.

8.17 Similarly, it is considered that the separation distance between the extension and properties along Tongdean Place is sufficient to ensure that no significant harm to the amenity of these properties would occur given the level of screening that is provided between the properties, in the form of mature trees and vegetation.

8.18 Concerns have been raised in relation to potential light and noise nuisance from the care home to neighbouring properties in relation to its 24 hour use. It is acknowledged that the use of the property as a care home would involve light and movement beyond what would be expected in a residential dwelling. It is possible that bedrooms with lights on would be visible from the rear elevations of properties along Chalfont Drive, however given the separation it is unlikely that this would result in significant light pollution that would warrant refusal of the application.

- 8.19 Overall, concerns raised by neighbouring properties have been acknowledged. It is likely that there would be a perception of overlooking between the properties that does not exist at present. However, it is considered that the relationship between the built forms would reflect the urban grain of other residential properties within the area. It is also noted that the level of light visible from properties along Chalfont Drive would be increased in comparison to the existing layout, however given the separation distance the level of light pollution would not be of significant harm in this instance. It is unlikely that any overshadowing or loss of daylight would occur to any neighbouring properties.
- 8.20 Standard of accommodation
The application would allow for the provision of a net gain of 13 bedrooms in the property. All of the new rooms would have en-suite bathrooms and access to natural light and outlook. The floorspace of the new rooms measure between 22m²-28m². The proposed bedrooms would have a good amount of circulation space.
- 8.21 Policy HO11 of the Brighton & Hove Local Plan seeks to secure appropriate amenity space for residents and states that the amount of amenity space should allow 25m² per resident, although a lower standard would be accepted for care homes where residents are less mobile. In this instance, a communal lounge/dining area would be provided measuring 64m². This is considered to be acceptable for a care home for the elderly as residents are less mobile and this has been demonstrated in the submitted care needs assessment.
- 8.22 In addition, it is noted that the proposed extension would consume a large area of the existing garden. It is however considered that the remaining garden area (measuring approximately 500m²) would allow for sufficient amenity space for residents in this instance, in accordance with Policy HO11.
- 8.23 In light of the above, overall the proposed layout is considered to represent a good standard of accommodation for residents.
- 8.24 Impact on trees
The application site is subject to a Tree Protection Order. The proposed extension would involve the felling of two trees in the rear garden. There have been extensive discussions between the applicant and the Council's Arboriculture Officer during the course of the application. The site layout plan has been amended since the original submission, the removal of two trees in the front garden is no longer proposed.
- 8.25 Whilst the removal of the two trees in the rear garden is not objected to strongly, the Arboriculture Officer has raised concerns in relation to the impact of the development on the two mature trees in the north-eastern corner of the site. It is likely that the roots of these trees would be damaged during construction.
- 8.26 The Arboriculture Officer has recommended several conditions to mitigate the impact of the development on surrounding trees, including tree protection fencing and supervision of construction by a qualified Arborist.

- 8.27 In light of this information, concerns around the two mature trees in the north east corner of the site are noted. However, the applicant has provided a method statement and tree survey plans to demonstrate measures to mitigate the impact on these trees, such as root protection zones that will be safeguarded during construction, tree protection fencing and specialised construction methods to reduce the level of excavation.
- 8.28 Overall it is considered that the potential harm to protected trees does not outweigh the public benefit of additional care home bedrooms in this instance and approval of the application is recommended on these grounds. Measures to protect trees on site are secured by planning condition.
- 8.29 The layout of the front care park is secured by condition. Further comments from the Arboriculture team will be sought when a discharge of condition application is submitted and the layout of the car park has been established.
- 8.30 Transport impacts
The Transport Officer has stated that the level of cycle parking proposed is appropriate, and further details are requested by condition. The level of car parking proposed exceeds the Council's parking standards in this instance, therefore a revised car parking layout is requested by condition to reduce the level of car parking bays to 9 and to increase the amount of disabled car parking spaces to 3. The application site has good public transport links in the form of buses along Dyke Road Avenue.
- 8.31 The Transport Officer has also recommended a condition to secure sustainable travel measures for employees and visitors.
- 8.32 Concerns have been raised in relation to overspill parking along Chalfont Drive. These comments are noted however the impact of thirteen additional bedrooms on the surrounding highways network is not of a magnitude to warrant refusal of the application in this instance.
- 8.33 Biodiversity
The County Ecologist has no objection to the development in principle. A condition is recommended to improve the biodiversity on site.
- 8.34 Other matters
Queries have been raised in relation to restrictive covenants on the original deeds for the property. Legal covenants are a civil matter and have not been considered as part of this application for planning permission.
- 8.35 CONCLUSION**
The material planning considerations relating to the proposal have been fully assessed above. The potential harm caused by the development in terms of its visual impact, impact on neighbouring amenity and impact on protected trees has been acknowledged. However, it is noted that the proposal would provide thirteen additional bedrooms that would ensure the ongoing viability of an established nursing home that provides essential care for the elderly. On this basis it is therefore considered that the public benefit of the proposal would

outweigh the harm identified above. It is on these grounds that the application is recommended for approval subject to planning conditions.

9. EQUALITIES

9.1 None identified.