

<b><u>No:</u></b>	<b>BH2021/01453</b>	<b><u>Ward:</u></b>	<b>North Portslade Ward</b>
<b><u>App Type:</u></b>	<b>Removal or Variation of Condition</b>		
<b><u>Address:</u></b>	<b>Henge Way Portslade BN41 2ES</b>		
<b><u>Proposal:</u></b>	<b>Application for variation of condition 4 of application BH2019/01409 (Erection of two storey dwellinghouse (C3), with hardstanding and creation of vehicle crossover) (allowed on appeal) to permit changes to previously approved external materials.</b>		
<b><u>Officer:</u></b>	<b>Sven Rufus, tel: 292454</b>	<b><u>Valid Date:</u></b>	<b>22.04.2021</b>
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	<b>17.06.2021</b>
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	<b>Mel Humphrey RICS C.Build E MCABE 39 Northease Drive Hove BN3 8PQ</b>		
<b><u>Applicant:</u></b>	<b>Ms Yasemin Genc Plot - South Of Henge Way Portslade BN41 2ES</b>		

## 1. RECOMMENDATION

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

### Conditions:

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

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Proposed Drawing	1190/P/2A		13 May 2019
Proposed Drawing	1190/P/3A		13 May 2019
Proposed Drawing	1190/B/1B		13 May 2019
Proposed Drawing	1190/P/1A		13 May 2019
Proposed Drawing	1190/SV/1		13 May 2019
Location Plan	1190/L/1		13 May 2019
Proposed Drawing	2020/173		22 April 2021

2. Unused - development commenced
3. Cycle storage should be provided in accordance with the details approved under BH2021/00240
4. Materials used in the development to comply with the details approved under BH2021/00240, excluding the roof tiles and windows which are subject to a separate decision.

5. The development hereby approved shall not be occupied until a bee brick has been incorporated within an external wall of the development hereby approved. This shall be in accordance with details submitted to and approved in writing by the local planning authority. Once installed, the bee brick shall be retained thereafter.
6. The new dwelling hereby permitted shall not be occupied until the dwelling(s) hereby permitted have been completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) and shall be retained in compliance with such requirement 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.
7. Tree protection measures shall be provided in accordance with the details approved under BH2021/00240.
8. The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for their intended use at all times.
9. The hard surfaces hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.
10. Prior to occupation of the development hereby permitted, a scheme for landscaping shall be submitted to and approved in writing by the Local Planning Authority. This shall include measures to enhance the ecology of the site. The approved landscaping scheme shall be implemented in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. The scheme shall include the following:
  - a. details of all hard and soft surfacing to include type, position, design, dimensions and materials and any sustainable drainage system used;
  - b. a schedule detailing sizes and numbers/densities of all proposed trees/plants including details of tree pit design, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period;
  - c. details of all boundary treatments to include type, position, design, dimensions and materials;Any trees or plants specified within this landscaping statement which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
11. All windows on the first floor, east facing elevation of the building facing No.2 Brackenbury Close (as visible in the elevation entitled 'to pathway (E)' on plan numbered 1190/P/3A, including those that may be inserted in the void area

above the rear bay), shall be made of obscure glass. Details of the obscure glazing used, together with any opening mechanism incorporated into the design of the windows, shall be submitted to and approved in writing by the local planning authority and the development shall be carried out in accordance with the approved details. No part of the development hereby approved shall be occupied until the windows are installed in accordance with the details approved under the terms of this condition. Once installed, the windows should be retained as approved for the lifetime of the development.

12. The development hereby permitted shall not be occupied until the new crossover and vehicular and pedestrian access to the site, as shown on the approved plans, has been constructed in accordance with detailed drawings that shall be submitted to and approved in writing by the Local Planning Authority. These detailed plans must demonstrate that there is an appropriate level of visibility towards pedestrians entering and leaving the footpath on the eastern boundary of the site, when vehicles enter and leave the site. Once built, the access must be retained as approved for the lifetime of the 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. SITE LOCATION

- 2.1. The application relates to a vacant, triangular-shaped plot of land west of 2 Brackenbury Close. There is a sealed footpath to the south and west (rear) of the site, and Henge Way bounds the site to the north. Beyond the footpath to the rear are open fields.

## 3. RELEVANT HISTORY

- 3.1. **BH2021/00240** : Application for Approval of Details Reserved by Conditions 3 (cycle parking), 4 (materials), and 7 (tree protection) of application BH2019/01409 (approved on appeal). Approved 15/3/21
- 3.2. **BH2019/01409** : Erection of two storey dwellinghouse (C3), with hardstanding and creation of vehicle crossover. Refused 26/11/19, allowed on appeal 11/9/20
- 3.3. **BH2018/01407** : Erection of 1no two bedroom dwelling house (C3) incorporating vehicle crossover. Refused 22/6/18
- 3.4. **BH2017/03810** : Erection of 1no. two bedroom dwelling house (C3) incorporating vehicle crossover. Refused 07/02/18

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

- 4.1. Planning permission was given, on appeal, for the erection of 1 no. two-bedroom dwellinghouse incorporating vehicle crossover and associated alterations, along with planting, parking for 1 no. vehicle and cycle parking. The dwelling approved is a dormer bungalow with living area on the ground floor and two bedrooms on the first floor. Works have commenced on site, with site clearance, and foundations built.
- 4.2. This application seeks to vary the approved materials from stained timber window/door frames to grey uPVC; and from concrete dark red roof tiles to a smooth grey tile.

#### **5. REPRESENTATIONS**

- 5.1. **Eight (8) objections** have been received from seven neighbours, raising the following concerns:
- Out of character with the area.
  - Poor design

#### **6. CONSULTATIONS**

None

#### **7. MATERIAL CONSIDERATIONS**

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

#### **8. POLICIES**

The National Planning Policy Framework (NPPF)

### Brighton & Hove City Plan Part One

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

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

TR4	Travel plans
TR7	Safe Development
TR14	Cycle access and parking
SU10	Noise Nuisance
QD15	Landscape design
QD16	Trees and hedgerows
QD18	Species protection
QD27	Protection of amenity
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes

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

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

DM1 - Housing Quality, Choice and Mix  
DM18 - High quality design and places  
DM20 - Protection of Amenity  
DM22 - Landscape Design and Trees  
DM33 - Safe, Sustainable and Active Travel  
DM35 - Travel Plans and Transport Assessments  
DM37 - Green Infrastructure and Nature Conservation  
DM40 - Protection of the Environment and Health - Pollution and Nuisance

### Supplementary Planning Documents:

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

## **9. CONSIDERATIONS & ASSESSMENT**

- 9.1. The sole consideration in the determination of this application relate to the visual impact of the proposed amendments to materials approved under

BH2021/00240. The principle of the approved development cannot be considered.

- 9.2. The applicant discharged condition 4 relating to materials on the 15th March 2021 (ref. BH2021/00240). The approval given then was to confirm that the materials proposed for use within the development were appropriate and matched those as set out in the approved scheme. The materials approved under BH2021/00240 were Ibstock Cavendish bricks, Plain Concrete Dark Red roof tiles and stained timber window frames.
- 9.3. This application proposes varying the roof tiles and windows to a smooth grey roof tile, and anthracite grey uPVC windows and doors.
- 9.4. Varying planning permissions is possible under Section 73 of the Town and Country Planning Act (1990) (as amended). In considering whether to approve a variation of an already approved scheme, the local planning authority should assess whether the proposed changes would of themselves result in a harmful development. Furthermore, the NPPF advises in paragraph 130 that:  
*"Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme"*
- 9.5. The greatest impact from the proposed changes would result from the amended tiles as this would be the most visible part of the development. While there are many dwellings with red roof tiles, as approved for this scheme, there is a variation in colours in the local area, either by design or due to weathering of the existing tiles.
- 9.6. It is also worth noting that the design of the building is distinct from that of other properties in the area, so regardless of the colour of tiles and windows used in the development, the property will always differ in appearance from those closest to it. Furthermore, the setting of the property is on a parcel of land not contiguous with any of the other estate developments in the area, and so by virtue of its setting would not be in direct contact with existing properties.
- 9.7. In this context, while the tiles proposed in this variation may differ from some nearby houses, it is not considered that they would inherently be out of character with the area or appearance of the building, and would not result in a scheme where the quality of the design is materially diminished.
- 9.8. The proposed changes to the window material would have less of an impact than the roof tiles as they would be visible from a much-reduced area, in the immediate vicinity of the house. Neighbour comments on this application highlighted that the proposed material was not one that is used in any of the nearby dwellings, but also set out a range of different material finishes for windows already existing in the area. It is notable that the houses immediately next to the application site have both white and brown uPVC windows/doors, so there is no strict consistency that this scheme would depart from. As with the consideration given for the proposed variation to the roof tiles, it is important to note that the setting of the building does not place it in a directly comparable

position with any of the other dwellings nearby. Further, the variation in styles and materials in the immediate area is such that the scheme would not be out of place with its setting.

9.9. On this basis, it is considered that the proposed variation to the windows would not inherently be out of character with the area or appearance of the building, and would not result in a scheme where the quality of the design is materially diminished.

9.10. **Revised Conditions**

- Condition 1: Amended to reflect revised plans submitted for this application
- Condition 2: Removed as permission given under BH2019/01409 has already been commenced.
- Condition 3: Amended to state: "Cycle storage should be provided in accordance with the details approved under BH2021/00240."
- Condition 4: Amended to state: "Materials used in the development to comply with the details approved under BH2021/00240, excluding the roof tiles and windows which are subject to a separate decision."
- Condition 5: Unchanged
- Condition 6: Unchanged
- Condition 7: Amended to state: "Tree protection measures shall be provided in accordance with the details approved under BH2021/00240."
- Condition 8: Unchanged
- Condition 9: Unchanged
- Condition 10: Unchanged
- Condition 11: Unchanged
- Condition 12: Unchanged

**10. EQUALITIES**

10.1. None identified for the current application. The original application included a condition (Condition 6) that remains unchanged in this permission, and requires that the development be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) and be retained in compliance with such requirement thereafter.

