

<u>No:</u>	BH2017/02333	<u>Ward:</u>	South Portslade
<u>App Type:</u>	Outline Application All Matters Reserved		
<u>Address:</u>	113-115 Trafalgar Road Portslade BN41 1GU		
<u>Proposal:</u>	Outline application with all matters reserved for the demolition of existing bungalows and erection of 8no one bedroom flats and 4no studio flats (C3) with associated landscaping.		
<u>Officer:</u>	Laura Hamlyn, tel: 292205	<u>Valid Date:</u>	10.07.2017
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	09.10.2017
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	28.02.2018
<u>Agent:</u>	Mr Paul Gosling 78 Potters Lane Burgess Hill RH15 9JS		
<u>Applicant:</u>	Mr H Cooper 115 Trafalgar Road Portslade BN41 1GU		

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 REFUSE** planning permission should the S.106 Planning Obligation agreed by Planning Committee on 7th February 2018 not be completed on or before 4th January 2019 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in Section 3 of this report.

2. Considerations & Assessment

- 2.1 This application sought outline planning permission for the demolition of existing bungalows and erection of 8no one bedroom flats and 4no studio flats with associated landscaping. The development would have provided on site provision of 2no one bedroom units and 2no studio units.
- 2.2 Members voted to approve the application at the Planning Committee meeting on 7th February 2018 (see Committee Report set out in Appendix 1 below) subject to the completion of a S.106 Legal Agreement to secure the following:
- On site provision of 2no one bedroom flats and 2no studio units, of which all four would be affordable housing for rent
 - A contribution of **£19,635** towards open space and indoor sport provision.
 - A contribution of **£10,800** towards sustainable transport infrastructure improvements within the vicinity of the application site.
 - A contribution of **£2,200** towards the Council's Local Employment Scheme,
 - A **Construction Training and Employment Strategy** including a commitment to using 20% local employment during the demolition and construction phases of the development,
- 2.3 Since the committee meeting, the Local Planning Authority has sought to progress the Legal Agreement to completion. Unfortunately in this case the

Applicant has so far not been able to complete the Legal Agreement. There have been extended periods of inactivity.

- 2.4 A draft S.106 was provided to the Agent for the application on 7th March 2018, and this was followed up on 21st March 2018. The case officer followed up the status of the draft S.106 on 13th July 2018, 16th July 2018, and 26th July 2018.
- 2.5 The Solicitor acting on behalf of the Applicant has since advised that “*the property is on the market for sale to a developer*”, and that they were “*reluctant [...] to agree the form of s106 without the input of the purchasing solicitors*” (email dated 1st August 2018). In a subsequent email (dated 2nd August 2018) the Solicitor indicated that “*a period of 3 months grace to allow [their] client to find a purchaser and complete the legals*” would be a reasonable timeframe. This 3 month period would end on 2nd November 2018. The Council’s Solicitor confirmed on 21st August 2018 there had been no further contact with the applicant or agent on the progress of the s106 agreement.
- 2.6 The Local Planning Authority cannot keep the application under consideration indefinitely and therefore the application is returned to committee.
- 2.7 In the absence of a Legal Agreement to secure necessary measures in regard to affordable housing, open space and indoor sport provision, sustainable transport infrastructure, and the Local Employment Scheme, the proposed development does not comply with Local Planning Policies and will not mitigate the impact resulting from the development. It is therefore recommended that the Head of Planning be authorised to refuse planning permission should the S.106 Planning Obligation not be completed on or before 4th January 2019, this being the expiry of a 16 week period the Local Planning Authority would normally give for the completion of a s106 agreement.
- 2.8 It is noted that since the decision on 7th February 2018, the Council’s five year housing land supply position has changed. It was previously considered that the Council could demonstrate a 5.6 year supply.
- 2.9 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).
- 2.10 In the absence of a detailed Viability Assessment, it is considered that the change in the demonstrable five year housing land supply does not materially affect the recommendation for this application.

3. S.106 Agreement

3.1 In the event that the S.106 Planning Obligation has not been completed by 4th January 2019, the application shall be refused for the following reasons:

1. The proposed development fails to provide an appropriate provision of affordable housing, contrary to policies CP7 and CP20 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.

2. The proposed development fails to address the additional impacts on sustainable transport infrastructure, the needs for open space and indoor sport improvements, and fails to secure apprenticeships, training and job opportunities for local residents, contrary to policies CP2, CP7, CP9, CP16 and CP17 of the Brighton & Hove City Plan Part One, and the City Council's Developer Contributions Technical Guidance.

Appendix 1 – Report to Planning Committee 7th February 2018

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<u>App Type:</u>	Outline Application All Matters Reserved		
<u>Address:</u>	113-115 Trafalgar Road Portslade BN41 1GU		
<u>Proposal:</u>	Outline application with all matters reserved for the demolition of existing bungalows and erection of 8no one bedroom flats and 4no studio flats (C3) with associated landscaping.		
<u>Officer:</u>	Wayne Nee, tel: 292132	<u>Valid Date:</u>	10.07.2017
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	09.10.2017
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	28.02.2018
<u>Agent:</u>	Mr Paul Gosling 78 Potters Lane Burgess Hill RH15 9JS		
<u>Applicant:</u>	Mr H Cooper 115 Trafalgar Road Portslade BN41 1GU		

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 Conditions and Informatives as set out below:

1.2 S106 Heads of Terms

- Affordable Housing: On-site provision of 2 no. 1-bedroom units, and 2 no. studio units, of which all 4 will be affordable rent.
- A contribution of **£19,635** towards open space and indoor sport provision.
- A contribution of **£10,800** towards sustainable transport infrastructure improvements within the vicinity of the application site.
- A contribution of **£2,200** towards the Council's Local Employment Scheme,
- A **Construction Training and Employment Strategy** including a commitment to using 20% local employment during the demolition and construction phases of the development,

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 only	340.12.03a		10 July 2017

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission or two years from the approval of the last of the reserved matters as defined in condition 3 below, whichever is the later.

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

3. a) Details of the reserved matters 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) layout;
 - ii) scale;
 - iii) appearance;
 - iv) access; and
 - v) 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.

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

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

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

5. (i) The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Local Planning Authority:

- a) A desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance 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; And if notified in writing by the local planning authority that the desk top study identifies potentially contaminant linkages that require further investigation then,
- b) 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,
- c) 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.

(ii) The development permitted shall not be occupied or brought into use until a written verification report by a competent person required and approved under the provisions of condition (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). If not otherwise agreed in writing by the local planning authority the verification report shall comprise:

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

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

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

6. No development shall take place until full details of site levels of the proposed development relative to surrounding properties have been submitted to and approved in writing by the Local Planning Authority. All levels shall be in metric units and related to Ordnance Survey Datum. The development shall be constructed in accordance with the agreed details.

Reason: To safeguard the amenities of the occupiers of nearby properties and to comply with policies QD14 and QD27 of the Brighton and Hove Local Plan.

7. No development above ground floor slab level of any part of the development hereby permitted shall take place until a scheme for the soundproofing of the building 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 future occupiers and to comply with policies SU10 and QD27 of the Brighton and Hove Local Plan.

8. No development above ground floor slab level of any part of the development hereby permitted shall take place until a written scheme on how and where ventilation will be provided to the residential accommodation hereby approved, including specifics of where the clean air is drawn from and that sufficient acoustic protection is built into the system to protect end users of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall ensure compliance with Building Regulations as well as suitable protection in terms of air quality, and shall provide a fresh air source to future occupiers which does not require the opening of windows facing onto / close to Trafalgar Road.
Reason: To ensure future occupiers benefit from a good standard of amenity and do not suffer undue noise disturbance, to provide fresh air to all future occupiers, and to comply with policies SU9, SU10 and QD27 of the Brighton and Hove Local Plan.
9. 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. For all questions about the above please contact the Case Officer named above.
10. None of the residential units hereby approved shall be occupied until each residential unit built has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).
Reason: To ensure that the development is sustainable and makes efficient use of energy to comply with policy CP8 of the City Plan Part One.
11. None of the residential units hereby approved shall be occupied until each residential unit built has achieved a water efficiency standard using not more than 110 litres per person per day maximum indoor water consumption.
Reason: To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the City Plan Part One.
12. The dwelling(s) hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.

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

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

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

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The location plan on drawing no. 340.12.03a is the only drawing approved by this application and the Block Plan, Floorplans and Elevations shown on this drawing are indicative only.

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1 The application site comprises two detached bungalows on land to the east of Trafalgar Road. The site incorporates an open frontage with central crossover providing access to the rear of the site and detached garages (incidental to the residential bungalows). The immediately surrounding area is predominantly residential characterised by terraced dwellinghouses.
- 2.2 Outline planning permission is sought, with all matters reserved, for the demolition of existing bungalows and erection of 8no one bedroom flats and 4no studio flats (C3) with associated landscaping. An indicative scheme is shown in the submitted drawings; this scheme is indicative only, detailed consent is not sought.

3. RELEVANT HISTORY

BH2016/01784 Outline application with all matters reserved for the demolition of existing bungalows and erection of 8no one bedroom flats and 4no studio flats (C3) with associated landscaping - Appeal against non-determination Dismissed 22/06/2017

Under this appeal the Inspector:

- Considered the principle of development to be acceptable;

- Considered the submitted indicative scheme was not appropriate in design terms but that a suitable design could be proposed;
- Considered that the failure to provide affordable housing / address policy CP20 warranted the refusal of planning permission;
- Considered that insufficient information had been provided in respect of the financial contributions sought.

BH2013/03498 - Outline application for the demolition of existing bungalows and erection of 4no. three bedroom houses - Approved 04/06/2014

BH2013/01231 - Outline application for the demolition of existing bungalows and erection of 5no three bedroom houses. Refused 04/07/2013.

Land rear of 113 Trafalgar Road

BH2006/01199: Erection of new dwelling to rear. Refused 05/06/2006, dismissed at appeal 09/02/2007.

Land rear of 115 Trafalgar Road

BH2006/01201: Demolition of garage to rear and erection of new dwelling. Refused 05/06/2006, dismissed at appeal 09/02/2007.

BH2005/05533: Erection of two storey dwelling on land to rear of 115 Trafalgar Road. Refused 16/12/2005.

BH2004/01082/FP: Extension to rear and first floor. Approved 27/05/2004

4. REPRESENTATIONS

4.1 Four (4) letters have been received objecting to the proposed development for the following reasons:

- Roof height would result in overshadowing and loss of light to adjoining properties;
- Overlooking and loss of privacy to adjoining properties;
- Lack of proposed parking;
- The design would be at odds with surrounding properties;
- Decrease the value of neighbouring properties;
- Illumination of development would affect neighbours;
- Increased noise and disturbance
- Lack of bin and cycle storage details
- Would affect the foundations of neighbouring properties

5. CONSULTATIONS

External

5.1 **Sussex Police:** Comment
Recommend standard security measures.

5.2 **County Archaeologist:** No objection

Although this application is situated within an Archaeological Notification Area, based on the information supplied, I do not believe that any significant below ground archaeological remains are likely to be affected by these proposals. For this reason I have no further recommendations to make in this instance.

Internal

5.3 Planning Policy: Comment

A previous application BH2016/01784, also for Outline permission with all matters reserved for the demolition of existing bungalows and erection of 8 no. one bedroom flats and 4 no. studio flats (C3) with associated landscaping, was dismissed at appeal (against non-determination) in June 2017, on the sole reason that the appellant had failed to provide an appropriate mechanism to secure much needed affordable housing.

5.4 With respect of the current application, in accordance with policy CP20 and the recent appeal decision, an appropriate financial contribution for affordable housing should be sought.

5.5 The proposed housing mix, 8 x 1 bedroom flats and 4 x studio flats, was not considered by the Appeal Inspector to have an adverse impact on the urban grain of the area or the local neighbourhood and the Inspector considered that "From the indicative plan submitted with the application it would appear that a development of this number of residential units could be successfully achieved within the site without having an excessive site coverage or height".

5.6 **Housing:** Awaiting comments.

5.7 Sustainable Transport: Comment

No objections to this application subject to the inclusion of the necessary conditions and the recommended S106 contribution.

5.8 Required conditions:

- Full details of appropriate cycle parking
- Full details of the proposed access and parking arrangements including disabled parking.

5.9 S106 requirements:

Contribution of £10,800 which shall go towards:

- Real Time Passenger Information sign at southbound Battle of Trafalgar bus stop on Trafalgar Road

5.10 Environmental Health: Comment

The site is 30m from a historic landfill site, a full land contamination condition is therefore required.

5.11 A Construction Environment Management Plan (CEMP) will be required due to the close proximity of sensitive receptors.

- 5.12 **Air Quality Officer: Comment**
Any proposed ground floor rooms could be within a few metres of Trafalgar Road; a busy haulage and bus route close to the Southern Cross Junction in the Air Quality Management Area. At this location accelerating (southbound) and queuing (northbound) traffic with tailpipe emissions is likely for many hours of the year.
- 5.13 With reference to BHCC policy SU9 it is advisable that bedrooms should be set back from the roadside to minimise future residential exposure to long term airborne pollution. Mitigation should be sought to avoid exposure of any ground floor rooms to nitrogen dioxide and fine particulate matter i.e. poor air quality detrimental to long term health.
- 5.14 A diagram setting out air intakes from the top and rear of the development should be provided, and hermetically sealed windows on the ground and first floors should be secured by condition.
- 5.15 **Economic Development: Comment**
This proposed development of 8 x 1no. bed dwellings and 4 x studios, will provide accommodating for at least 12 individuals and will make a small contribution to the city's challenging housing targets.
- 5.16 Should this application be approved City Regeneration requests the submission of an Employment and Training Strategy in respect of the demolition phase of the development and a more comprehensive strategy in respect of the construction phase, to be submitted at least one month prior to site commencement, highlighting how the development will provide opportunities for employment and training for local people. Also, if approved, in accordance with the council's Developer Contributions Technical Guidance, City Regeneration requests a contribution of £2,200 through a S106 agreement, towards the delivery of the council's Local Employment Scheme. The contributions are based on the information provided in the planning application and supporting evidence.
- 5.17 **County Ecologist: No objection**
No biodiversity checklist was submitted with the application. However, from the information available, it is considered likely that a checklist would be negative and as such, there is no requirement to submit a biodiversity report with the application. Given the location, nature and scale of the proposed development, there are unlikely to be any significant effects on any sites designated for their nature conservation value. The site is unlikely to support any protected species. If protected species are encountered during development, work should stop and advice should be sought on how to proceed from a suitably qualified and experienced ecologist.
- 5.18 The site offers opportunities for enhancement that will help the Council address its duties and responsibilities under the NERC Act and NPPF. Opportunities include the provision of a green (biodiverse) roof and bird boxes, and the use of species of known wildlife value in the landscape scheme. The green roof should be chalk grassland to help meet Biosphere targets. Advice on appropriate

species for the green walls can be found in the Council's SPD 11, Annex 7 Notes on Habitat Creation and Enhancement. Where possible, native species of local provenance should be used. Bird boxes should target species of conservation concern.

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

5.20 **Education: Comment**

The development in this case is small with just 8 1 bed flats and 4 studio flats. A development of this size would generate just one or two pupils for each of the primary and secondary phases. At the present time there is sufficient capacity on the local primary schools to accommodate this level of additional pupil numbers. The development is in the catchment area for PACA which also has sufficient capacity to accommodate any pupils generated by this development. As a result a contribution towards the cost of education infrastructure is not sought.

5.21 **Public Art: Comment**

An artistic element / component is not required in this case due to the scale of development proposed.

6. MATERIAL CONSIDERATIONS

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

6.2 The development plan is:

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

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

7. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development
CP1 Housing delivery
CP2 Sustainable economic development
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
CP14 Housing density
CP16 Open space
CP17 Sports provision
CP18 Healthy city
CP19 Housing mix
CP20 Affordable housing

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

TR7 Safe Development
TR14 Cycle access and parking
SU9 Pollution and nuisance control
SU10 Noise Nuisance
QD15 Landscape design
QD27 Protection of amenity
HO5 Provision of private amenity space in residential development
HO13 Accessible housing and lifetime homes

Supplementary Planning Documents:

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

8. CONSIDERATIONS & ASSESSMENT

8.1 The application is outline with all matters reserved for further approval and therefore the main considerations in the determination of this application relate to the principle of constructing 8no one bedroom flats and 4no studio flats on the site. An indicative scheme is shown in the submitted drawings; this scheme is indicative only, detailed consent is not sought.

8.2 Background

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

5.6 year supply position. The Council can therefore demonstrate an up to date housing supply position in accordance with the NPPF.

8.3 Principle of Development:

The principle of development has been established through the appeal decision issued in respect of application ref. BH2016/01784, the key section of this decision being:

'19. From the indicative plan submitted with the application it would appear that a development of this number of residential units could be successfully achieved within the site without having an excessive site coverage or height. Whilst I share the concerns of the Council in terms of the design and appearance of the building in the indicative scheme, this is not a matter before me.

20. Subject to a suitable design which would be considered at reserved matters stage (should I be minded to allow the appeal), for the above reasons the proposal would respect the character of the area and would reflect the varied urban grain of the locality. The development would therefore accord with Policies CP12, CP19 and SA6 of the CP which amongst other matters seek to improve housing choice and maintain balanced communities.'

8.4 The appeal was dismissed on the grounds that the development would not, in the absence of a completed section 106 obligation, provide an appropriate mechanism to secure much needed affordable housing contrary to Policy CP20.

8.5 In this context, whilst the council did raise concerns previously in respect of the mix of unit sizes proposed, it is considered that the principle of development has been established and subject to securing appropriate affordable housing and other measures through a legal agreement and conditions, it would not be reasonable for the council to refuse this application which seeks outline permission only with all matters reserved.

8.6 Affordable Housing:

The previous appeal was dismissed as the issue of affordable housing provision was not resolved in the applicant's submissions. Under the current application the submitted application form states that of the twelve units proposed four would be affordable rent units comprising two one-bedroom flats and two studio flats.

8.7 Policy CP20 requires that schemes of 10-14 units provide 30% onsite affordable housing provision or an equivalent financial contribution. In this case a net increase of ten units is proposed and therefore onsite provision of three units would satisfy the requirements of CP20. There is however also a requirement to provide an appropriate mix of tenures; in this case only affordable rent units are proposed, no intermediate housing is proposed. This concern is however counterbalanced by the fact that four affordable units are proposed and overall it is considered that the proposed provision of affordable housing can be supported provided it is secured through legal agreement.

- 8.8 A financial contribution of £390,000 towards affordable housing would also have been acceptable as an equivalent contribution, in this case however onsite provision is proposed and is considered acceptable as set out above.
- 8.9 **Developer Contributions:**
Developer contributions are sought in accordance with policy objectives as set out in the City Plan Part One and the remaining saved policies in the Brighton & Hove Local Plan 2005. The contributions will go towards appropriate and adequate social, environmental and physical infrastructure to mitigate the impact of new development. Contributions are required as follows in accordance with City Plan policy CP7 and the Council's adopted Developer Contributions Technical Guidance:
- Open Space and Indoor Sport: contribution of £19,635
 - Sustainable Transport: contribution of £10,800
 - Local Employment and Training: contribution of £2,200
- 8.10 At the time of the previous appeal the Inspector considered that insufficient information had been submitted to justify the contributions which were sought at this time. The contributions set out are supported in detail by the Council's Developer Contributions Technical Guidance and justification and identified spend for the sustainable transport contribution sought have been set out in the Transport Officers consultation response. Identified spends for the Open Space and Indoor Sport contributions are currently awaited and will be reported to members at committee.
- 8.11 **Design/visual impact:**
The indicative scheme submitted at the time of the previous application was considered to be inappropriate in terms of design and appearance by the council and the Inspector at appeal. The same indicative scheme has been submitted in support of the current application and again this scheme is considered inappropriate in design terms.
- 8.12 The application however seeks outline consent only with all matters reserved and therefore the detailed design of the proposed scheme cannot be considered. At appeal the Inspector considered that a development of the number of residential units proposed could be successfully achieved within the site without having an excessive site coverage or height. Therefore the principle of the development has been accepted and design issues would be considered at reserved matters stage.
- 8.13 **Neighbouring amenity:**
Whilst the Inspector's report does not address this issue in detail the principle of development was accepted and the Inspector considered that the development would not have a harmful impact on the local neighbourhood. It is therefore considered that the Inspector envisaged that a development could be designed which would not cause harm to neighbouring amenity.
- 8.14 **Standard of accommodation:**

The proposed units as laid out in the indicative scheme are undersized and would provide a poor standard of accommodation. These detailed layouts are not however a subject of consideration under the outline application submitted. Appropriate unit layouts would be secured at reserved matters stage. Conditions are recommended to secure sound insulation and ventilation measures due to the proximity of the proposed development to a busy road. Access standards are also recommended to be secured by condition.

8.15 **Other matters:**

Conditions are recommended to secure:

- Full details of reserved matters;
- A land contamination report and any required mitigation measures;
- A Construction and Environment Management Plan (CEMP);
- A scheme of ecological improvement measures;
- Standards for energy and water consumption;
- Full details of cycle storage facilities.

9. **CONCLUSION**

9.1 The principle of the development proposed has been previously accepted at appeal; this is the primary matter of consideration under the outline application submitted. Approval is therefore recommended subject to the completion of a legal agreement to secure affordable housing provision and necessary contributions. All detailed matters would be secured by condition and at reserved matters stage.

10. **EQUALITIES**

10.1 Access Standards are recommended to be secured by planning condition.

11. **DEVELOPER CONTRIBUTIONS**

11.1 **Sustainable Transport:** Based upon the current adopted Developer Contributions Technical Guidance and established formulae, the securing of Travel Packs and an £10,800 contribution to sustainable transport infrastructure to be allocated towards the following:

- Real Time Passenger Information sign at southbound Battle of Trafalgar bus stop on Trafalgar Road

11.2 **Open space and indoor sport:** Based upon the current adopted Developer Contributions Technical Guidance and SPGBH9, £19,635 to be allocated to the following:

- Children's' Play – Victoria Park and/or Vale Park, Easthill Park, Mile Oak Recreation Ground
- Parks Gardens/Natural Semi Natural/Amenity - Victoria Park and/or Vale Park, Easthill Park

- Outdoor Sport – Victoria Park and/or Vale Park, Mile Oak Recreation Ground, Portslade Sports Centre
- Indoor Sport – Portslade Sports Centre and/or King Alfred, Withdean Leisure Centre
- Allotments - Foredown and/or Mile Oak, Camp Site, Eastbrook, St Louie

11.3 **Local Employment scheme:** Based upon the current adopted Developer Contributions Technical Guidance, £2,200 plus a commitment to 20% local employment for the demolition and construction phases.

