

PLANNING STATEMENT

Site: 28 Crescent Road, Brighton, BN2 3RP (properties 28b, 28c, 28d & 28e)

Description of proposal: Removal of car free condition /Conversion of existing commercial buildings and erection of two new buildings to provide 4no two-bedroom houses (C3) (retrospective to address non-compliance with condition 12 in relation to permission ref. BH2018/00433).

Date: December 2021



BH2018/00433

Contents

1	Introduction	1
2	Relevant policy	2
	National Planning Policy Framework (NPPF)	2
	Brighton and Hove City Plan Part 1	2
	Brighton and Hove Local Plan (retained policies March 2016)	3
	Emerging Brighton & Hove City Plan Part 2	3
	Supplementary Planning Documents	3
3	Site context	3
4	Assessment of the proposal	4
	The current approach of the Local Planning Authority	4
	Planning Policy Guidance	5
	Previously dismissed appeal	6
5	Conclusion	7

1 Introduction

1.1 This application seeks the removal of an initially attached car free condition, which was condition 12 attached to BH2018/00433.

1.2 This application was for *'Part demolition and conversion of existing commercial buildings and erection of two new buildings to provide 4no two bedroom houses (C3) with associated landscaping.'*

1.3 Condition 12 stated:

'The development shall be implemented in accordance with the scheme for the restriction of resident's parking permits in accordance with the approved application BH2017/03844. Reason: This condition is imposed to ensure that the development does not result in overspill parking and to comply with policies TR7 & QD27 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One'

1.4 Please note that BH2017/03844 was the parent consent.

1.5 Prior to this current application being submitted, one of the residents (applicants) has been advised by the Planning Manager (West and Enforcement Team) on the form the application should take, the description and the fee. The application has been prepared with respect to this advice. The correspondence is attached as appendices 1, 2 and 3.

1.6 The description of the application is advised (Appendix 2):

'Conversion of existing commercial buildings and erection of two new buildings to provide 4no two-bedroom houses (C3) (retrospective to address non-compliance with condition 12 in relation to permission ref. BH2018/00433).'

1.7 It has also been advised (Appendix 1):

'The only possible way forward is to apply for planning permission for the whole development and then we would refrain from applying the car free condition. This would be subject to consultation with nearby residents and if there are objections this would go to planning committee for a decision'

1.8 It was also stated (Appendix 1):

'In the intervening period, the planning department have reviewed the car free/permit restriction approach and earlier this year we stopped attaching the conditions to decisions. This is part due to the fact that the transport / parking team can separately to the planning application process require a development to be car free i.e. the occupiers are not eligible to a parking permit.

1.9 We acknowledge that there was a previous attempt to appeal a refused application to have the car free condition removed (BH2019/00072, APP/Q1445/W/19/3231412).

1.10 Acknowledging that the element of the appeal with regards this condition was dismissed, it is noted that, and as acknowledged by the Planning Manager, that the Local Planning Authority are no longer applying this type of condition. This is addressed in further detail in the assessment section of this statement.

1.11 Therefore, considering this current proposal against the current decision-making context suggests the application will be supported.

1.12 We also deduce from the LPA's correspondence that it is envisaged Officer's will support the proposal and that there is nothing to suggest otherwise.

2 Relevant policy

2.1 The following policies are considered relevant to the assessment of this application.

National Planning Policy Framework (NPPF)

2.2 The NPPF (July 2021)

Brighton and Hove City Plan Part 1

2.3 The following policies from the Brighton and Hove City Plan Part 1 are relevant to this application:

- SS1 Presumption in Favour of Sustainable Development
- CP9 Sustainable transport

Brighton and Hove Local Plan (retained policies March 2016)

2.4 The following policies from the Brighton and Hove Local Plan are relevant to this application:

- Travel plans
- TR7 Safe Development

Emerging Brighton & Hove City Plan Part 2

2.5 We note that 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.

Supplementary Planning Documents

2.6 These are:

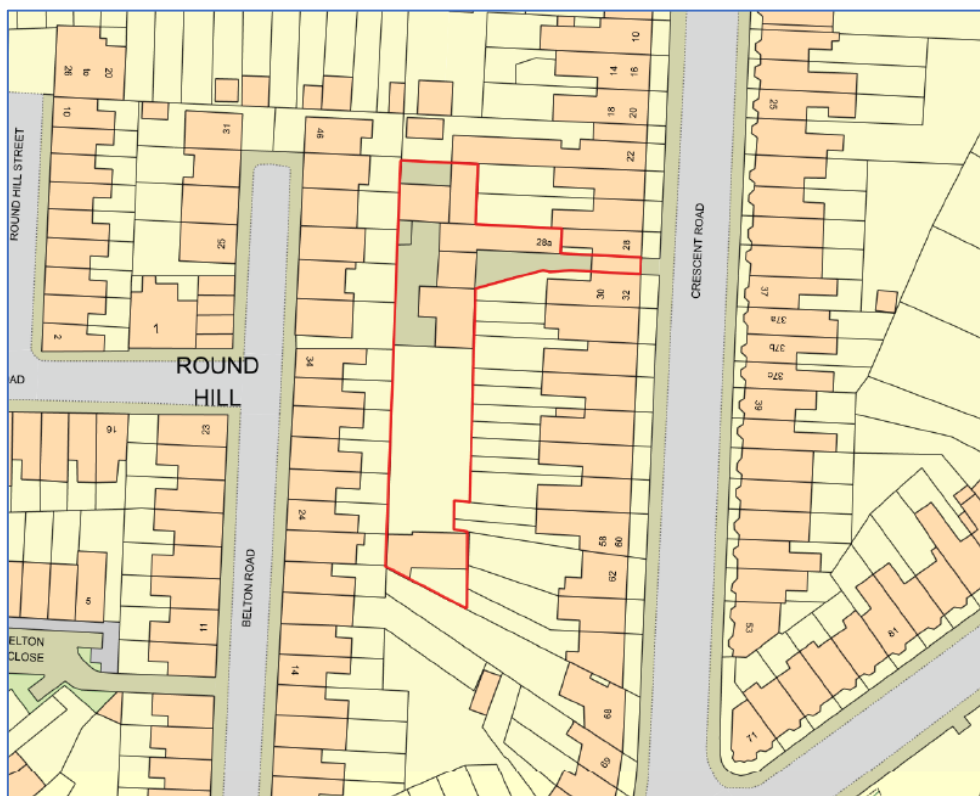
- SPD14 Parking Standard

3 Site context

3.1 The site is at land located behind Victorian properties of Nos 24 – 66 Crescent Road and 20 – 44 Belton Road, Brighton.

3.2 The site is within the Roundhill Conservation Area.

3.3 This application relates to 4no residential properties.



Above: Site plan

4 Assessment of the proposal

4.1 The main consideration in the determination of this application relates to the appropriateness of the condition which was attached.

The current approach of the Local Planning Authority

4.2 It is pertinent to note from the outset that the LPA has recently changed their approach to the use of such conditions.

4.3 The LPA no longer consider that it is appropriate to impose car-free conditions, which were initially requested by the Highways Authority.

4.4 There are numerous examples of this approach within the Local Authority and as such we expect the LPA will apply the same approach to this application.

4.5 There are no grounds to adopt an alternative stance.

Planning Policy Guidance

- 4.6 Planning Practice Guidance is explicit (refer to ‘Use of Planning Conditions, 23 July 2019’) where it states:

‘A negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases’.

- 4.7 It goes on to state that

‘in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk’.

- 4.8 This develop would not fall within either complex or strategic development, nor could the development be considered at serious risk should the condition not have been applied.

- 4.9 Indeed, this condition would not be necessary to allow for the change of use to be acceptable. This view was reinforced by the Planning Inspectorate in a recent appeal decision (7th June 2019) ref APP/Q1445/W/19/3226265.

- 4.10 During the appeal, BHCC suggested that in the event the appeal was allowed, a similar condition to the subject condition should be applied. The extract from the Inspector’s decision is as follows

‘The justification refers to LP Policies TR7 & QD27 and CP Policy CP9. However, none of these policies deal specifically with the issue of car-free housing. I have noted the Officer’s comments regarding permit uptake in the relevant controlled parking zone. However, preventative controls on parking permits should normally be secured via an appropriate planning obligation.’

- 4.11 The Planning Practice Guidance advises that

‘in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk’.

- 4.12 The Inspector concludes to omit the suggested condition and allowed the appeal.

- 4.13 For the aforementioned reason, we respectfully request that condition 12 is now removed.

Previously dismissed appeal on this site

- 4.14 We accept there has been a previous appeal dismissal on this site, relating to the subject condition (Appeal reference APP/Q1445/W/19/3231412. Planning application reference).

- 4.15 Notwithstanding this, this does not prohibit the LPA from supporting this current proposal, in particular when considering the current approach to such conditions.

- 4.16 We draw on an example, application reference BH2020/03116 which was;

'Application for removal of condition 10 (car free development) of application BH2019/03648 (Change of use of no13 from Sui Generis to form 9no residential flats (C3) incorporating creation of additional second floor with front terrace. Change of use of no14 from Sui Generis to B1(a) office space incorporating part demolition of rear and creation of additional first floor. Alterations to fenestration to both properties and associated works.)'

- 4.17 The parent application to BH2019/03648 was allowed on appeal (Appeal Ref: W/4000736). The Inspector considered it was necessary and as such the car free condition was attached to the decision.

- 4.18 In assessing BH2020/03116, the LPA acknowledge the Inspectors position regarding the car-free condition

'The Local Highway Authority did feel it was necessary at the time of the original application to recommend imposing such a condition to ensure that the increase in car parking within the vicinity could be managed and this was agreed by the Planning Inspector when allowing the scheme at appeal.'

- 4.19 Further, the LPA acknowledge the Highways Authority's continued objection, however conclude:

'Notwithstanding this, it is no longer considered appropriate to impose the car-free condition requested by the LHA because parking in the local area, and limiting the issue of parking permits is already covered through the management of the Controlled Parking Zone. It is considered that condition 10 can therefore be deleted from the permission without resulting in increased impact on road safety or highway capacity'

5 Conclusion

- 5.1 In light of the LPA's current approach to the removal of such conditions, we respectfully request this application is approved without delay.
- 5.2 In the spirit of Paragraph 38 of the NPPF, should you wish to discuss any aspect of this application please do not hesitate to contact CMK Planning on info@cmkplanning.com and we shall endeavour to respond within 24 hours.

