

<u>No:</u>	BH2022/01136	<u>Ward:</u>	Hangleton And Knoll Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Land To Rear Of 40 Holmes Avenue Hove BN3 7LD		
<u>Proposal:</u>	Erection of 1no two-storey, three-bedroom detached house (C3), with associated landscaping, boundary reconfiguration and demolition of existing garage.		
<u>Officer:</u>	Jack Summers, tel: 296744	<u>Valid Date:</u>	04.04.2022
<u>Con Area:</u>	N/a	<u>Expiry Date:</u>	30.05.2022
<u>Listed Building Grade:</u>	N/a	<u>EOT:</u>	06.10.2022
<u>Agent:</u>	Liam Russell Architects Ltd 24 Windlesham Road Brighton BN1 3AG		
<u>Applicant:</u>	Mr Marcus Morley 2 Coopers House High Street Henfield BN5 9EQ		

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	1764-EX-001	-	4 April 2022
Proposed Drawing	1764-PA-010	A	10 June 2022
Proposed Drawing	1764-PA-011	A	10 June 2022
Proposed Drawing	1764-PA-012	B	29 June 2022
Proposed Drawing	1764-PA-013	B	29 June 2022
Proposed Drawing	1764-PA-014	B	29 June 2022
Proposed Drawing	1764-PA-015	C	29 June 2022
Proposed Drawing	1764-PA-016	B	29 June 2022

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 details 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.

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

Reason: To ensure a satisfactory appearance to the development and to comply with policies QD14 of the Brighton & Hove Local Plan; CP12 of the Brighton &

Hove City Plan Part One; and DM18 and DM21 of the emerging Brighton & Hove City Plan Part Two.

4. The following windows and rooflights hereby permitted shall be obscure glazed and non-opening, unless the parts which can be opened are more than 1.7 metres above the floor of the room in which the window/rooflight is installed, and thereafter permanently retained as such.
 - The window servicing bedroom 2 at first floor level on the east elevation.
 - The rooflight servicing the bathroom at first floor level
 - The rooflight servicing the stairwell at first floor level

Reason: To safeguard the privacy of the occupiers of the adjoining property and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan; and DM20 of the emerging Brighton & Hove City Plan Part Two.
5. Access to the flat roof of the dwellinghouse hereby approved shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area.

Reason: In order to protect adjoining properties from overlooking and noise disturbance and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan, and DM20 of the emerging Brighton & Hove City Plan Part Two.
6. No cables, wires, aerials, pipework (except rainwater downpipes as shown on the approved plans), meter boxes or flues shall be fixed to any elevation facing a highway.

Reason: To safeguard the appearance of the building and the visual amenities of the locality and to comply with policies QD14 of the Brighton & Hove Local Plan; CP12 of the Brighton & Hove City Plan Part One; and DM18 and DM21 of the emerging Brighton & Hove City Plan Part Two
7. The hard surface hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.

Reason: To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policies CP8 and CP11 of the Brighton & Hove City Plan Part One, and DM43 of the emerging Brighton & Hove City Plan Part Two.
8. No extension, enlargement, alteration of the dwellinghouse or provision of buildings etc or hardstandings incidental to the enjoyment of the dwellinghouse within the curtilage of the dwellinghouse as provided for within Schedule 2, Part 1, Classes A - F of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.

Reason: The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties, to the character of the area, or to local biodiversity and ecology, and for this reason would wish to control any future development to comply with policies QD14,

QD18 and QD27 of the Brighton & Hove Local Plan; CP10 and CP12 of the Brighton & Hove City Plan Part One; and DM20, DM1, DM22 and DM37 of the emerging Brighton & Hove City Plan Part Two.

9. The development hereby permitted shall not be occupied until the dwelling hereby permitted has been completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings), and it 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.

Reason: To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policies HO13 of the Brighton & Hove Local Plan, and DM1 of the emerging Brighton & Hove City Plan Part Two.

10. No development shall take place (including any demolition, ground works, site clearance) until a method statement for the protection of reptiles has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include the:

- a) purpose and objectives for the proposed works;
- b) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
- c) extent and location of proposed works shown on appropriate scale maps and plans;
- d) timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
- e) persons responsible for implementing the works;
- f) initial aftercare and long-term maintenance (where relevant);
- g) disposal of any wastes arising from the works.

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

Reason: To protect habitats and species identified in the ecological surveys from adverse impacts during construction, to avoid an offence under the Wildlife and Countryside Act 1981, as amended, and to comply with policies QD18 of the Brighton & Hove Local Plan, and CP10 of the Brighton & Hove City Plan Part One.

11. No development shall take place until an ecological design strategy (EDS) addressing protection of retained habitats and enhancement of the site to provide biodiversity net gain, in line with the recommendations in the Preliminary Ecological Appraisal (CT Ecology, 30/12/21) has been submitted to and approved in writing by the local planning authority. The EDS shall include the following:

- a) purpose and conservation objectives for the proposed works;
- b) review of site potential and constraints;
- c) detailed design(s) and/or working method(s) to achieve stated objectives;
- d) extent and location /area of proposed works on appropriate scale maps and plans;

- e) type and source of materials to be used where appropriate, e.g. native species of local provenance;
- f) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- g) persons responsible for implementing the works;
- h) details of initial aftercare and long-term maintenance;
- i) details for monitoring and remedial measures;
- j) details for disposal of any wastes arising from works.

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

Reason: To ensure that any adverse environmental impacts of development activities can be mitigated, compensated and restored and that the proposed design, specification and implementation can demonstrate this, and to provide a net gain for biodiversity as required by Section 40 of the Natural Environment and Rural Communities Act 2006, paragraphs 174 and 180 of the National Planning Policy Framework, Policy CP10 of the Brighton & Hove City Council City Plan Part One and Policy DM37 of the Proposed Submission Brighton & Hove City Plan Part Two.

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

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; CP10, CP12 and CP13 of the Brighton & Hove City Plan Part One; DM22 of the emerging Brighton & Hove City Plan Part Two; and SPD06: Trees and Development Sites.

13. One or more bee bricks shall be incorporated within the external wall of the development hereby approved and shall be retained thereafter.

Reason: To enhance the biodiversity of the site and to comply with policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11: Nature Conservation and Development.

14. No development above ground floor slab level of any part of the development hereby permitted shall take place until details of the construction of the green roof have been submitted to and approved in writing by the Local Planning Authority. The details shall include a cross section, construction method statement, the seed mix, and a maintenance and irrigation programme. The roofs shall then be constructed in accordance with the approved details and shall be retained as such thereafter.

Reason: To ensure that the development contributes to ecological enhancement on the site and in accordance with policy CP10 of the Brighton & Hove City Plan Part One.

15. Three or more swift bricks/boxes shall be incorporated within the external surface of the development hereby approved and shall be retained thereafter.
Reason: To enhance the biodiversity of the site and to comply with policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11: Nature Conservation and Development.
16. If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority), shall be carried out until a method statement identifying and assessing the risk and proposing remediation measures, together with a programme for such works, shall be submitted to the Local Planning Authority for approval in writing. The remediation measures shall be carried out as approved and in accordance with the approved programme.
Reason: To safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan, and DM41 of the emerging Brighton & Hove City Plan Part Two.
17. The development hereby approved shall not be occupied until the refuse and recycling storage facilities as detailed on the approved plans have been installed and made available for use. These facilities shall thereafter be retained for use at all times.
Reason: To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policies QD27 of the Brighton & Hove Local Plan, CP8 of the Brighton & Hove City Plan Part One, DM21 of the emerging Brighton & Hove City Plan Part Two, and WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.
18. The dwellinghouse hereby approved shall not be occupied until it has achieved a water efficiency standard of a minimum of not more than 110 litres per person per day maximum indoor water consumption.
Reason: To ensure that the development is sustainable and makes efficient use of energy and water and to comply with policies SA6 and CP8 of the Brighton & Hove City Plan Part One.
19. The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development at all times.
Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policies TR14 of the Brighton & Hove Local Plan; CP9 of the Brighton & Hove City Plan Part One; and DM33 of the Emerging Brighton & Hove City Plan Part Two.
20. 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. 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) details of all boundary treatments to include type, position, design, dimensions and materials;

The approved landscaping 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.

Any plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area; to safeguard the residential amenities of local residents; and to comply with policies QD15 and QD27 of the Brighton & Hove Local Plan; CP10, CP12 and CP13 of the Brighton & Hove City Plan Part One; and DM22 of the emerging Brighton & Hove City Plan Part Two.

21. Prior to occupation of the development hereby permitted, details of proposed trees including a tree to compensate the likely impact to a tree in the neighbouring plot shall be submitted to and approved in writing by the Local Planning Authority. The details shall include a schedule detailing sizes and numbers of all proposed trees 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;

The approved details 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.

Any trees 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.

Reason: To mitigate the expected loss of trees adjacent to the application site resulting from the development hereby permitted, enhance the appearance of the development in the interest of the visual amenities of the area; to safeguard the residential amenities of local residents; and to comply with policies QD15, QD16 and QD27 of the Brighton & Hove Local Plan; CP10, CP12 and CP13 of the Brighton & Hove City Plan Part One; and DM22 of the emerging Brighton & Hove City Plan Part Two.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The applicant is advised that the application of translucent film to clear glazed windows does not satisfy the requirements of condition 4.
3. The applicant is advised that advice regarding permeable and porous hardsurfaces can be found in the Department of Communities and Local Government document 'Guidance on the permeable surfacing of front gardens'.

4. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Trees and scrub are likely to contain nesting birds between 01 March and 31 August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.
5. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.
6. Swift bricks/boxes can be placed on any elevation, but ideally under shade-casting eaves. They should be installed in groups of at least three, at a height above 5m height, and preferably with a 5m clearance between the host building and other buildings or obstructions. Where possible avoid siting them above windows or doors. Swift bricks should be used unless these are not practical due to the nature of construction, in which case alternative designs of suitable swift boxes should be provided in their place.
7. The applicant is advised that Part L - Conservation of Fuel and Power of the Building Regulations 2022 now requires each residential unit built to have achieved a 31% reduction in carbon emissions against Part L 2013.
8. The water efficiency standard required by condition is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.
9. The applicant is advised under Part S of the Building Regulations that new dwellings providing a parking space now require an EV charging point.
10. The applicant is advised that following the simplified assessment method under Part O of the 2022 Building Regulations is unlikely to achieve the required standard unless it is a single dwelling. In addition, single façade flats, dwellings adjacent to noise and pollutants are unlikely to achieve the required standard of Part O.
11. The applicant is advised that assessment under the CIBSE TM59 Thermal Model option should be submitted as part of a full Building Regulations application.

12. The new building regulations will come into force for building regulation applications made on or after 15th June 2022. The new requirements will not apply to applications made prior to June 15th, providing building work have commenced before 15th June 2023 on all aspects of the application. This gives 1 year's grace to allow commencement.

2. SITE LOCATION

- 2.1. The application site is an area of land to the rear of no.40 Holmes Avenue. The land itself fronts the north side of Wayfield Avenue and is adjacent to the Martlets Hospice and opposite the vehicle entrance for the Bishop Hannington Youth and Community Centre. The land would have previously been part of the curtilage of no.40 Holmes Avenue but was split off from the site during a change of ownership and now forms a separate planning unit.

3. RELEVANT HISTORY

3.1. PRE2020/00210

Pre-application advice was given on a single dwellinghouse of similar design to the current proposal.

3.2. BH2015/01481 Erection of 2no two storey two bedroom houses. Refused - Appeal Dismissed

- The proposed development by reason of the proposed plot sizes, layouts and small garden areas which would be out of keeping surrounding area, compromising the quality of the local environment. The proposal represents an incongruous and cramped form of development and an overdevelopment of the site. The proposed development is therefore contrary to policies QD1, QD2, QD3, HO3, HO4 and HO5 of the Brighton & Hove Local Plan.
- The scheme does not include suitably sized gardens commensurate to the size of the dwellings proposed. Furthermore the garden which would be allocated to no. 40 Holmes Avenue is substantially smaller than those of neighbouring properties particularly in regard to depth. The scheme would therefore be harmful to the amenity of future occupiers, contrary to policies QD27 and HO5 of the Brighton & Hove Local Plan and paragraph 17 of the NPPF.
- The proposal by virtue of its scale, bulk and massing in close proximity to the boundary with no. 42 Holmes Avenue would represent an unneighbourly form of development which would appear overbearing and oppressive when viewed from the garden area of the northern neighbouring property. Furthermore the proposed dwellings would be of a prominent appearance when viewed from the rear windows and garden of the existing dwelling at no. 40 Holmes Avenue. Overall it is considered that significant harm would result and the proposed development is therefore contrary to policy QD27 of the Brighton & Hove Local Plan and paragraph 17 of the NPPF.

3.3. BH2014/02431 Erection of 2no two storey three bedroom houses. Refused

- The proposed dwellings by reason of their design, form, excessive footprints, detailing, finish materials, limited plot depths and the required reduction in the plot size of no. 40 Holmes Avenue, would result in a development that fails to reflect the immediate character of the Holmes Avenue and Wayfield Avenue streetscenes and the wider surrounding area, compromising the quality of the local environment. The proposal represents an incongruous and cramped form of development and an overdevelopment of the site. This identified harm would outweigh the benefit of additional housing and as such is contrary to policies QD1, QD2 and QD3 of the Brighton & Hove Local Plan.
- The scheme does not include a suitably sized useable outside private amenity area which would be appropriate for a family sized dwelling. The scheme would therefore be harmful to the amenity of future occupiers, contrary to policy HO5 of the Brighton & Hove Local Plan.
- The proposal by virtue of its scale, bulk and massing in close proximity to the boundary with no. 42 Holmes Avenue would represent an unneighbourly form of development which would appear overbearing and oppressive when viewed from the garden area of the northern neighbouring property in addition to resulting in actual and perceived overlooking and loss of privacy to the garden areas of the northern neighbouring properties located on Holmes Avenue. The proposal would have a harmful impact on neighbouring amenity and is contrary to policy QD27 of the Brighton & Hove Local Plan.
- The proposed dwellings would be constructed on existing undeveloped land and therefore should be constructed to meet Level 5 of the Code for Sustainable Homes. The applicant has failed to justify that Level 4 as proposed within the application should be accepted. The proposal is therefore contrary to policy SU2 of the Brighton & Hove Local Plan, and Supplementary Planning Document 08, Sustainable Building Design.

4. RELEVANT HISTORY AT OTHER SITES

- 4.1. **BH2019/01616 - Land to Rear of no.67 Cranmer Avenue** Erection of 1no two storey detached dwellinghouse (C3), associated landscaping. Approved
- 4.2. **BH2016/05223 - Land to Rear of nos.25 & 27 Holmes Avenue** Demolition of existing garage outbuildings and erection of 1no three bedroom detached house (C3). Approved

5. APPLICATION DESCRIPTION

- 5.1. Planning permission is sought for the erection of a two-storey detached dwellinghouse fronting Wayfield Avenue with associated landscaping.

6. REPRESENTATIONS

- 6.1. **Fourteen** (14) representations have been received, objecting to the proposal on the following grounds:

- The proposed development would cause harm to the amenities of local residents due to:
- Loss of outlook
- Loss of light
- Loss of privacy
- Disruption from the building work itself
- The proposed development constitutes overdevelopment
- There are too many new houses being built in the area
- The proposed dwellinghouse is not in keeping with the character of the area
- The proposed dwellinghouse is too tall
- The proposed development will increase parking stress.
- Lack of information about soil contamination
- The proposed development would detrimentally impact on local ecology

7. CONSULTATIONS

7.1. **Arboriculture:**

Comments regarding initial submission

An Arboriculture Impact Assessment is required due to the proximity of development with third party trees (within the curtilage of The Martlets). This needs to be acquired before permission is granted as there is no guarantee that the current scheme would have an acceptable impact on existing trees.

Comments regarding amended submission

- 7.2. The proposed cut back of the trees on the boundary of The Martlets is considered to be excessive beyond what would be considered acceptable under 'Common Law', this will have a detrimental impact upon these trees both structurally and physiologically. Consideration should be given to the removal of T1 - 3 with mitigation planting post-development, as the proposal currently stands it is considered that the impact upon third party trees is unacceptable.

7.3. **County Ecology:**

The information provided is satisfactory and enables the LPA to determine that whilst the proposed development is likely to have an impact on biodiversity, those impacts can be mitigated through the application of planning conditions requiring the submission of a Biodiversity Method Statement and an Ecological Design Strategy.

7.4. **Transport:**

The Highway Authority has no objections to this application subject to the inclusion of the necessary conditions regarding cycle parking provision and extending the vehicle crossover.

7.5. **Urban Design:**

Comments regarding initial submission

The form and scale of the proposed development still presents some concerns.

- 7.6. There is not enough space for vehicle parking while maintaining pedestrian access to the front door; there should be a minimum of 5.6m to be comfortable. The south wall should be pulled back to accommodate access. The east wall ground floor may be extended out if required to meet space standards. This would not have any adverse impact on neighbouring properties to the east.
- 7.7. The first floor massing against the northern site boundary appears overbearing to the neighbouring property. The north wall first floor should be pulled south 0.8m at minimum to generate a more comfortable relationship. This would reduce the proposed development to a two-bedroom house. Bedroom three would become the bathroom and a high-level window should be provided to avoid overlooking eastwards. The staircase would have to shift south (which would appear achievable at ground level).
- 7.8. The previous recommendation [at Pre-Application Advice stage] to flip the staircase to provide the ground floor WC with a west-facing window is reiterated.
- 7.9. Bin storage should be relocated to avoid conflict with cycle storage - it is suggested it be placed to the east of the site entrance.

8. MATERIAL CONSIDERATIONS

- 8.1. 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.
- 8.2. 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 Joint Area Action Plan (JAAP) 2019.
- 8.3. 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.

9. RELEVANT POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One (CPP1)

SS1 Presumption in Favour of Sustainable Development

SA6 Sustainable Neighbourhoods

CP1 Housing Delivery

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

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

TR7 Safe Development
TR14 Cycle access and parking
SU11 Polluted land and buildings
QD5 Design - street frontages
QD14 Extensions and alterations
QD15 Landscape design
QD16 Trees and hedgerows
QD18 Species protection
QD27 Protection of amenity
HO5 Provision of private amenity space in residential development
HO13 Accessible housing and lifetime homes

Brighton & Hove City Plan Part Two

The Inspector published her Final Report into the Examination of the City Plan Part Two 19th July 2022. The Report is a material consideration. The Inspector has concluded that with her recommended changes (the schedule of changes as appended to the Report) the Plan is sound and can be adopted. The Inspector's report concludes the examination of City Plan Part Two. City Plan Part Two policies, as amended by the Inspector's schedule of Main Modifications, can be afforded significant weight but they will not have full weight until the City Plan Part Two is formally adopted.

DM1 Housing Quality, Choice and Mix
DM18 High quality design and places
DM20 Protection of Amenity
DM21 Extensions and alterations
DM22 Landscape Design and Trees
DM33 Safe, Sustainable and Active Travel
DM36 Parking and Servicing
DM37 Green Infrastructure and Nature Conservation
DM41 Polluted sites, hazardous substances & land stability
DM43 Sustainable Drainage
DM44 Energy Efficiency and Renewables

10. CONSIDERATIONS & ASSESSMENT

- 10.1. The main considerations in the determination of this application relate to the principle of development; the design and appearance of the proposed development; the standard of accommodation that would be offered to future

residents; and the potential impacts on the amenities of local residents, and on highway safety.

Principle of Development

- 10.2. Policy CP1 in City Plan Part One sets a minimum housing provision target of 13,200 new homes for the city up to 2030. However, on 24th March 2021 the City Plan Part One reached five years since adoption. National planning policy states that where strategic policies are more than five years old, local housing need calculated using the Government's standard method should be used in place of the local plan housing requirement. The local housing need figure for Brighton & Hove using the standard method is 2,311 homes per year. This includes a 35% uplift applied as one of the top 20 urban centres nationally.
- 10.3. The council's most recent housing land supply position is published in the SHLAA Update 2021 which shows a five-year housing supply shortfall of 6,915 (equivalent to 2.1 years of housing supply).
- 10.4. As the council is currently unable to demonstrate a five year housing land supply, increased weight should be given to housing delivery when considering the planning balance in the determination of planning applications, in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).
- 10.5. The creation of additional residential housing in this area of the city is considered acceptable in principle.
- 10.6. The application site has been subdivided from the main dwellinghouse (and associated garden) at no.40 Holmes Avenue for a significant period of time - Google Street View Images show dividing fencing in place as early as June 2016 - and it is considered that the site now forms a separate planning unit. The subdivision of the application site from no.40 Holmes Avenue proper is not under consideration as part of this assessment.
- 10.7. It has been raised in one or more representations that the current application is no different from the previous applications that were refused planning permission. One significant difference between the current proposal and previous attempts to develop the site is that the current proposal seeks permission for a single dwelling, whereas both refused applications were for two dwellings.
- 10.8. It should also be noted that since the decisions made by the LPA for both applications on this site there have been significant changes to local and national policy, including the adoption of the Brighton & Hove City Plan Part One and more recently the significant weight able to be afforded to policies in the emerging City Plan Part Two, which is now at an advanced stage of adoption. Nationally, the NPPF has undergone a revision in 2018 and was most recently updated in July 2021. More recent permissions granted in the area such as BH2019/01616 to the rear of no.67 Cranmer Street and BH2016/05223 to the rear of nos.25-27 Holmes Avenue are considered to hold weight in the consideration of the application. Both sites are within 100m of the current

application site and regard new dwellinghouses in the rear gardens of existing properties.

- 10.9. Policy CP14 is relevant given that the application site would represent an increase in density. The site itself is approximately 193m² (0.19ha), which is significantly smaller than most of the residential plots along Holmes Avenue. Policy CP14 states:
Residential development should be of a density that is appropriate to the identified positive character of the neighbourhood and be determined on a case by case basis. Development will be permitted at higher densities than those typically found in the locality where it can be adequately demonstrated that the proposal:
1. *Would be of a high standard of design and would help to maintain or create a coherent townscape;*
 2. *Would respect, reinforce or repair the character of the neighbourhood and contribute positively to its sense of place;*
 3. *Would include a mix of dwelling types, tenures and sizes that reflect identified local needs;*
 4. *Is easily accessible by sustainable transport or has the potential to be easily accessible;*
 5. *Is well served by local services and community facilities; and*
 6. *Provides for outdoor recreation space appropriate to the demand it would generate and contributes towards the 'green network' where an identified gap exists.*
- 10.10. As abovementioned, this is the first application on this site for a single dwellinghouse and the previous refusal of permission for pairs of dwellinghouses does not rule out use of the land for residential development in principle.
- 10.11. It is considered that the proposed dwellinghouse would be of a high standard of design; whilst it would not emulate the design of any nearby dwellings it is considered that it would add visual interest to the streetscene and due to its size would appear as a secondary building, not competing with the larger semidetached properties on Holmes Avenue. This is considered to be an appropriate design strategy.
- 10.12. The Inspector for appeal APP/Q1445/W/15/3134707 on the site stated:
*"The character of the immediate area falls into two fairly distinct types, with the appeal site forming the boundary between these two areas. One of these character areas is formed by the larger buildings along Wayfield Avenue which are all set in fairly generous grounds, albeit some of their settings are visually compromised by large expanses of car parking.
The other character area is formed by the semi-detached houses and gardens of Holmes Avenue. The layout of these houses has a strong uniform linear form with the road running north to south, houses all aligned on an east-west axis, all having generous long rear gardens with a strong well defined and uniform rear boundary on the west."*
- 10.13. Given the above, it is considered that the proposed dwellinghouse would respect the character of the local streetscene.

- 10.14. Being a single dwellinghouse suitable for family accommodation, the proposed development would help the city to meet an identified housing need.
- 10.15. The site is in a sustainable location, very close to bus stops along Holmes Avenue, Nevill Avenue and Old Shoreham Road. Aldrington Railway Station is a short walk south of the site.
- 10.16. The site is proximal to many community facilities including (but not necessarily limited to) shops on Sackville Road and Hangleton Road, multiple schools and one or more nurseries in the vicinity, and a church and a community centre on Holmes Avenue; it is considered that the site is conveniently located in this regard.
- 10.17. The site would provide an adequate area of private outdoor amenity space for future residents.
- 10.18. For these reasons the proposed development is considered to meet the policy tests of CP14 and there is no objection to the principle of residential accommodation in this location.

Design and Appearance

- 10.19. As aforementioned, it is acknowledged that the proposed dwellinghouse does not seek to emulate any of the built forms seen elsewhere within the local area. Instead, it clearly seeks to appear as a unique independent building and a modern addition to the streetscene. Given that it sits on a boundary of sorts between two streetscenes (and their respective characters) there is no objection in principle to this approach.
- 10.20. The building appears as an interesting development with a modern design, but due to its smaller scale (compared to the closest houses on Holmes Avenue), it is not considered that it would appear over-dominant or cause any significant harm to the established pattern of development in the local area.
- 10.21. The building itself will be set back behind a substantial boundary wall, reducing the visual impact it has from the public highway. Concerns have been raised regarding the visual bulk of the building as viewed from residential properties over the north boundary; these are noted and it should be considered that the original design has been amended so that the proposed dwelling is set off the shared boundary, somewhat reducing the visual impact. It is also considered that the sloping green roof design will significantly soften the appearance of the building and it would not be an impact comparable with those considered unacceptable previously.
- 10.22. The proposed dwelling features a green roof that slopes down its north side. Truncated bays on its east and south sides will be finished in timber cladding. Dark brickwork is proposed for the ground floor south elevation, whilst other walls would be finished in painted render. The windows would have powder-coated aluminium frames.

10.23. It will be important to secure high-quality materials to ensure a satisfactory appearance to the building; such details will be secured by condition. Insufficient details have been submitted with regards to the sliding vehicle gate; these too shall be secured by condition.

Impact on Amenities

10.24. Concerns have been raised regarding the potential impacts of the development upon the amenities of local residents, in particular the impact from the building works themselves, and the potential loss of light, privacy and outlook. Each of these issues shall be addressed in turn.

10.25. The potential impact caused by the building works themselves is not a material planning consideration to be given any weight in the assessment of the acceptability of this proposal. Although some level of disruption is very likely, this would be in the short-term only and is not reason to withhold planning permission.

10.26. The proposed development is likely to lead to some level of overshadowing/loss of direct sunlight to the rear garden of no.42 Holmes Avenue which lies directly north of the application site. However, this is not considered to result in harm that would justify refusal of the application, as explained below:

10.27. The rear wall of the proposed dwelling is set approximately 0.75m off the shared boundary; it reaches to a height of approximately 2.8m before gently curving up to its maximum height of approximately 5.7m, which it reaches at a distance of approximately 3.3m from the shared boundary. The closest corner of the proposed dwellinghouse is approximately 17m away from the rear elevation of nos.40 and 42 Holmes Avenue. It is also approximately 6.1m away from the shared boundary with the rear garden of no.40.

10.28. This can be compared with the most recent refused application on the site (Ref: BH2015/01481), which sought permission for two semi-detached dwellings. These featured rear gable ends that resulted in the maximum height of approximately 6.5m being sited approximately 1.2m away from the boundary. Although the distance from the boundary is slightly greater than the current proposal (a difference of 0.45m), the overall height and profile was significantly greater; it is considered it would have led to an oppressive and overbearing impact on neighbouring residents. The refused scheme was also closer to the rear elevations of nos.40 and 42, with a distance of 14.2m (a difference of 2.8m).

10.29. Whilst the proposed development is likely to lead to some loss of direct sunlight to the rear gardens of nos.40 and 42, it is not considered that this would be to a degree that would be significantly harmful in this instance. In order to be in accordance with Building Research Establishment (BRE) guidance, at least half of each garden would be required to receive at least two hours of sunlight. The rear garden of no.40 is unlikely to be impacted upon except in the late afternoon/early evening, as it lies directly east of the proposed dwellinghouse. The garden of no.42 is likely to receive some overshadowing at its west end from late morning to early afternoon, then the shadow of the new dwelling is likely to impact more upon the east end of the garden. It is considered that in principle

the proposed development is unlikely to have a significant detrimental impact on the level of sunlight received by either of these neighbouring gardens. The dwelling, as mentioned, is approximately 17m from the rear elevation of no.42, reducing the likely harm caused to the west end of the garden. There is also a goat willow tree along the shared boundary which already contributes to shading of this part of the garden, reducing the actual additional impact the proposed dwelling is likely to cause. This tree is marked for retention and shall be subject to tree protection measures during development.

- 10.30. The proposed development is considered to be acceptable in principle in terms of the impact it is likely to have on the privacy of neighbouring residents. The two north-facing rooflights, and the east-facing window servicing bedroom 2 will be subjected to a condition requiring they be fitted with obscure glazing and be fixed shut to an internal height of at least 1.7m in the interest of preventing harmful overlooking of neighbouring gardens.
- 10.31. A condition will also be attached restricting access to the flat roof for anything other than maintenance or in the event of an emergency. It is considered that access as an amenity space would be likely to cause a harmful sense of overlooking for neighbours in adjacent properties.
- 10.32. With regards to considerations of outlook, it should be noted that the proposed dwellinghouse is at least 17m away from the closest windows (on nos.40 and 42 Holmes Avenue) and it is not considered likely that any significant loss of outlook would occur.

Standard of Accommodation

- 10.33. The 'Nationally Described Space Standards' (NDSS) were introduced by the Department for Communities and Local Government in 2015 to establish acceptable minimum floor space for new build developments. Although these space standards have not been formally adopted into the Brighton & Hove City Plan, policy DM1 of CPP2 proposes to adopt them and can now be given significant weight.
- 10.34. The new residential unit would provide a gross internal area (GIA) of approximately 103.6m². This GIA is measured in conjunction with a qualitative assessment of the usability of the total space in terms of layout and circulation, and the provision of natural light and outlook to determine if a good standard of accommodation would be enjoyed by future residents.
- 10.35. The proposed dwelling is laid out as a two-storey, three-bedroom, five bed-space unit. The NDSS requires such a unit to provide a minimum of 93m², which has been achieved. Moreover, eaves storage is provided at first floor level; every room benefits from natural light; and the living room and two main bedrooms both benefit from dual aspect. Overall, the proposed layout is considered to be good and is welcomed.
- 10.36. The proposed garden space is approximately 86m²; this includes a lawned area and a patio of a size acceptable for a small dwelling such as this. A full

landscaping plan will be secured by condition to ensure an appropriate layout that would provide acceptable and usable amenity space for future residents.

- 10.37. The proposed dwelling shall also be subject to a condition requiring it be built in accordance with Building Regulations Optional Requirement M4(2) to ensure it is accessible for wheelchair users.

Impact on trees:

- 10.38. The Arboricultural team has raised concerns regarding the impact the proposed development will have on three trees located in the neighbouring site to the west given the close proximity of the proposed development to the western boundary. The works that would be required to accommodate the development would be significant enough to result in irreparable damage to the trees and their potential loss. The removal of the trees outside the application site would require consent from the neighbouring landowner.
- 10.39. Consideration was given to secure amendments that would reposition the proposed dwelling away from the western boundary. However, this would likely result in a detrimental impact on neighbouring amenity as the dwelling would be positioned more closely to neighbouring dwellings.
- 10.40. Whilst it is regrettable that three trees would be potentially lost as a result of the development, none of the trees are considered to be of a value worthy of a Tree Preservation Order. The Arboricultural report submitted with the application advises that two of the trees have a low landscape value (Category U) and one tree, a Swedish Whitebeam is considered to be a category B tree of moderate landscape value. Given this, it is considered necessary to condition a replacement tree to compensate the potential loss of the trees. It would not be reasonable to condition replacements that are outside the application site as this would be out of the control of the applicant, therefore the tree would need to be provided in the application site.
- 10.41. Whilst the potential loss of trees is regrettable and weighs against the scheme, the impact can partly be mitigated by the replacement of another tree, which is conditioned.

Biodiversity & Sustainability:

- 10.42. The Council has adopted the practice of securing minor design alterations to schemes with the aim of encouraging the biodiversity of a site, particularly with regards to protected species such as bumblebees and swifts. A suitably-worded pair of conditions will be attached to secure an appropriate number of bee bricks and swift bricks within the proposal in order to help meet the requirements of policy CP10 of the City Plan Part One.
- 10.43. Concerns have been raised that the proposed development would cause harm to local biodiversity including slowworms that have been evidenced on or around the site. It is considered necessary that the presence of protected species be investigated further, and a method statement for the protection of reptiles be submitted to and approved in writing by the LPA prior to the commencement of development. A further condition shall be included to secure an Ecological

Design Strategy with the aim of improving the biodiversity of the site. Further details of the proposed green roof shall also be necessary in the interest of securing the maximum biodiversity gains.

- 10.44. The new dwellinghouse shall be subject to a condition requiring it to be in accordance with the Council's sustainability targets with regards to water consumption.

Impact on the Public Highway

- 10.45. The proposed development includes a driveway/hardstanding large enough for a single car, and cycle parking provision for two bicycles; this is considered acceptable and in accordance with the guidance in Supplementary Planning Document SPD14: Parking Standards. On-street parking is currently unrestricted in the area, and it is reported that there is parking stress in the area. Considering the scale of the development - a single family dwelling - and the fact on-site parking is included, it is not considered likely that the proposed development would lead to any significant amount of overspill parking.
- 10.46. Planning conditions are required necessary to secure details of the cycle parking and its installation prior to occupation in order to encourage trips to and from the site by sustainable means.

Other Considerations

- 10.47. Concerns have been raised that the application does not include details of a soil contamination investigation. It should be noted that this would not typically be requested for an application of this scale, and this has not been weighed against the applicant. Given the recent use of the site as a storage area and use as a residential garage there is the potential of land contamination. The potential harm can be mitigated through the inclusion of a condition requiring works to cease, and for further information to be submitted in the event unidentified contamination is found during development.
- 10.48. A condition shall be included requiring a storage area for refuse and recycling bins.
- 10.49. It is considered necessary to remove some permitted development rights for the new dwellinghouse in the interest of visual amenity and appearance, safeguarding the amenities of local residents, and securing soft landscaping retention.

Conclusion

- 10.50. The principle of development of a single dwellinghouse is considered to be acceptable. The design of the new dwellinghouse is considered to be suitable in terms of appearance, the standard of accommodation it would offer to future residents, and the impact it is likely to have on the amenities of local residents. Planning conditions shall be included in the interests of visual and residential amenity, highway safety, sustainability, biodiversity and ecology. For the foregoing reasons the proposal is considered to be in accordance with policies TR7, TR14, SU11, QD5, QD14, QD15, QD16, QD18, QD27, HO5 and HO13 of

the Brighton and Hove Local Plan; and SA6, CP1, CP7, CP8, CP9, CP10, CP11, CP12, CP13 and CP14 of the City Plan Part One.

- 10.51. It is also considered that the proposal would be in accordance with policies DM1, DM18, DM20, DM21, DM22, DM33, DM36, DM37, DM41 and DM43 of the Proposed Submission City Plan Part Two which is gathering weight. These policies are considered to have significant weight at this stage and policies DM20 and DM21 are considered to have more weight than the adopted Local Plan policies QD14 and QD27.

11. EQUALITIES

- 11.1. The proposed dwellinghouse will be required by condition to be built in accordance with Building Regulations M4(2), which will result in it being accessible for wheelchair-users.

12. COMMUNITY INFRASTRUCTURE LEVY

- 12.1. Under the Regulations of the Community Infrastructure Levy (CIL) 2010 (as amended), Brighton & Hove City Council adopted its CIL on 23rd July 2020 and began charging on all CIL liable planning applications on and from the 5th October 2020. It is estimated that the amount of CIL liability for this application is £15,506.59. The exact amount will be confirmed in the CIL liability notice which will be issued as soon as is practicable after the issuing of planning permission.

13. CLIMATE CHANGE/BIODIVERSITY

- 13.1. Biodiversity improvements including bee and swift bricks, and a diverse green roof shall be secured by condition within the approved development. Ecological strategies will be secured by condition to safeguard protected species and habitats that have been reported on the site. Landscaping will be secured by condition to mitigate the likely loss of trees adjacent to the site. The development is making use of an existing brownfield site to provide an additional dwelling, reducing the pressure of development upon greenfield land. The site is easily accessible by public transport reducing the reliance on private motor vehicles. Building Regulations will secure higher sustainability standards reducing the carbon cost of keeping the dwelling heated and will secure the installation of an electric car charging point on site. Cycle parking will also be secured by condition, further reducing the reliance on car travel.