

# Planning Committee

Date: **8 March 2023**

Time: **2.00pm**

Venue **Council Chamber, Hove Town Hall**

Members: **Councillors:** Littman (Chair), Ebel (Deputy Chair), Childs, Barnett, Hills, Janio, Moonan (Opposition Spokesperson), Shanks, C Theobald and Yates

Conservation Advisory Group Representative

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# AGENDA

## 91 PROCEDURAL BUSINESS

**(a) Declaration of Substitutes:** Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.

### **(b) Declarations of Interest or Lobbying**

- (a) Disclosable pecuniary interests;
- (b) Any other interests required to be registered under the local code;
- (c) Any other general interest as a result of which a decision on the matter might reasonably be regarded as affecting you or a partner more than a majority of other people or businesses in the ward/s affected by the decision.

In each case, you need to declare

- (i) the item on the agenda the interest relates to;
- (ii) the nature of the interest; and
- (iii) whether it is a disclosable pecuniary interest or some other interest.

If unsure, Members should seek advice from the committee lawyer or administrator preferably before the meeting.

- (d) All Members present to declare any instances of lobbying they have encountered regarding items on the agenda.

**(c) Exclusion of Press and Public:** To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

*NOTE: Any item appearing in Part 2 of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.*

*A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.*

## 92 MINUTES OF THE PREVIOUS MEETING

1 - 10

Minutes of the meeting held on 1 February 2023.

## 93 CHAIR'S COMMUNICATIONS

## 94 PUBLIC QUESTIONS

**Written Questions:** to receive any questions submitted by the due date of 12 noon on 2 March 2023.

**95 TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS**

**96 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS**

*Please note that the published order of the agenda may be changed; major applications will always be heard first; however, the order of the minor applications may be amended to allow those applications with registered speakers to be heard first.*

**Public Speakers Note:** A person wishing to speak at a meeting of the Committee shall give written notice of their intention to do so to the Democratic Services Officer **four clear days** before the meeting (normally, the Committee meets on Wednesdays which means the notice has to be **received by 5.30pm the preceding Friday**). Please email Democratic Services at: [democratic.services@brighton-hove.gov.uk](mailto:democratic.services@brighton-hove.gov.uk)

**MAJOR APPLICATIONS**

A	BH2022/02534 - Land at King George VI Avenue (Toads Hole Valley), Hove - Outline Application All Matters Reserved	<b>11 - 96</b>
B	BH2021/04068 - Saxon Works, Land to the rear of 303-305 Portland Road, Hove - Full Planning	<b>97 - 138</b>
C	BH2022/00456 - Former Dairy, 35-39 The Droveway, Hove - Full Planning	<b>139 - 170</b>
D	BH2022/01490 - Enterprise Point and 16-18 Melbourne Street, Brighton - Full Planning	<b>171 - 242</b>

**MINOR APPLICATIONS**

E	BH2022/03823 - 54 Waterloo Street, Hove - Full Planning	<b>243 - 258</b>
F	BH2022/03139 - 30 Bennett Drive, Hove - Householder Planning Consent	<b>259 - 274</b>
G	BH2022/03474 - 36 Gorham Avenue, Rottingdean - Householder Planning Consent	<b>275 - 288</b>
H	BH2022/03066 - Land to the East of The Vale, Brighton - Removal or Variation of Condition	<b>289 - 302</b>

I BH2022/02689 - 126 Gloucester Road, Brighton - Full Planning 303 - 320

**97 TO CONSIDER ANY FURTHER APPLICATIONS IT HAS BEEN DECIDED SHOULD BE THE SUBJECT OF SITE VISITS FOLLOWING CONSIDERATION AND DISCUSSION OF PLANNING APPLICATIONS**

**INFORMATION ITEMS**

**98 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE 321 - 322**

(copy attached).

**99 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES**

None for this agenda.

**100 APPEAL DECISIONS 323 - 324**

(copy attached).

Members are asked to note that plans for any planning application listed on the agenda are now available on the website at: <http://www.brighton-hove.gov.uk>



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The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fourth working day before the meeting.

Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested. Infra-red hearing aids are available for use during the meeting. If you require any further information or assistance, please contact the receptionist on arrival.

### **FURTHER INFORMATION**

For further details and general enquiries about this meeting contact [shaun.hughes@brighton-hove.gov.uk](mailto:shaun.hughes@brighton-hove.gov.uk) or [democratic.services@brighton-hove.gov.uk](mailto:democratic.services@brighton-hove.gov.uk)

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- Do not re-enter the building until told that it is safe to do so.

Date of Publication - Tuesday, 28 February 2023



**BRIGHTON & HOVE CITY COUNCIL**

**PLANNING COMMITTEE**

**2.00pm 1 FEBRUARY 2023**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors Littman (Chair), Moonan (Opposition Spokesperson), Shanks, C Theobald, Yates, Allbrooke (Substitute) and Hugh-Jones (Substitute)

**Apologies:** Councillors Barnett, Childs, Ebel and Hills

**Officers in attendance:** Nicola Hurley (Planning Manager), Katie Kam (Lawyer), Russell Brown (Principal Planning Officer), Rebecca Smith (Planning Officer), Jack Summers (Planning Officer) and Shaun Hughes (Democratic Services Officer). Paul Davey (Arboricultural Officer), Paul Campbell (Parks Projects & Strategy Manager)

**PART ONE**

**81 PROCEDURAL BUSINESS**

**a) Declarations of substitutes**

81.1 Councillor Allbrooke substituted for Councillor Hills. Councillor Hugh-Jones substituted for Councillor Ebel.

**b) Declarations of interests**

81.2 None for this meeting.

**c) Exclusion of the press and public**

81.3 In accordance with Section 100A of the Local Government Act 1972 ("the Act"), the Planning Committee considered whether the public should be excluded from the meeting during consideration of any item of business on the grounds that it is likely in view of the business to be transacted or the nature of the proceedings, that if members of the public were present during it, there would be disclosure to them of confidential information as defined in Section 100A (3) of the Act.

81.4 **RESOLVED:** That the public are not excluded from any item of business on the agenda.

**82 MINUTES OF THE PREVIOUS MEETING**

- 82.1 **RESOLVED:** The committee agreed the minutes of the meeting held on 11 January 2023.

### 83 CHAIR'S COMMUNICATIONS

- 83.1 The Chair stated the following: Concerns were raised recently amongst committee lawyers with regard to the risk of challenge if members are absent for a portion of the consideration of an item. As a result, we have introduced a new protocol. This protocol is not uncommon in other authorities. So, *“Would Committee Members please note that where a decision is made on an agenda item, to be able to participate in the debate and vote Members must be present throughout the entirety of the Committee’s consideration of that item, including the officer presentation, any public speaking, and the question and debate session. In the event that a Member needs to leave the Chamber briefly during consideration of an item, but still wishes to participate, the Member should indicate to the Chair that they need be excused. If this is the case, I will briefly suspend the meeting for the duration of their absence.”*

### 84 PUBLIC QUESTIONS

- 84.1 There were none for this meeting.

### 85 TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS

- 85.1 There were none from this meeting.

### 86 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

- 86.1 Item A was withdrawn from the agenda and items B, C, D and E included speakers and were therefore automatically called for discussion.

#### A BH2022/00456 - Former Dairy, 35-39 The Droveaway, Hove - Full Planning

1. This application was withdrawn from the agenda after the publication of the agenda.

#### B BH2022/00287 - Land Adjacent Hillside, Ovingdean Road, Brighton - Reserved Matters

1. The Planning Manager introduced the application to the committee. The case officer informed the committee that the wording ‘unlawfully felled’ was incorrect as the trees were not protected.

#### Speakers

2. Ward Councillor Fishleigh noted that officers has visited the site, not committee Members. The damage to the existing trees was against the law and the applicant will benefit if the committee agree planning permission. The Councillor wanted to increase the protection of trees generally in the city as agreed at full council in a Notice of Motion, which was unfortunately ‘watered down’. The councillor considered there was not enough space for the proposed house.

3. Pam Wright addressed the committee as a resident and stated they spoke for a number of neighbours and residents, and locals were concerned at this development on a blind corner, with much traffic, speed of the highway traffic was a concern. The number of trees to be removed was regretted and would have a considerable impact. In July 2022 neighbours persuaded trees works to be stopped. Following this there was no confidence in the landscaping scheme, which will need checking. Future occupiers knocking down trees was a concern; therefore, a Tree Preservation Order (TPO) was requested for all the trees on site, which has high amenity value.
4. Craig Sweeney addressed the committee as the arboriculturist acting for the applicant and stated they were an independent tree consultant and noted that the tree works carried out were not unlawful and it was noted at the officer's site visit that no criminal acts had taken place. The tree planting and removal has already been agreed in October 2022. The native hedging and planting have been agreed on site. The ground levels require the removal of trees, and a method statement has been submitted. 18 trees will be removed due to the excavation works not 22.

#### Answers to Committee Member Questions

5. Councillor Hugh-Jones was informed that the access to the site did not form part of the discussions. The Council Arboriculturist noted the Tree Preservation Order (TPO) was for the area, within which the sycamore trees next to the highway were listed. The elm trees on site have been lost many years ago. Eight sycamores are to be removed, four have planning consent to remove and the others are within the footprint of the new building.
6. Councillor Theobald was informed that the application was for reserved matters and the previous application had been for outline planning permission. The case officer confirmed the existing electricity substation was owned and operated by UK Power Networks and access was part of the proposals. It was noted that there were no transport details at the outline stage, therefore the transport officers could not comment.
7. Councillor Shanks was informed that the four sycamores would be felled for access and another four for the house. It was noted that the access was already agreed, as was the house position. The council arboriculturist had no objections.

#### Debate

8. Councillor Theobald considered the proposals far too big for the site, located at the top of dangerous hill, with 21 trees being removed so near to the South Downs National Park. It was noted that there had been 25 objections received. The councillor did not support the application.

#### Vote

9. A vote was taken, and by 6 to 1 the committee agreed to grant planning permission.
10. **RESOLVED:** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **APPROVE** planning permission subject to the Conditions and Informatives as set out in the report.

**C BH2022/02299 - Tennis Courts, Hove Park, Old Shoreham Road, Hove - Full Planning**

1. The Planning Manager introduced the application to the committee.

## Speakers

2. Ward Councillor Brown addressed the committee in support of the application and spoke on behalf of Councillor Bagaeen. The club house was considered a good design for the well run club. It was noted that other park users support the proposals, which includes much needed storage, a space for community groups and toilets. It is considered the works, 6m from the mulberry tree, would be acceptable. Cycle parking was included, and the scheme is acceptable in terms of form and scale. S106 agreement monies are being used on the project. The committee were requested to support the scheme.
3. Gareth Hall addressed the committee as an objecting resident and stated that they supported the officer's recommendation to refuse the application as the white mulberry tree will be affected. The impact on wildlife will be considerable and it is noted that city parks have concerns. Following the demolition of the existing structure the new build will cause damage to the mulberry tree if the application is granted. This is a hedge sparrow location, and the removal of the hedge would have an effect. The committee were requested to refuse the current application and the proposals to be moved to another location.
4. Neil Dickson addressed the committee as the agent and noted that new tennis courts and floodlights have been installed and the next step was the pavilion. There have been meetings and correspondence on the proposals. The building will be shared with other users than just the tennis club. The toilets will be good for all. The mulberry tree will be protected by using pile driving technology 6m from the tree. It was noted that the council arboriculturist changed the distance required to 10m. No arboriculturist comments were required for the installation of nearby goal posts. If granted, the club are willing to work with the council as the scheme needs to be a success.

## Answers to Committee Member Questions

5. Councillor Yates was informed that the applicant would work with the council sports and parks and was happy to share the pavilion. The application was being refused on the affect on the mulberry tree.
6. Councillor Moonan was informed that the football fencing was agreed in 2017. The council arboriculturist stated that the footings for the football pitches will have caused some damage and it was vital to prevent any further damage to the mulberry tree. The proposals will need to be 10m from the tree following a site visit and the measuring of the tree trunk. The case officer noted that moving the scheme 10m away from the tree may affect the viability of the proposals.

7. Councillor Hugh-Jones was informed by the agent that there were drainage channels on along the sides of the building, electricity and water are already on the site, and the proposed location is ideal for services.
8. Councillor Shanks was informed by the Park Projects & Strategy Manager that the council were working with business' in the park, and the plans include toilets, storage and other amenities. It was noted that the site needed a masterplan, which would take time. Joint use is wanted of the pavilion and being located at the table tennis club would be better.
9. Councillor Allbrooke was informed that it would be a struggle to relocate the building in this meeting as the application red line was for the area of the pavilion not the whole park.
10. Councillor Theobald was informed that the council arboriculturist was not consulted in 2017 when planning permission was granted for the fencing to the football pitches.

#### Debate

11. Councillor Moonan welcomed the tennis club pavilion with toilets; however, they supported the officer recommendation. Not enough detail and the mulberry tree will be under stress. The applicant should work with Parks to find a better site.
12. Councillor Yates was against haphazard development in the park and considered the position and proposed development not to be suited. A masterplan is needed with more thought to access. The park users need support like the toilets, and mulberry tree needs to be protected. The development is not justified. The councillor supported the officer recommendation.
13. Councillor Shanks noted that anything that took away from public space was not good. The councillor supported the refusal.
14. Councillor Hugh-Jones appreciated all that the tennis club brought to the community and asked that they work with a masterplan. The table tennis club is also a good location. The councillor supported the refusal.
15. Councillor Theobald considered the proposals to be a good use of the triangle of land and noted that the existing storage unit had not damaged the mulberry tree. There were many supporters and only one objection to this great facility. The committee were requested to defer the application for further discussions.
16. Councillor Littman considered the proposals to be a good idea, just in the wrong place. The existing storage unit has put the mulberry tree under stress, which was pruned to accommodate the unit. The councillor supported the officer recommendation.
17. The chair requested a seconder to councillor Theobald's request to defer. No councillor seconded the motion. There was therefore no vote on the proposed deferment.

#### Vote

18. A vote was taken, and by 6 to 1 the committee agreed with the officer recommendation to refuse planning permission.
19. **RESOLVED:** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **REFUSE** planning permission for the reasons:
  1. The proposed development will result in the loss of a Council-owned White Mulberry tree due to it creating an unacceptable accumulation of development around said tree (detrimentally impacting on its root system) and requiring significant pruning. Loss of this tree would represent harm to the visual amenities of the area and local biodiversity, contrary to policies CP10 and CP13 of the Brighton & Hove City Plan Part One, and DM22 and DM37 of the Brighton & Hove City Plan Part Two.

#### **D BH2022/03609 - 4-6 Longridge Avenue, Saltdean, Brighton - Full Planning**

1. The Planning Manager introduced the application to the committee.

##### Speakers

2. Ward Councillor Fishleigh addressed the committee and stated that the green roofs were a heritage feature and need to be protected. The councillor noted the leaseholder was happy to look for green tiles and to explore options. The committee were requested to refuse the application.
3. Zoe Horton addressed the committee as the agent and stated that the building was not listed or in a conservation area. It was noted that the roof has failed leading to the closer of the pub on a number of occasions. The reroofing is not taken lightly, and have searched for tiles, which are not available in the UK. Reclaimed tiles have the same issue, cracking along the ridge. All channels have been investigated to find tiles.

##### Answers to Committee Member Questions

4. Councillor Yates was informed by the agent that the tiles can not be found. The colour is not available in painted tiles and the roof needs to be replaced.
5. Councillor Moonan was informed by the agent that it was not possible to remove the roof, make water tight and replace the roof as the tiles have failed.
6. Councillor Littman was informed that the green roofs of Saltdean are attractive but not protected and therefore not a reason for refusal.

##### Debate

7. Councillor Yates was concerned at the impact of the development on the character of area. The existing pub is attractive and of interest.
8. Councillor Hugh-Jones understood the existing tiles have defects and reclaimed have the same issue. The councillor supported the granting of planning permission.



9. Councillor Theobald considered the green tiles look nice and were a part of the Saltdean character.
10. Councillor Allbrooke noted the green tiles were part of the area and noted the hospitality was struggling. The councillor agreed with the recommendation.
11. Councillor Moonan considered there were issues with reclaimed tiles, however, they felt there were alternatives and did not support the officer recommendation to grant.
12. Councillor Littman considered that if permission were granted, then all the Saltdean green roofs could go. The councillor noted DM18 policy of City Plan Part 2 and considered the proposals would have a negative sense of space. The councillor did support the granting of planning permission.

#### Vote

13. A vote was taken, and by 1 to 5, with 1 abstention, the committee did not agree with the officer recommendation.
14. Councillor Littman proposed a refusal relating to City Plan Part 2 policy, seconded by Councillor Yates, with the wording to be agreed.
15. A recorded vote was taken, and Councillors Moonan, Shanks, Theobald, Yates, Allbrooke and Littman voted in favour of the refusal. Councillor Hugh-Jones voted against the refusal. The refusal was agreed.
16. **RESOLVED:** That the Committee has taken into consideration and refuses planning permission for the following reasons: 'The change in tiles from green glazed roof tiles to clay roof tiles would contribute negatively to the sense of place of Saltdean contrary to policies DM18 and DM21 of the Brighton & Hove City Plan Part Two.'

#### **E BH2022/01584 - 25 Drove Road, Brighton - Full Planning**

1. The Planning Manager introduced the application to the committee. The case officer updated the committee that the plan list is now the location plan only and condition 2 is now an informative.

#### Speakers

2. Ward Councillor Simson addressed the committee and stated that the application was confusing, and the majority of the land was in the South Downs National Park, with driveway in Brighton and Hove City Council boundary. The neighbouring residents were concerned over the loss of trees and noise. There were mobile homes on site already, and the access was used by walkers and cyclists. The committee were requested to refuse the application.
3. David Champion addressed the committee as the agent and stated that they agreed with the report and the owners had bought the freehold some years ago, and there was no scaffolding business at the site, only horses. There is a mobile home on site and no

enforcement action had been taken against the owners. The council have been informed of the tree felling, which were not covered by a Tree Preservation Order (TPO). It was noted there were no objections to equine use at the site. The committee were requested to grant planning permission.

Answers to Committee Member Questions

4. Councillor Yates was informed that the committee were to consider the access part of the application only.
5. Councillor Hugh-Jones was informed that the committee needed to make a decision and the applicant could appeal.
6. Councillor Moonan was informed that the South Downs National Park decision has no bearing on the access in the city boundary. The applicant requires both authorities to grant permission. It was noted the South Downs National Park have refused permission to the rest of the site. The application before the committee was for access only.
7. Councillor Theobald was informed that the committee would require a substantive reason to refuse the application. It was noted that usage would not be great.

Debate

8. Councillor Yates supported the officer recommendation as there was no valid reason not to.
9. Councillor Moonan noted that the committee were not deciding the site, which was in the national park. Residents can monitor any issues. The councillor supported the application.
10. Councillor Hugh-Jones considered there was no valid reason to refuse the application.
11. Councillor Theobald considered there were more business' than horses on site and was against the granting of planning permission.
12. Councillor Littman thanked the officers and considered the usage increase of 9% would be acceptable. The councillor supported the application.

Vote

13. A vote was taken, and by 6 to 1, the committee agreed to grant planning permission.
14. **RESOVLED:** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives in the report.

**87 TO CONSIDER ANY FURTHER APPLICATIONS IT HAS BEEN DECIDED SHOULD BE THE SUBJECT OF SITE VISITS FOLLOWING CONSIDERATION AND DISCUSSION OF PLANNING APPLICATIONS**

87.1 There were none from this meeting.

**88 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE**

88.1 The Committee noted the new appeals that had been lodged as set out in the planning agenda.

**89 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES**

89.1 There were no informal hearings and public inquiries for this agenda.

**90 APPEAL DECISIONS**

90.1 There were no letters received from the Planning Inspectorate advising of the results of planning appeals for this agenda.

The meeting concluded at 4.21pm

Signed

Chair

Dated this

day of



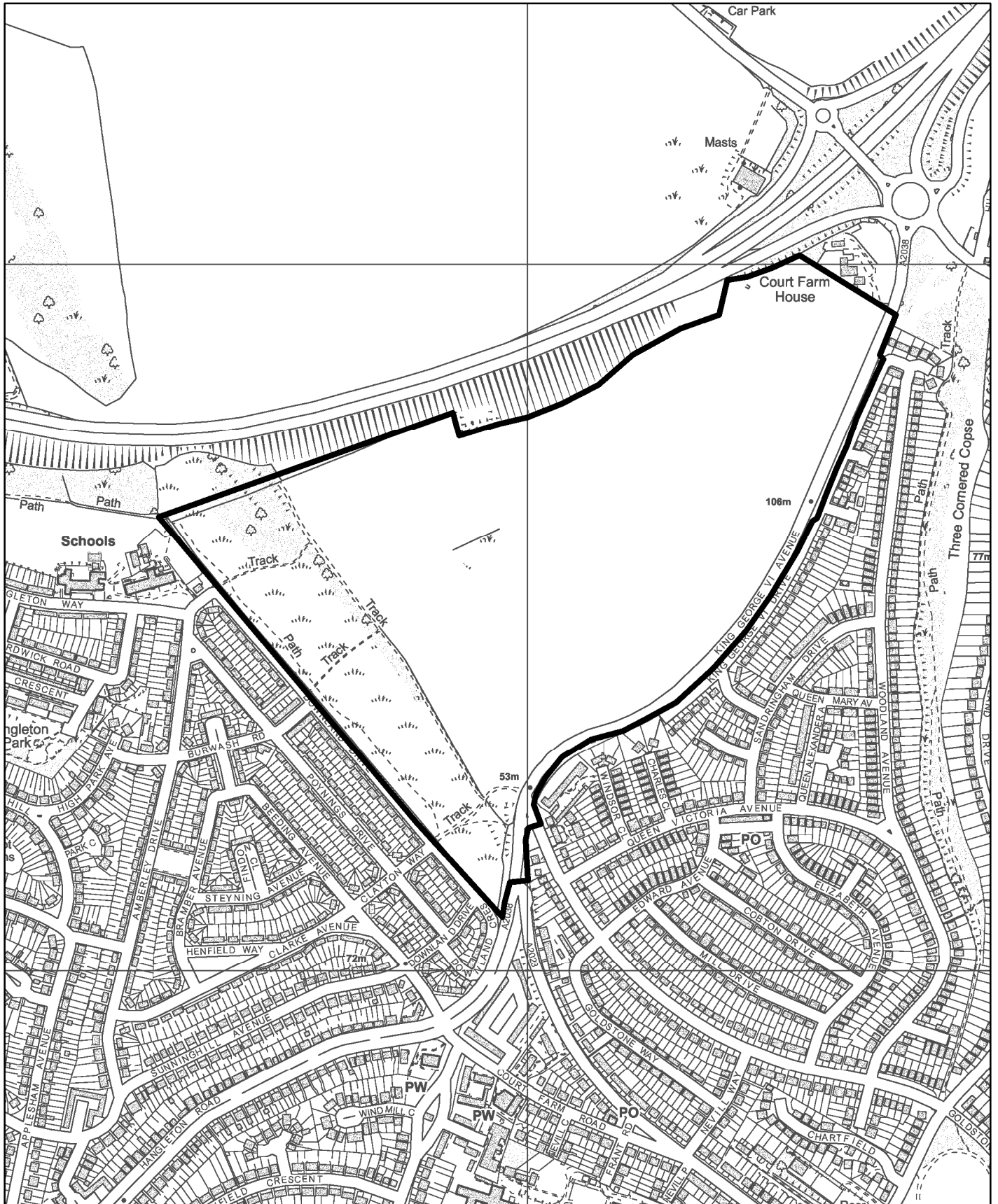
# **ITEM A**

**Land At King George VI Avenue  
BH2022/02534  
Outline Application All Matters Reserved**

**DATE OF COMMITTEE: 8<sup>th</sup> March 2023**



# BH2022/02534-Land At King George VI Avenue (Toads Hole Valley)



N



Scale: 1:7,500





<b><u>No:</u></b>	<b>BH2022/02534</b>	<b><u>Ward:</u></b>	<b>Hangleton And Knoll Ward</b>
<b><u>App Type:</u></b>	<b>Outline Application All Matters Reserved</b>		
<b><u>Address:</u></b>	<b>Land At King George VI Avenue (Toads Hole Valley) Hove</b>		
<b><u>Proposal:</u></b>	<b>Outline application for up to 182 residential dwellings (C3 use) with parking and incidental landscaping (All Matters Reserved). (Revised description, site plan and additional information).</b>		
<b><u>Officer:</u></b>	<b>Maria Seale, tel: 292175</b>	<b><u>Valid Date:</u></b>	<b>26.08.2022</b>
<b><u>Con Area:</u></b>	<b>N/A</b>	<b><u>Expiry Date:</u></b>	<b>16.12.2022</b>
<b><u>Listed Building Grade:</u></b>	<b>N/A</b>	<b><u>EOT:</u></b>	<b>17.03.2023</b>
<b><u>Agent:</u></b>	<b>Enplan 111 High Street Lewes BN7 1XY</b>		
<b><u>Applicant:</u></b>	<b>Toads Hole Valley Ltd, Pecla Investments Ltd &amp; R M Simon C/o Enplan 111 High Street Lewes BN7 1XY</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 be **MINDED TO GRANT** outline planning permission subject to:

- A) Completion of a Deed of Variation to the s106 Agreement attached to BH2022/00203 to include this application and secure the Heads of Term as set out at Appendix A
- B) The Conditions & Informatives set out at Appendix B

**SAVE THAT** should the s106 agreement not be completed on or before 8<sup>th</sup> July 2023 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in Appendix C of this report:

## 2. SITE LOCATION

2.1 The site the subject of this application is located on the southern part of the 5ha former school site approved under application BH2022/00203 for the wider Toad's Hole Valley (THV) site. The site is located on the lower part of the valley floor of THV and measures 3.24ha. The site includes indicative access off the internal spine road (as shown illustratively in BH2022/00203) which leads off the main THV site access off King George VI Avenue opposite Goldstone Crescent (as approved).

2.2 The wider THV site, including Court Farm, is a 47ha green field located on the northern fringe of Brighton and Hove. The THV site bounded by the A27 bypass to the north, by King George VI Avenue (KGVl Ave) to the south-east - the major route from Devil's Dyke roundabout into Hove, with the Goldstone Valley/Hove

Park residential area to the south and Hangleton and Knoll residential area to the west. The wider THV site is roughly triangular in shape and is former arable farmland, and forms part of a dry valley that was cut off from wider farmland when the A27 bypass was constructed to the north in the early 1990s.

- 2.3 The site does not include any designated heritage assets or any locally listed heritage assets. A relatively small part of the south western edge of the wider THV site is within an Archaeological Notification Area. To the west, south east and south west of the site is extensive 20th century suburban housing. The South Downs National Park is located to the north and north-east of the wider THV site. The Woodland Drive Conservation Area is located to the north-east of the wider site across KGVI Ave, including Three Cornered Copse. The entire wider THV site lies within a Groundwater Source Protection Zone (majority zone 2, with southern tip within zone 1 and north-western corner within zone 3).
- 2.4 The site is not generally accessible to the public however the Local Wildlife Site (LWS, formerly known as the SNCI) to the west of the site is statutory 'Open Access land' i.e. the landowner gives the public the right to roam on the land. The site is largely grassland and scrub, with some shrubs and trees.
- 2.5 The wider THV site has a number of notable physical elements such as its topography with changes in elevation of around 70m across the site from east to west, with a steep bank at its western and northern boundaries and a flat-bottomed valley floor rising up again towards the east.

### **3. APPLICATION DESCRIPTION**

- 3.1 The application seeks Outline Planning Permission for up to 182 dwellings (C3 use) with associated parking and incidental landscaping in principle.
- 3.2 All detail is proposed to be reserved for subsequent approval at a later 'reserved matters' stage (access, scale, layout, appearance and landscaping).
- 3.3 The proposal is a 'drop in' application to the wider THV permission on solely part of the area former proposed to be the school site.

#### Parameter Plans

- 3.4 A number of 'Parameter Plans' have been submitted which are illustrative only and these provide a set of principles to guide future development covering the following, and they also indicate how the proposal would fit in with the wider THV development approved under BH2022/00203:
  - Land Use
  - Density
  - Phasing
  - Landscape and Ecology
  - Building Heights
  - Transport and Key Infrastructure

- Acoustics

3.5 Should the proposal be approved, a condition is recommended to ensure that the development that comes forward on the site is in substantial accordance with the Parameter Plans for this site and those for the wider THV site as approved under BH2022/00203. An illustrative masterplan has also been submitted.

Housing Mix:

3.6 The following housing mix has been proposed, and is indicative only at this outline stage (except for the 40% affordable), and will be finalised at reserved matters application stage:

- 60% (109) of the homes will be open market tenure and 40% (73) will be affordable
- Open market mix: 16% 1-bed, 21% 2-bed, 55% 3-bed and 8% 4-bed
- Affordable housing mix: 55% affordable rent (comprising an even mix 'Affordable' Rented Units and 'Social' Rent) and 45% intermediate (eg shared ownership or First Homes), with a size mix of 30% 1-bed, 34% 2-bed, 33% 3 bed and 3% 4-bed. 10% of the affordable housing will comprise Wheelchair Accessible Units
- Updated mix overall equates to 52% of all the homes are family homes of 3 or more beds
- 9 custom/self-build plots

Phasing:

3.7 The development would come forward together with the wider THV development, which is proposed in phases.

3.8 Whilst it is suggested within the submitted Planning Statement and original phasing plan that the site could come forward at Phase 2 (when the red line included the sports facilities originally), this is not indicated on the updated phasing parameter plan, and exact phasing would be secured via S106. In any event, development of the site cannot occur until the main THV site access and internal spine road adjacent to the site is complete, which will be at Phase 2. It will be important that sufficient supporting infrastructure and community uses etc to meet the demand of the new population on the current application site are provided prior to first occupation of the site, and this can be secured by S106.

**Environmental Impact Assessment:**

3.9 The development, as it forms an integral part of the wider THV development as approved under BH2022/00203, is considered to fall within part 10b of Schedule 2 to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, and is considered an 'EIA development'. Given the nature and scale of the development and relationship to the original scheme (which was EIA development), it was common ground with the applicant that the proposal requires EIA. On this basis no formal Screening Opinion was sought from the LPA.

- 3.10 The application is accompanied by an Environmental Statement (ES) which was submitted under the aforementioned EIA Regulations and contains in-depth analysis of the proposal, in the context of the original THV scheme. The ES contains an assessment of existing baseline environmental conditions and how these would change with the proposed development and describes the likely significant effects of the proposed development on the environment. The ES describes any features of the proposed development, or measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment.
- 3.11 The ES is based on the council's Scoping Opinion given in November 2017, which is still considered relevant as there have been no material changes. In addition, the transport scope altered as a result of further discussions.
- 3.12 The ES contains the following main chapters:
- Alternative Options
  - Ecology
  - Transport
  - Hydrology and Drainage Assessment (with Utilities Assessment)
  - Ground Conditions Assessment (with Geology and Geomorphology)
  - Landscape and Visual Impact Assessment
  - Air Quality Assessment
  - Acoustic Assessment
  - Climate Change Assessment
  - Socio-Economic Impact Assessment
- 3.13 Since the application was first submitted revised information has been submitted to update the ecology chapter of the ES including further details regarding Biodiversity Net Gain (BNG).

**Amendments/Additions:**

- 3.14 In addition to the changes to the ecology outlined above, the red line of the application site was amended during the application. It was reduced in scale to cover solely the proposed residential dwellings and exclude the sports facilities approved under the original permission BH2022/00203 on the remainder of the former school site.
- 3.15 Updated parameter plans and illustrative masterplan were also submitted showing larger landscaped buffers. Further external lighting information was also submitted.

**Deed of Variation to S106 attached to BH2022/00203:**

- 3.16 The current application is not proposed to be carried out independently of the original THV permission BH2022/2203. It is proposed to vary the S106 agreement attached to BH2022/00203 to ensure this is the case.

- 3.17 To reflect the different land use and need for associated infrastructure to support the additional 182 dwellings, the developer has sought a variation to the S106 which would tie both permissions together to ensure they are developed as one, and that in effect this current application (if approved) would supersede approval for that part of the site which was for a school. The proposed S106 Heads of Terms can be found at Appendix A.
- 3.18 Parameter plans and a masterplan for the wider THV have been submitted for information to reflect the measures to be secured in the S106 Deed of Variation, showing how the sports facilities and parking could be accommodated on the remainder of the former school site, revised landscape buffers, a larger children's play area, a larger food growing area and larger community centre with changing facilities.

#### 4. RELEVANT HISTORY

##### Applications at THV:

- 4.1 **BH2022/00203** Outline application for a mixed use development comprising residential dwellings (C3 use); land for a 6-form entry secondary school (F1 use)/community sports facilities (F2 use); office/research/light industry floorspace (E use); neighbourhood centre including retail outlets (E/sui generis uses), a doctors' surgery (E use) and community building (F2 and E use); public open and play space, alterations to the Site of Nature Conservation Interest (SNCI); and associated landscaping. Provision of 3no. vehicular accesses onto King George VI Avenue (unreserved) with associated highway alterations. Approved 6/6/22.
- 4.2 **BH2018/03633** Duplicate of above. Appeal submitted against non-determination and application subsequently withdrawn.

##### Applications at adjacent site (Court Farm, King George VI Avenue):

- 4.3 **BH2022/03483** Demolition of existing buildings on site and erection of retail unit (Class E) with associated works including new access, car parking and landscaping. (For information: proposal is for 1880sqm of gross floorspace, with 1315sqm retail floorspace and 115 space car park). Currently under consideration.

#### 5.1 REPRESENTATIONS

Neighbours/Groups: A total of **thirty-two (32)** representations were received from neighbours and the following groups **Brighton & Hove Wildlife Forum, Hove Civic Society, Goldstone Valley Residents Association, Sussex Wildlife Trust** objecting to the proposed development on the following grounds:

##### Transport and Traffic

- Additional traffic

- Traffic chaos - local roads already at capacity
- 182 homes will create more traffic than a school
- Children will have to travel for school
- Will adversely affect highway safety
- Poor design – unsafe junction on already unsafe road

#### Land use/Density/Infrastructure

- Loss of a community/public use, should be replaced with another such use, e.g. a park or sport/recreation, or kept for future generations
- More usable recreation space needed that residents can walk to, Hove Park heavily used already
- Profit driven land grab over community use
- Loss of a strategic benefit for wider area to private benefit
- School was key, if removed then whole scheme (BH2022/00203) should be revoked and reconsidered, proposal undermines what was sought here
- Without a school there will be no sense of community
- Educational needs assessment is not definitive picture of future needs, can change
- Overdevelopment
- School needed for families moving here, will put strain on existing oversubscribed schools
- Cumulative impact with rest of Hove developments
- land use mix now not balanced or sustainable, too dominated by housing
- will family homes be appropriate here now without a school
- indicative layout means spine road cannot be as wide or planted as previously
- will put pressure on local services eg NHS, needs more amenities, access to school already need improvement
- sewage/drainage system not convincing will be under strain
- 40% affordable housing not enough
- Development of this site is unnecessary
- Proposal should include older people's accommodation
- sets undesirable precedent, if school goes first then what next?

#### Ecology

- will destroy wildlife, enhancement on site needed not outside red line
- neighbourhood and mix of land uses will no longer be sustainable
- landscape buffers insufficient scale to protect wildlife
- proximity of floodlighting of sports pitches will harm wildlife
- not clear that 10% BNG will be delivered
- purchase of off-site credits for BNG unacceptable, should be on site
- EIA needs updating
- plastic pitches can cause pollution and affect wildlife, indoor facilities should be considered
- better connectivity required within and outside of site for wildlife
- will introduce invasive predators (cats) close to LWS, whole of this site should be a landscape buffer
- long term care of LWS needs consideration
- wildlife corridors need protection during construction

- last green space in city, it should be protected as an ecosystem

#### Amenity

- loss of residential amenity
- potential for more noise
- light pollution, contrary to Dark Sky Reserve of SDNP
- whole of THV should be a buffer to rest of city from A27 pollution and provide for wildlife

#### Other

- detrimental affect on property value
- adverse impact to conservation area

**Three (3)** letters of comment including from **Nature Space** has been received stating:

- the risk to great crested newts is negligible, as reported in the application
- approval should only be given if proposal meets all city plan policies and national guidance including Gear Change.
- Sports facilities not needed.
- The site should be a Park and Ride if the city is to be sustainable.

**Two (2)** letters of support have been received stating:

- provision of new homes is positive given desperate shortage in city
- proposal has sufficient recreation and landscaping
- proposal is great addition to local community and economy

**Councillors Brown and Bagaen** (October 22) (objection):

A copy of their representation is attached to the report.

## 6. **CONSULTEES**

### External Consultees:

**Brighton and Hove Archaeological Society:** Comment

The proposed development is close to the find spots of Mesolithic flintwork and sites revealed during the creation of the Brighton bypass, and to the west is the location of the West Blatchington Roman villa. It is possible that in such a large area there may be other finds and sites from antiquity. The Society suggest the County Archaeologist is contacted for his recommendations.

**Environment Agency:** No objection subject to conditions relating to land contamination, SUDs and piling.

**National Highways (formerly Highways England):** No objection subject to conditions.

Conditions required to secure a Travel Plan, CEMP and completion of the A27/Devils Dyke Road Gyratory improvement works permitted by BH2022/00203 prior to occupation of any dwellings proposed in this application.

**Natural England:** No comments received

**Scotland Gas Networks:** The applicant is advised to adhere to guidance with regard to safe construction practice close to cables/apparatus.

**Southern Water:** No objection subject to condition

Southern Water would expect to see hydrogeological risks to our groundwater abstraction fully considered in future planning conditions, with a hydrogeological risk assessment, piling risk assessment, and the CEMP ensuring the right mitigation.

**South Downs National Park Authority:** Comment

The SDNPA has no objection to a higher quantum of housing in lieu of a school on the understanding that it has been adequately demonstrated that a new secondary school is not required.

The need to secure interpretation and educational resources associated with the SDNPA in the community use, and the principle of a non-motorised user link in the national park as previously is emphasised, given the increased number of residents now proposed. Detailed lighting information will be required as part of the reserved matters stage that acknowledges the South Downs International Dark Skies Reserve.

**Sport England:** Comment

The proposed retention of the 3G pitch and MUGA (subject to detailed design) is supported as that helps address established playing pitch deficiencies. The Council's Playing Pitch Strategy (PPS) 2016 although now somewhat out of date identifies a need for 4 or 5 new 3G pitches in the city up to 2037. The PPS does not identify any specific sites where those 3Gs might be located however, the THV development is identified within the Brighton and Hove Local Football Facility Plan (May 2019) as a priority location for the development of a full size 11v11 floodlit 3G AGP. The County FA confirm that THV would be an ideal site for a new 3G, as the Brighton & Hove PPS identified the need for an additional 3G in the west of the city.

The importance of peak time evening illumination of the sports facilities is emphasised, to ensure they remain viable and of benefit to the community. In that regard, the shifting of the sports pitches further away from SNCI from 15m to 40m should serve to assure the County Ecologist and the Council that there would be no adverse impact to the SNCI from illuminating the sports facilities to Sport England and FA guidelines.

The current application will increase the demand on existing off-site sports provision, particularly for swimming pool space that is not catered for on the application site. Sport England would therefore suggest that in allocating CIL receipts to infrastructure projects, that consideration is given to the additional demand on the City's existing facilities (original THV development demand: cost equivalent based on build costs £481,505; Drop-in application demand: £117,072).



**Sussex Police:** No objection

There are no major concerns with the proposals at the location, however, crime prevention measures should be incorporated and regard of Secure By Design standards is encouraged.

**UK Power Networks:** The applicant is advised to adhere to guidance with regard to safe construction practice close to cables/apparatus.

**Internal Consultees:**

**Arboriculture:** Previous comments made on BH2022/00203 remain valid (namely no objection subject to condition).

**CityParks:** No comments received.

**County Archaeologist:** Approval recommended subject to conditions

**County Ecologist:** Approval - subject to condition/S106 to secure the recommended mitigation, compensation and enhancement measures

**Summary:**

Initial concerns expressed regarding the impacts of the current application (and sports facilities) on the agreed mitigation and compensation for the wider site, most notably, but not exclusively, in relation to bats, dormice, breeding birds and reptiles. The proposed development is likely to result in significant impacts that could compromise the mitigation and compensation approved for the wider site development, most notably in relation to increased lighting and predation. It is not currently understood whether these additional impacts can be mitigated to an acceptable level. Further information is required as to how measurable biodiversity net gain will be delivered.

The Environmental Statement (ES, Enplan, July 2022) describes the western end of the site as offering good cover, dark conditions and foraging opportunities for any early emerging bats from trees within the LWS or nearby housing. This part of the site provides core habitat for dormice, and high levels of Myotis bat activity were recorded at the southern end of the LWS, indicating the presence of a potential transitional roost within or close to the LWS. The proposed sports facilities run adjacent to the LWS boundary for c. 70m and are likely to require floodlighting. The proposal to site residential development adjacent to the LWS will also result in increased lighting levels through the introduction of built development, street and security lighting. Further information is required at this stage to be able to assess whether the increased impacts can be mitigated.

The ES recognises that residential development is likely to substantially increase the number of domestic cats on site, which is likely to lead to increased predation. The width and type of landscape buffer zones should be amended to mitigate this impact.

In relation to biodiversity net gain (BNG), for the wider application, a Metric calculation was not carried out as the application predated Royal Assent of the Environment Act 2021. For the approved application BH2022/00203, the Metric was again not applied, but at that stage, I was satisfied that from a qualitative point of view, the proposals would deliver some BNG. Since then, Policy DM37 has progressed, with the City Plan Part Two being formally adopted on 20/10/22, and SPD11 Biodiversity and Nature Conservation has been reviewed and updated. The Interim Technical Advice Note on BNG expects major developments to deliver a minimum 10% with on-site opportunities maximised.

As this is a new application, which has the potential to reduce the mitigation, compensation and enhancement measures agreed for BH2022/00203, the Biodiversity Metric should be applied to demonstrate if and how measurable BNG will be achieved and delivered. To properly understand if and how BNG can be delivered, this needs to be explored more fully. Clarification is also required as to whether the loss of the north-west edge of the Three Cornered Copse LWS approved as part of the wider THV scheme has been considered in the impact assessment

Further comments (landscape buffers, lighting and BNG):

The further information provided has been considered and is acceptable (Ecology Addendum inc. BNG Metric and Assessment, Lighting Report, revised parameter plans and illustrative masterplan).

The layout has been amended to increase the distance of the sports pitches and the additional proposed residential to the LWS to 40m and 25m respectively as opposed to 15m which was previously proposed.

The Technical Lighting Report and the Ecology Addendum demonstrate that under a worst-case scenario (i.e. without the use of additional mitigation such as baffles and shields) this revised layout will result in a light spill of 0.2 lux for the majority of the frontage onto the LWS, with a small area where spill increases to c. 0.5lux; these levels are acceptable. It is noted that these calculations are based on horizontal light spill at ground floor level and do not take account of topography. As such, additional mitigation may be required to ensure that light spill onto the LWS is reduced to a minimum. As recommended for the wider scheme (ref. BH2022/00203) a Lighting Design Strategy for Light-sensitive Biodiversity should be required by condition, which should specify that light spill onto the LWS should not exceed 0.5 lux.

The Ecology Addendum reports that provision of a wider buffer to the LWS, with the buffer to include at least 20m (moving from west to east) of dense thorny scrub, will help to reduce potential impacts of increased predation by domestic cats. These revisions are welcomed and I concur with the conclusion that these measures will help reduce the effects of predation and will not adversely change the overall protected species mitigation measures agreed for the wider scheme. This specification is now shown on the further updated Illustrative Masterplan and the Landscape and Ecology Parameters Plan. This is particularly important given that this and the wider scheme are outline applications with all matters reserved.

Planting of the buffer with dense thorny scrub, as proposed and assessed in the Ecology Addendum, is also a specific requirement. It is therefore recommended that compliance with the measures set out in the Ecology Addendum is required by condition.

Clarification of the proposed curfew times are welcomed, and I agree with the conclusion that this will not affect the outcome of the Ecological Assessment for the wider scheme. Clarification regarding the Three Cornered Copse LWS is also welcomed.

With regards to the provision of an artificial pitch and the potential impacts of micro-plastics on biodiversity, the Ecology Addendum sets out mitigation measures that will be implemented which can reduce infill migration by up to 98%. These measures should be secured by condition. The Ecology Addendum confirms that artificial pitches will not provide a foraging resource for birds, and acknowledges that this will result in slightly reduced positive effects of habitat creation, restoration and management throughout the wider scheme on birds. However, I agree with the assessment that this does not affect the overall conclusions of the Environmental Assessment.

#### Biodiversity Net Gain

The full Biodiversity Metric has been provided for assessment and Appendix 1 of the Ecology Addendum provides an explanation of the calculations and the assumptions that have been made. The assumptions are based on sound professional judgement and I agree that they make sense ecologically, taking into account the constraints of the Metric, and taking a precautionary approach. These recalculations, as set out in Appendix 1, demonstrate a higher loss of biodiversity units than the Metric, and are being taken forward as the amount of BNG which will be sought off-site.

The 'drop-in' application will result in a net loss of 16.58 habitat units and a net gain of 0.6 habitat units. To ensure no net loss and to provide the minimum 10% BNG, 18.71 habitat units will need to be delivered off-site and managed for at least 30 years. It is understood that the applicant is exploring options for delivering off-site BNG through a third part provider. To meet the aspirations of BHCC, and to prevent a negative/reduced multiplier being applied through the Metric, any offsite BNG should be delivered within the same LPA administrative area or the same Natural Character Area. Off-site BNG delivery will also need to ensure that trading rules are met, i.e. that habitats created are of the same broad habitat type or a habitat of higher distinctiveness. In this case, the habitats being lost (other neutral grassland, mixed scrub, and other woodland, broadleaved) are all of medium distinctiveness.

I agree with the conclusion in the BNG assessment that whilst the small group of semi-mature trees has been categorised as "other woodland, broadleaved" within the metric, it does not readily meet this habitat type, and allowing some scrub trees to reach full maturity would provide adequate compensation for loss of this habitat type. It may also be acceptable for scrub habitat to be replaced through natural recolonisation of grassland rather than being specifically planted. Full details will need to be agreed once an off-site BNG site has been identified, but

the focus should be on providing a mosaic of grassland and scattered/dense scrub, to mimic the habitats being lost.

#### Conditions/S106

In light of the above, it is recommended that the same conditions should be applied to the 'drop in' application as to the wider scheme, specifically: a Construction and Environmental Management Plan (Biodiversity); a Biodiversity Method Statement for the protection of breeding birds, badgers, reptiles and dormice; a Lighting Design Strategy for Light-sensitive Biodiversity (to specify no light spill above 0.5 lux onto Toads Hole Valley LWS); an Ecological Design Strategy addressing mitigation and compensation for the loss of habitats and the provision of measurable biodiversity net gain of at least 10%; a Landscape and Ecological Management Plan to cover on-and off-site habitats to secure BNG for a minimum 30 years; and the requirement for reserved matters and future phases of development to be informed by updated ecological surveys (as a rule of thumb, ecological surveys should be no more than 18 months old). In addition, a condition requiring all ecological measures and/or works to be carried out in accordance with the details contained in the Ecology Addendum (EPR, December 2022) should be applied.

#### **County Landscape Architect:** No objection subject to condition.

It is recommended that the application can be supported as it would have a minor impact on local landscape character and visual amenity in the context of the wider Toads Hole Valley masterplan. Appropriate landscaping and height restriction conditions should be imposed as previously.

#### **Economic Development:** Comment

Based on the information provided in the application, a contribution is requested of £70,800 via S106 Agreement towards the Local Employment Scheme, and an Employment and Training strategy should be secured.

#### **Education:** No objection - due to falling pupil numbers in the city a new school is no longer required

#### Summary:

The original need for the strategic allocation in policy DA7 to include a school was due to the physical constraints of the city and scarcity of suitable alternative school sites becoming available then or during the Plan period (2016-2030). DA7 was created at a time when pupil numbers in the city were changing from a sustained increase in primary pupil numbers to a more steady state position. As a result of this the proposal to reserve an area of the THV site was included to protect the forecast rise in secondary pupil numbers which always lags primary numbers by 7 years, on account of pupils travelling chronologically through the school system.

This decision was based on the existing identified under-provision of secondary school places in the city at that time. Plans for future secondary provision also included moving and expanding the Kings School to a new site adjacent to the Toads Hole Valley site (now completed) and a new school (now withdrawn) being proposed for the General Hospital site in Elm Grove. These proposals meant that even at the time of the inclusion of the school site there was not likely to have

been an immediate need for a new school at THV in the short to medium term. The provision was included because at the time it was believed that THV would take up to 10 years to develop and given other housing developments in the city and the possible implications for secondary school numbers demonstrated by the modelling we needed to retain the long-term option to deliver a school to meet the potential needs of higher future growth.

We were aware that demographic patterns might shift, and that a new school might not be needed, in which case alternative uses for the area of land reserved for a school could be considered at that time. In the time since DA7 was finalised (2016) the position in terms of school places has changed considerably in the city and is also adjusting nationally. We have moved to a position of having sustained falling rolls in our primary schools and knowing that secondary numbers will also start to fall from September 2023 and are forecast to continue to fall for at least 10 years.

On 14th June 2021 the Children, Young People and Skills Committee considered a report regarding the future projection of secondary aged pupils needing places in the city's schools. That report acknowledged that the current forecast of future pupil numbers could have an implication on the future designation of the THV school within the City Plan. The need or otherwise for the allocation at THV to contain a secondary school was due to be considered as part of the forthcoming formal review of City Plan Part One.

Planning permission was recently granted this year for a new neighbourhood at THV including a 5ha site for a secondary school, in compliance with policy DA7. At the time of that proposal and decision (2018-2022) the evidence and data was not sufficiently clear to determine a definite trend in pupil projections or that a school was not required, and as the proposal was policy compliant, approval was recommended.

In the meantime, the applicant is now seeking to depart from policy and omit the school site and replace it with 182 homes, and has provided an evidenced case for this. In light of this new application we have looked again at our forecast of pupil numbers and the information provided by the applicant now, rather than as part of the review of City Plan Part One.

It is confirmed that the council's forecast for future primary school rolls shows that over the next 4 years we anticipate that primary numbers will continue to drop from approximately 2,250 per intake year to approximately 1,950 per intake year. This will result in an increase in the number of surplus places in the primary phase from approximately 403 city wide at the present time to 740 by September 2025. In the case of the information for secondary school rolls, the forecast need shows that the number of places per year of entry will fall from 2386 in 2023 to 1797 by 2032. This will result in an increase in the number of surplus places in the secondary phase, from 125 in 2023 to 714 by 2032.

It is recognised that these are forecast figures based on the current Published Admission Numbers (PAN's) for the year of entry of the schools and that these PANs may change over time to take account of the changing demographics in the

city. However, we also record the theoretical capacity of the schools for all year groups in the schools using a formula provided by the Department for Education (DfE) which is based on the space available in each school. In general terms it is true to say that the theoretical net capacity of the primary schools is fairly consistent with the PAN, although this is not always the case. We do have some schools that have already reduced their capacity from 3 forms of entry to 2 forms of entry, which has resulted in schools having a much higher theoretical net capacity than its PAN would suggest.

In terms of the secondary schools, their theoretical net capacity is calculated as a range. The theoretical net capacity calculated by PAN for all schools in the city is 14,904 places, the maximum capacity (i.e. the top of the theoretical range) for all schools in the city is 15,640 places. The most recent schools census shows that there were 12,856 pupils on roll in our secondary schools. This means that there are currently 2,048 places still available in our secondary schools based on the PAN of the schools and 2,784 places available based on the maximum theoretical net capacity. We know that in the next two years the number of pupils leaving secondary school will start to exceed the number of new pupils starting secondary school and we can therefore expect the number of unfilled places to increase.

The original Toads Hole Valley outline planning application BH2018/03633 included 880 homes. At that time we forecast that this number of homes would generate approximately 115 nursery age children, 147 primary age children, 132 secondary age children and 20 children who would be looking for a sixth form place in a secondary school rather than a sixth form college. This number covers all years of each stage of education, for example the 147 primary age children would be spread across 7 year groups and the secondary age children would be spread across 5 year groups. This gives a figure of 21 children per year for primary and 27 per year group for secondary age pupils. It is also the case that some of these children will already be resident in the city rather than children that move into the city as a result of the development which would lower the number of addition children per year group from these figures. The current application for a further 182 homes would add a further 27 children to the primary total (9 per year group) and 25 children for secondary (5 per year group). Given the continuing fall in pupil numbers in the city generally and in this area this is considered as quite manageable within the current school provision for the foreseeable future.

We have reviewed the new Education Needs Assessment included as part of this planning application. The report looks in depth at various sources of data including live birth data, ONS data and the council's own data in terms of housing delivery. It uses this data to forecast the likely pupil numbers in the city up to 2043. This is longer than we forecast numbers since it includes 10 years of forecasts for pupils that are not yet born. Notwithstanding this we agree with the conclusion of the report, based on the analysis of a broad range of data that '... there is at present little future requirement for the new school originally proposed for the THV site, either now in the lifetime of the development Plan....' The methodology used in the report makes use of data sources that are commonly used when forecasting pupil numbers and the way in which they are used follows a logical process. We are therefore confident that the forecasts produced are

likely to be reliable. The consultant used for this work is known to us and has undertaken this type of work for many years. Consequently, we have no reason to doubt the accuracy of the work.

As a result of the above we have no reason to object to the planning application as submitted.

**Environmental Health (incl land contamination, air quality, noise):** No objection subject to imposition of conditions (as previously applied).

**Housing Strategy:** Support, subject to review of the unit mix and consideration of self-build housing plots.

#### Summary

The applicant is proposing a policy compliant 40% of the homes to be provided as affordable. This means 73 homes as a mix of affordable rent and affordable ownership (including First Homes). Affordable housing (other than First Homes) would generally be provided by a Registered Provider (RP) and the developer is required to approach RPs (including the council) and negotiate with them for the affordable housing.

This is an exceptional site and the usual unit mix should therefore be reviewed to consider if additional family housing can be provided here. Housing also support the inclusion of plots for self-build homes at this site as at the main site for private individual/ community-led or affordable housing.

#### Further comment:

Negotiated improvement to provide circa 35% 2 bed and 35% 3+ bed within the affordable is acceptable - larger family homes for rent would be most welcome.

**Local Highway Authority:** No objection subject to condition/S106 (as previously secured)

#### Summary

Although a separate scheme, we have considered the proposal in the context of the Environmental Impact Assessment (EIA) submitted and proposals in relation to access, highways amendments/mitigations, agreed trip generation methodology and assessment, and the sustainable transport mitigation package/measures, which covers the whole THV site, which already has planning consent.

The applicant proposes no amendments to the consented THV site accesses on King George VI Avenue. The indicative Transport and Key Infrastructure Parameter Plan and Illustrative Masterplan are considered acceptable in principle and a final layout would be secured at Reserved Matters Application (RMA) stage. A junction improvement scheme at King George VI Avenue/Goldstone Crescent, which forms the main site access, will be secured through the s106 agreement for the consented scheme (ref: BH2022/00203), which will be tied to the current scheme, if approved.

The total number of car parking spaces and cycle parking spaces will be assessed as a part of the RMA stage, to ensure they are compliant with BHCC's Supplementary Planning Document (SPD)14 Parking Standards.

The LHA were previously consulted on the consented scheme (ref: BH2022/00203), which included the submitted transport and highways information and proposed methodology of assessment (i.e., trip rates and the disaggregation of trips by mode) and parameters of assessment, which were agreed with the applicant team and National Highways, prior to the application's determination in June 2022. The applicant has submitted a Transport Assessment (TA) which forecasts the expected trip generation associated with the proposed 182 dwellings by applying trip rates previously agreed with the LHA and National Highways. On this basis, no further response, in respect of the methodology for forecasting trip generation, is deemed necessary for this application (ref: BH2022/02534), as the applicant has applied the same approach/methodology as the consented scheme (ref: BH2022/00203), which is considered robust.

The applicant's forecast trip generation assessment concluded that the replacement of the consented secondary school with 182 residential dwellings would result in a net reduction of 162 two-way vehicle trips in the AM peak and an increase of 10/11 two-way trips in the PM peak. The applicant has forecast that there would be an overall reduction in total person trips in both the AM and PM peak of 619 and 64 total person trips respectively, which is expected with the removal of the secondary school and therefore considered robust.

No amendments to the main A27 junction or local junctions including new accesses on King George VI Avenue are proposed and given that the development proposal will result in a reduction of trips in the AM peak hour, no further modelling assessment, or changes to the consented junction improvements (mitigation), other than those secured through the consented scheme (ref: BH2022/00203), are required given that the impact of the proposed development is comparable to that of the consented school. Whilst the submitted trip generation indicates there would be an increase in 10 vehicle trips during the PM peak hour, this level of increase would not be expected to be impactful to the surrounding existing road network. The applicant has not proposed to reduce the level of mitigation anywhere (i.e., sustainable transport package or highways and junction improvements package/measures) across the wider scheme, as a result of this outline proposal, which the LHA agrees with. No further mitigation is considered to be needed, and no reduction in the consented mitigation is deemed to be required given that the transport and highways impacts are comparable.

The s106 agreement for the consented scheme requires the A27 junction improvements to be implemented before the 200th residential dwelling (phase 1), and the main access junction (King George VI Avenue/Goldstone Crescent/site access) 'King George VI Avenue Phase 2 works' will be implemented prior to the occupation of the 400th residential dwelling (phase 2). The LHA considers the trigger/requirement i.e., 'prior to the occupation of the 400th residential dwelling' to be secured by the s106 agreement for the consented scheme (ref: BH2022/00203) still appropriate (given the 182 dwellings will be built within the wider phase 2 site) in respect of this outline scheme and the main access junction



improvement works should be tied to the agreement for this outline scheme, if approved. The consented scheme (ref: BH2022/00203) proposed a new bus route that would access the site from the main access (phase 2), to provide a much-needed public transport service for prospective residents and employees of the site, in an area that is considered to have poor connectivity to public transport services (stations, stops). The provision of a bus service routed through the site is expected to provide a key connection between the site and the centre of Hove, facilitating the transfer of site generated trips to connecting public transport services into the centre of Brighton and beyond. Clarification of the bus turning area is required.

Further comment: Further information has been provided by the applicant to confirm that a bus turning area could be provided at the entrance to the employment land – as a temporary arrangement until the principal access route through the site is provided in Phase 3 of the approved THV development. The layouts for the current outline application and the approved outline application for the wider THV site are illustrative only at this stage. A condition is recommended to ensure this turning area is provided as part of the reserved matters stage.

**Planning Policy: Comment.**

**Summary:**

Policy DA7 reserves the application site for a new secondary school. However, the applicant has submitted an Education Needs Assessment which presents evidence that the site is not needed as there is sufficient existing secondary school capacity across the city to meet and exceed population projections over the Plan period to 2030 and beyond. These arguments will need to be considered in detail by BHCC Education. Development of the site for alternative uses would be contrary to Policy DA7 and SPD15 and would need to be treated as a departure from the development plan.

In the event that Education agree (or cannot disagree) the evidence that the site is no longer needed for a secondary school and will not be needed within the City Plan period, this would be a significant material planning consideration which could potentially outweigh the City Plan policy for the site. Although the partial loss of this site for a strategic community use (school) would be regrettable, there is no policy requirement for an alternative community use, and it needs to be balanced against the significant need for housing in the city. Although the consented development at Toads Hole Valley (THV) already exceeds the minimum 700 dwellings sought in Policy DA7, the additional housing proposed in this application would provide a further helpful contribution to the city's housing requirements and help address the current 5-year housing supply shortfall. When considering the planning balance for this proposal, increased weight will need to be given to housing delivery in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).

The application provides for 40% affordable housing in accordance with Policy CP20. The proposed affordable size mix also reflects that set out in Policy CP20, although it is noted that a high proportion (85%) of the affordable units would be

flats. The proposed tenure mix aligns with that set out in the Council's Affordable Housing Brief.

The application would provide only 45% of the total housing (open market and affordable) as 3 and 4 bed dwellings, which falls short of the Policy DA7 requirement that a minimum 50% housing should be provided as 3+ bedroom family sized homes. The applicant argues that when combined with the consented THV scheme, the proportion of family homes would still be 50%. However, given the limited number of greenfield/urban fringe sites, THV provides a vital opportunity to deliver family homes for the city. To achieve this, the mix of housing for the current application should be altered to provide at least 50% family dwellings.

SPD15 encourages custom build, self-build, community land trust and cooperative housing and there is currently substantial demand for self/custom build plots on the Council's Self-build and Custom Housebuilding Register. THV is by far the largest greenfield housing site identified in the City Plan and the application proposed would exceed any of the urban fringe sites allocated in CPP2 Policy H2. Therefore, it would be appropriate for the development to include an element (c5%) of self/custom build plots (including some land made available at a discounted 'affordable' price which could form part of the shared ownership element of the affordable housing requirement). This would add to the mix of housing formats in accordance with Policies SA6, CP19 and CPP2 Policy DM1.

Policy DA7 and SPD15 emphasise that development at THV should be an 'exemplar' in terms of environmental, social and economic sustainability, and include specific objectives to promote sustainable development, reduced energy use and reduce the city's ecological footprint etc. In addition, specific detailed policy requirements relating to environmental sustainability are also set out in CPP2 policies (e.g DM37, DM43 and DM44) and Council supplementary planning guidance (e.g SPD11 and SDP16). The applicant has provided a range of supporting documents including an Environmental Impact Assessment (EIA), Sustainability Statement and Sustainability Checklist. The application proposals together with these documents will need to be reviewed in detail by the relevant consultee Council officers to ensure that the scheme will deliver the Policy DA7 sustainability objectives.

The proposed development would be delivered as part of Phase 2 of the wider THV scheme and be fully integrated within it, as indicated by the submitted parameter plans. This phasing appears acceptable in principle; however it will be necessary to consider if the additional housing proposed may have 'knock-on effects' in terms of the quantity and phasing of infrastructure, community facilities and open space which should be provided as part of the THV scheme. The proposed provision of additional open space within the wider THV development (a NEAP and additional land for food growing) is welcomed. This is necessary to support the proposed increase of 182 residential units and ensure compliance with Policy CP16.

To ensure that these amendments will be implemented, it will be necessary to bring forward a deed of variation to the original s106 agreement for

BH20222/00203 to link both permissions together (so that they cannot be carried out independently of each other) and to amend the description and quantum of the open space provided for in the s106. Planning conditions will also be needed to ensure that both planning permissions are required to be carried out in substantial accordance with the relevant parameter plans and phasing plans.

**Private Sector Housing:** No Comment.

**Public Art:** Comment

To make sure that the requirements of Policies CP5, CP7, CP13 and DM18 are met at implementation stage, it is recommended that an Artistic Component schedule be included in the section 106 agreement, to the value of £59,600.

**Public Health:** No objection subject to condition

**Sports Facilities:** Comment

Summary

The proposal retains much needed outdoor sports facilities on the development site for the city. Although, the provision of additional on or off site indoor sports facilities needs further consideration in light of the proposed additional population and the various council policies and strategies.

The partial loss of this site for a strategic community use (the school) is disappointing and although there is no planning policy requirement for an alternative community use the associated loss of the potential sports facilities that would have been provided to the local community and surrounding areas is significant. In the previous 2018 application and associated S106 agreement it was acknowledged that alternative use of the 5ha site would include a sports facility. Following negotiation, a floodlit 3G pitch, MUGA and provision of a community centre designed to provide one court for badminton was agreed as a minimum.

A 900 pupil sized secondary school would have likely included the delivery of the following: a four court school sports hall, an activity/dance studio, a main hall – for assemblies (also for recreational use), soft outdoor (grass) pitches, a floodlit 3G All Weather Pitch (AWP), a hard outdoor PE area to include a MUGA, associated changing rooms and toilets for staff, pupils and community use (out of hours) including accessible facilities. With the loss of the school the inclusion of grass pitches on this site for a variety of sports and indoor sports is now very limited. It doesn't appear that there is any formal grass pitch sports provision to serve the wider THV site, and the indoor sport provision is limited to the community facility which can accommodate 1 x badminton court. Although this has been compensated to some degree with the 3G pitch and MUGA facility there is now an additional population that needs to be factored in and considered.

It is worth noting that the level of outdoor provision currently proposed is now less than the ratio contained within CP17 of City Plan - part 1. The quantity standard ratio for outdoor sports provision is 0.47 hectares/1000 population. Based on the new 3036 population of the proposed consolidated scheme when fully occupied

there should be 1.427 ha of outdoor sports provision. There is currently 1.06 ha. Currently without the school now being provided there is very limited indoor sports provision on site. There is also concern about the loss of grass pitches e.g., for cricket that would have been provided with the school. Despite the positive provision of the outdoor sports and community facility for the previously approved outline THV development, the new population created by this application means that there is a lack of on-site indoor sports provision, including for swimming (as identified by Sport England). The proposal will therefore need to address this shortfall. This could be on-site, however more effective provision could be provided off-site e.g. as enhancement to existing sports facilities (such as at Withdean Sports Complex or Patcham High School). This could be secured via CIL.

As commented for the last scheme - there does not currently appear to be a Neighbourhood Equipped Area for Play (NEAP) on site and there should be consideration given to expanding the current 'enhanced' Local Equipped Area for Play (LEAP) adjacent to the community facility to meet the additional demands of the larger population now proposed. This facility should now be a larger and comprehensive NEAP to provide activities (including informal sports) for older children and youths. This could also provide good integration and management of the facilities with the MUGA and 3G Pitch.

The retention of the sports facilities (3G pitch and MUGA) will provide an improvement to the city's sport's facility provision. The pitch meets a number of objectives from the Playing Pitch Strategy where it is enhancing provision for the future and providing artificial turf surface to enable all round year provision and access. The Local Football Facility Plan (LFFP) identifies THV as a potential site for the delivery of a new full sized floodlit 3G pitch. It is emphasised that if floodlighting were to be restricted this would be a significant issue, as it would affect viability of the facility. Provision of changing facility as part of the community centre is welcomed in principle and helps viability. The adjacency of the proposed new houses to the sports facilities and associated impact in relation to the visual connection between the sports facilities and community facility is an important and critical factor that needs to be addressed when the site layout is finalised.

**Sustainability:** No objection subject to condition.

**Summary**

A commitment was made for the wider THV development to be an exemplar with regard to sustainability, particularly through the use of the BREEAM Communities standard. It is acknowledged that the current scheme is not stand-alone and can only be implemented as part of the original permission. So it is expected that the same standards and conditions will be applied to this proposal. Conditions on sustainability, which should be referred to in developing the proposals, include those relating to: Energy and Heating Strategy, Heating - future proofing, Ventilation, Overheating and climate change, Water Efficiency, Electric Vehicle Charging, Rainwater Strategy, BREEAM Communities and Biodiverse Green roofs.

Some of the pre-commencement planning conditions (eg 31% carbon saving, water efficiency, EV Charging and BREEAM Communities) went beyond BHCC's usual planning policy in order to demonstrate the provision in SPD 15 that Toads Hole Valley should be an 'exemplar' development. Since then, some of the planning conditions have been superseded by changes to Building Regulations. Alongside that, weight should now be given to CPP2 policies. This application presents proposals at an early stage in the design process, and so gives limited information to demonstrate how the commitment to be an 'exemplar' development will be achieved. So, while most of the proposals are acceptable, further details will be required as the proposals are developed at reserved matters stage.

**Sustainable Drainage:** No objection subject to condition at detailed design stage.

**Urban Design:** Comment

#### Summary

Generally, the proposed outline plans communicated through the DAS, the illustrative masterplan and other supporting documents are favourably arranged - to meet policy goals and to mitigate the impacts noted in the EIA - subject to the definition of design codes to inform the evolving proposals.

Given that the request for design codes was previously made by the LPA there is some concern that more has not been achieved in terms of shaping progressive design codes, in principle. National Model Design Code Guidance is at an early stage of introduction. Nevertheless, the absence of explicit commentary from the applicant on the matter of design coding will need to be addressed.

Proposals on this greenfield site will need to ensure that highly sustainable urban settlement is optimised across a natural landscape setting. Further definition is required to drive design quality, addressing policy, and to offset and mitigate the impacts of the development and critically, to maximise the success of the scheme through the intensification and support for ecosystem services.

The site once part of the SDNP, is now isolated due to the introduction of sections of highway network – the trunk road (A27) and King George VI Avenue (KGIVA). The proposals include a public street network/highway that is well laid out. Plots are arranged to form perimeter blocks, and this is generally supported. Policy has been reflected in terms of residential densities and building heights appear to work reasonably well subject to more detailed design being resolved. Some concern remains regarding the height of the development across the consented outline scheme, and it is assumed that at Full Planning stage clearer additional validated views and 3D conceptual massing models will be provided to better communicate the impact of the development and how it sits in context across the landscape.

To satisfy BHCC development plans and Carbon Neutral 2030 aims to deliver high quality sustainable settlement, the previously conditioned design coding for the whole THV site still needs to be established to enable further progress in the planning of this proposed development.

## **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.

The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016)
- Brighton & Hove City Plan Part Two (adopted October 2022)
- 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 (adopted October 2019).

## **8. POLICIES**

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development  
DA7 Toad's Hole Valley  
SA4 Urban Fringe  
SA5 The setting of the South Downs National Park  
SA6 Sustainable neighbourhoods  
CP1 Housing delivery  
CP2 Sustainable economic development  
CP3 Employment land  
CP4 Retail provision  
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  
CP15 Heritage  
CP16 Open space  
CP17 Sports provision  
CP18 Healthy city  
CP19 Housing mix  
CP20 Affordable housing

Brighton & Hove City Plan Part 2:

DM1 Housing Quality, Choice and Mix  
DM9 Community Facilities  
DM11 New Business Floorspace  
DM18 High quality design and places  
DM19 Maximising Development Potential  
DM20 Protection of Amenity  
DM22 Landscape Design and Trees  
DM29 The Setting of Heritage Assets  
DM31 Archaeological Interest  
DM33 Safe, Sustainable and Active Travel  
DM35 Travel Plans and Transport Assessments  
DM36 Parking and Servicing  
DM37 Green Infrastructure and Nature Conservation  
DM38 Local Green Spaces  
DM40 Protection of the Environment and Health – Pollution and Nuisance  
DM41 Polluted sites, hazardous substances and land stability  
DM42 Protecting the Water Environment  
DM43 Sustainable Urban Drainage  
DM44 Energy Efficiency and Renewables  
DM45 Community Energy  
DM46 Heating and Cooling Network Infrastructure

Supplementary Planning Documents:

SPD03 Construction & Demolition Waste  
SPD06 Trees & Development Sites  
SPD11 Nature Conservation & Development  
SPD14 Parking Standards  
SPD15 Toad's Hole Valley  
SPD16 Sustainable Drainage  
SPD17 Urban Design Framework

Planning Advice Notes (PAN):

PAN 05: Design Guidance for the Storage and Collection of Recyclable  
Materials and Waste  
PAN 06: Food Growing and Development

Other Material Considerations:

BHCC Developer Contributions Technical Guidance (June 2020)  
BHCC Special Guidance A: Swift Boxes and Bricks for New Developments  
BHCC Public Art Strategy 2022  
National Design Guide  
Brighton and Hove Local Football Facilities Plan

## **9. CONSIDERATIONS & ASSESSMENT**

**Main considerations:**

- 9.1 The principle of developing the Toad's Hole Valley (THV) site and Court Farm for a mixed-use development is accepted, given it is a strategic allocation in Policy DA7 of the Brighton and Hove City Plan Part One.
- 9.2 In addition, outline planning permission was granted in June last year for a new mixed-use neighbourhood at the wider THV site (ref BH2022/00203). This involved up to 880 dwellings, a 5ha site for a 6-form entry secondary school/community sports facilities, 25,000sqm of office/research/light industry floorspace (E use), a neighbourhood centre including retail outlets, a doctors' surgery, a community building, public open and play space, alterations to the designated wildlife site, associated landscaping and 3 (unreserved) vehicular accesses off King George VI Avenue with associated highway alterations.
- 9.3 This current application is a 'drop-in' scheme only, for part of the former school site associated with the above, and thus does not seek to re-assess all of what was granted previously. This report therefore will focus on the main issue of the change of land use proposed for the school site, its replacement with an additional 182 dwellings, and the associated impacts of this proposal.

**Principle of replacement of school with residential land use:**

Policy background

- 9.4 Policy DA7 states that:
- 'The strategy for the development of Toad's Hole Valley and Court Farm is to secure a modern, high quality and sustainable mixed use development to help meet the future needs of the city, improve accessibility and provide new community facilities to share with adjacent neighbourhoods.'*
- 9.5 The policy seeks to benefit residents in terms of the mix of uses, an improved provision of community facilities, road safety improvements, training and job opportunities for local people and the provision of green infrastructure including public open space and natural green space.
- 9.6 Policy DA7 states that the following key elements will be provided by 2030:
- *A minimum of 700 residential units*
  - *B1 employment space – site area 3.5 – 4.5ha*
  - *Site reserved for a new secondary school – site area 5ha*
  - *Public open space with children's play space and informal sports facilities – 2 ha*
  - *Provision of ancillary supporting uses – shops and cafes and multi-use community building*
  - *Food growing space – 0.5 ha*
  - *Green infrastructure integrated through the site to deliver Biosphere objectives and contribute to Biodiversity Action Plan targets*
- 9.7 The policy envisaged that either the council or its nominee would develop the school in the future. Supporting para 3.91 to DA7 states:



*'There is a strategic need for additional secondary school places in the city. Since 2005 the council has expanded a number of primary schools to provide an additional 11.5 forms of entry (345 more places) per year. These additional places will need to be provided in secondary schools by 2018. To go towards meeting this requirement it is proposed that 5 ha is reserved for a 6 form-entry secondary school as part of the mixed use development. Playing fields provided with the school should be made available for dual use with the local community when not being used by the school.'*

- 9.8 The Brighton and Hove City Plan Part Two was formerly adopted in October 2022. It does not supersede City Plan Part One, and the allocations such as DA7 are read alongside City Plan Part Two.

#### School use and city-wide pupil projections

- 9.9 As can be seen above, the replacement of the southern part of the former school site with 182 dwellings is a departure from policy DA7.
- 9.10 The main issue to consider is whether sufficient evidence been submitted with this application to demonstrate that a secondary school is no longer required to serve the city, and whether an exceptional case to divert from policy can be made.
- 9.11 The northern part of the former school site (outside the application site) is shown on the illustrative masterplan to contain sports facilities (a 3G pitch, MUGA and parking) as per the 'fallback' position of the original permission BH2022/00203. This fallback was secured via the original S106, as there was some degree of uncertainty at that time as to whether a school would be brought forward. In the event the school was not delivered relatively early on in the phasing, the permission allowed for provision of sport facilities in its place to partly compensate for the facilities that would have otherwise been delivered by the school and shared with the community.
- 9.12 The purpose of the Brighton and Hove City Plan is to provide the overall strategic and spatial vision for the future of Brighton & Hove through to 2030, and allocate land uses according to predicted need and demand, including for the growing population.
- 9.13 Policy DA7 of Part 1 of the City Plan was first created in 2012-16 at a time when pupil numbers in the city were changing from a sustained increase in primary pupil numbers to a more steady state position. The decision to include land for a school in policy DA7 was based on the identified under-provision of secondary school places in the city at existed at that time and to cover planned new developments during the City Plan period until 2030.
- 9.14 Circumstances have changed significantly since policy DA7 was adopted, as confirmed by the council's Education Team. This has included development of a further secondary school, adjacent to the THV site (Kings). The city has also moved to a position of having sustained falling rolls in primary schools which will feed into secondary schools from 2023 and are forecast to continue to fall for at

least 10 years. The Education Team confirm that the council's forecast for future primary school rolls shows that over the next 4 years it is anticipated that pupil numbers will drop significantly, e.g. a surplus of approximately 714 secondary school places by 2032, from a current surplus of 125 in 2023 (see full consultee comments in Section 6 of this report). The national position has also been changing.

- 9.15 On 14th June 2021 the Children, Young People and Skills Committee considered a report regarding the future projection of secondary aged pupils needing places in the city's schools. That report acknowledged that the current forecast of future pupil numbers could have an implication on the future designation of the THV school within the City Plan.
- 9.16 At the time of the previous applications at THV (2018-2022) the demographic evidence and data was not sufficiently clear to determine a definite trend in pupil projections or that a school was not required, and as the proposal was policy compliant, approval was recommended including the school.
- 9.17 The need or otherwise for the allocation at THV to contain a secondary school was due to be considered as part of the forthcoming formal review of City Plan Part One (estimated to take place 2024-2026), however, in the meantime this application has been submitted and seeks to make an exceptional case, so the issue has to be considered at this time.
- 9.18 The application contains an Educational Needs Assessment, and this has been duly assessed by the council's Education Team. The report looks in depth at various sources of data including live birth data, ONS data and the council's own data in terms of housing delivery. It predicts that an additional secondary school is not required to serve the city now, or during the development plan period (2030) or through to 2043. The report forecasts pupil numbers longer than the council does but, notwithstanding this, the council's Education Team confirm that they consider the evidence, including methodology used, to be robust. They are confident that the forecasts produced are likely to be reliable. As a result, they do not object to the loss of the school land at THV.

#### Demand for school places from new THV population:

- 9.19 The original THV proposal included 880 homes, which were forecast to generate approximately 115 nursery age children, 147 primary age children (21 children per year group), 132 secondary age children (27 per year group). It is also the case that some of these children will already be resident in the city rather than children that move into the city as a result of the development which would lower the number of addition children per year group from these figures. The Education Team confirm that the additional 182 homes now proposed would likely add a further 27 children to the primary total and 25 children for secondary. Given the continuing fall in pupil numbers in the city generally and in this area, they confirm that this is manageable within the current school provision for the foreseeable future.

#### Sports/community use

- 9.20 In addition to the above considerations, it is recognised that whilst inclusion of a school within the THV site was primarily to meet local and city-wide education needs, it would also have allowed for dual use of the facilities by the THV population and other local neighbourhood community and sports groups. It is therefore regrettable that some facilities that the school would have contained e.g. grass pitches and indoor halls cannot now be shared with the community, as was originally envisaged via a Community Use Agreement secured via S106.
- 9.21 The retention of the 3G pitch and MUGA (and parking) and community centre (including indoor badminton court) plus informal sports area within the play area and exercise areas as part of the original permission are welcomed, and are considered necessary on-site provision in order to help create a sustainable neighbourhood at THV. A shortfall of full size 3G pitches has been identified in local strategies. Additional information submitted with the application has demonstrated that floodlighting can in principle be successfully achieved to the facilities, which makes them more viable.
- 9.22 The sports facilities would make a significant contribution towards meeting local and city-wide demand for such uses, however, a shortfall of provision would still remain to meet the additional population at THV now proposed, as highlighted by the council's Sports Facilities Team and Sport England, particularly for indoor sports facilities. It is considered that this shortfall would be most effectively met off-site through enhancements to existing centres, and can be secured via CIL, in compliance with relevant policy and guidance.
- 9.23 The Planning Policy Team raise no objection in principle to the loss of the school, provided sufficient evidence of its need during the City Plan Period can be satisfactorily demonstrated. It is considered that retention of the site for school use cannot be justified in planning terms so is a significant material planning consideration which can outweigh the City Plan policy for the site. Although the partial loss of this site for a strategic community use (school) would be regrettable, there is no policy requirement for an alternative community use, and this also needs to be balanced against the significant need for housing in the city.
- 9.24 It is therefore considered that an exceptional case has been made to replace the school within the THV scheme in principle and that departure from Policy DA7 can be justified. The sections below discuss whether further housing is an appropriate replacement land use.

#### Housing land supply

- 9.25 As the council is currently unable to demonstrate a five year housing land supply (and has a substantial shortfall equivalent to 2.1 years of supply), increased weight must be given to housing delivery when considering the planning balance in the determination of this planning application, in line with the presumption in favour of sustainable development set out in the NPPF. This means that in effect, use of such sites for housing should be given priority over other uses.

- 9.26 Policy DA7 seeks a minimum dwelling figure of 700, not a maximum. Although the consented development at Toads Hole Valley (THV) already exceeds the minimum 700 dwellings, the additional housing proposed in this application would provide a further helpful contribution and is given significant weight within the consideration of this application.

#### Housing tenure/mix

- 9.27 National and local planning policy requires development to include a variety of housing types and sizes to meet a full range of needs.
- 9.28 The overall housing mix is indicative at this stage and would be secured at Reserved Matters stage. It does however include provision of 40% affordable housing, which is policy-compliant, and is welcomed and given significant weight. The tenure split within the affordable (55% social/affordable rent / 45% intermediate eg shared ownership and First Homes), plus a mix of sizes, that would meet the council's Affordable Housing Brief and, following negotiation, improves upon it by providing a greater number of larger affordable units (circa 34% 2-bed, 33% 3-bed and 3% 4-bed instead of 48% 2-bed and 25% 3-bed initially proposed). This is welcomed by the council's Housing Strategy and Planning Policy Teams and can be secured via S106.
- 9.29 The proposal can only be brought forward in conjunction with the original scheme BH2022/00203, and it is conditioned that the development provides at least 50% family sized (ie 3 and 4 bed units) overall, as required by policy DA7. The parameter plans and illustrative masterplan indicate how the proposed illustrative housing numbers and sizes could be accommodated successfully in principle.
- 9.30 The council is required to keep a register of individuals and groups who are seeking to acquire serviced plots of land in their area and the council is keen to support and encourage people who want to build their own homes. SPD15 encourages provision of self build homes. The proposal includes a further 9 custom/self-build plots (in addition to the 30 in the original THV scheme), which is considered appropriate and is welcomed. These plots can be secured via S106.
- 9.31 The proposed housing tenure and mix would comply with relevant policies including CP19, CP20 and DM1.

#### Supporting uses

- 9.32 The additional residential population proposed will give rise to additional demand for supporting infrastructure and other types of land use.
- 9.33 Most of the supporting infrastructure and uses that will serve the additional population will be delivered outside the site, as part of the wider THV scheme. The updated parameter plans and illustrative masterplan show the site in the context of the wider THV site, and they indicate a larger neighbourhood equipped area for children's play, plus an additional 0.11ha of food growing area within the wider THV site. These, alongside other supporting uses such as the doctors surgery, community centre, retail units and employment uses will serve the

development, and will be secured via condition and S106, which tie the current site to the main THV site BH2022/00203 and ensure they are not developed separately.

- 9.34 The outdoor sports provision on part of the school site would be secured, alongside a larger community centre containing changing facilities as part of the original scheme BH2022/00203 via a variation to the Section 106 agreement, which would appropriately meet the additional demand for such facilities on-site. The general parkland/public open space and opened up Local Wildlife Site as secured on the wider THV site remains as previously and is considered sufficient to serve the new population of 1062 homes. It remains significantly in excess of the minimum open space requirements in Policy DA7, even when the additional population is factored in. The ES demonstrates that the development of the whole of THV at full occupancy would account for around 58% of the new 3 GP doctor's surgery's patient capacity i.e. the new surgery could fully accommodate the additional population. Highway works including servicing of the employment land that will serve the additional population will also be secured as part of the original scheme. Phasing restrictions will ensure the associated infrastructure is delivered in a timely way as the development as occupied.
- 9.35 It is therefore considered that the proposals, as secured via S106 and condition, will ensure the demands created by the new population are satisfactorily met, and that a sustainable mixed-use development is achieved at THV. Further specific impacts of the additional residential dwellings are discussed below.

#### Design/Layout

- 9.36 As an outline application only, the detailed layout or design is not for consideration, and would be determined at Reserved Matters Stage.
- 9.37 The application contains a suite of parameter and illustrative plans that demonstrate how the type, quantum, height and layout of development sought could be successfully accommodated, and these will guide future development. These follow the landscape-led design principles approved for the wider THV site, and are considered to be compatible with it.
- 9.38 The replacement of the school with housing within the neighbourhood centre is regrettable, however, the centre would still contain retail units, a doctors surgery, community centre and sports facilities, all in close proximity to each other, which still give a 'heart' and identity to the new neighbourhood. The maximum heights of this part of the site would be as per those previously agreed for the school (16 metres), which has been tested to be appropriate for this lower lying part of the THV site.
- 9.39 The original design approach was agreed in conjunction with the independent Design Panel, County Landscape Architect, County Ecologist, Local Highway Authority, council's Urban Designer and other key consultees. These key consultees raise no objections to the current application. Conditions can ensure that the Design Code and landscape strategy secured for the wider THV site applies to this site also.

## **Biodiversity and Ecology:**

- 9.40 As the proposal involves development of a greenfield site, there will inevitably be a significant impact to biodiversity. The site has been proven to contain many species, including the protected dormouse. The principle of development is however accepted as this is an allocated site under Policy DA7. The aim of national and local policies is to minimise impacts as much as possible and to seek enhancement and biodiversity net gain. Since the original permission for the wider site City Plan Part Two has been formally adopted, and Policy DM37 and SPD11 (as updated) require a measurable 10% biodiversity net gain (BNG) on developments.
- 9.41 Policy DM37 states that developments should avoid adverse impacts and seek to conserve and enhance biodiversity and geodiversity features in accordance with the mitigation hierarchy requirements of the NPPF. In essence it seeks avoidance of harm; then mitigation; then compensation, alongside new benefits for wildlife. On-site opportunities should be maximised wherever possible, or exceptionally off site as appropriate.
- 9.42 The submitted ES contains up to date surveys and has thoroughly assessed the current habitats and predicts the impacts of the development, and concludes that these can be satisfactorily mitigated against and that enhancements could be provided. The ES describes the western end of the THV site as offering good cover, dark conditions and foraging opportunities for any early emerging bats from trees within the Local Wildlife Site (formerly SNCI) or nearby housing. This part of the site provides core habitat for dormice, and high levels of bat activity were recorded at the southern end of the LWS. The ES recognises that residential development is likely to substantially increase the number of domestic cats on site, which is likely to lead to increased predation, but it concluded that landscaped buffer zones (15m) would, amongst other things, be sufficient mitigation.
- 9.43 Initial concerns were expressed by the County Ecologist regarding the impacts of the current application (and sports facilities) on the previously agreed mitigation and compensation for the wider THV site, most notably, but not exclusively, in relation to bats, dormice, breeding birds and reptiles. Concerns were expressed in relation to impacts to the LWS due to increased lighting and predation from the proximity of the proposed dwellings and sports facilities, when compared with the previously approved school land use. Further information and amendments in this regard were sought. The Ecologist also required further information as to how measurable biodiversity net gain would be delivered. Local residents and wildlife groups also expressed similar concerns.
- 9.44 The scheme was amended in response to the Ecologist's comments and an Addendum to the Ecology chapter of the ES was duly submitted. In addition, technical lighting reports were provided which tested potential floodlighting of the sports facilities and general residential lighting. Revised parameter plans, showing a larger, 25m landscaped buffer zone between the housing and the LWS (including 20m of dense thorny scrub) and a 40m buffer between the sports

facilities and the LWS were submitted. The updated ES and information demonstrated that the width and type of landscape buffer zones as amended would appropriately mitigate the impact.

- 9.45 The County Ecologist confirms that the amended information is acceptable and will help reduce the effects of predation and will not adversely change the overall protected species mitigation measures agreed for the wider THV scheme. The indicative layout as shown on the updated parameter plan and buffer zones of minimum width and measures within the ES can be secured by condition, as can lighting levels. As with the wider THV permission, conditions can also secure appropriate mitigation during construction, and secure provision of an Ecology and Landscape strategy for the site.
- 9.46 With regards to the provision of an artificial pitch and the potential impacts of micro-plastics on biodiversity, the Ecology Addendum sets out mitigation measures that will be implemented which can reduce infill migration by up to 98%. These measures can be secured by condition. The Ecology Addendum confirms that artificial pitches will not provide a foraging resource for birds, and acknowledges that this will result in slightly reduced positive effects of habitat creation, restoration and management throughout the wider scheme on birds. However, the County Ecologist agrees with the assessment that this does not affect the overall conclusions of the ES.

#### Biodiversity Net Gain (BNG)

- 9.47 In light of Policy DM37 and SPD11, the applicant has provided a full Biodiversity Metric, and Appendix 1 of the Ecology Addendum provides an explanation of the calculations and the assumptions that have been made Biodiversity Metric. The County Ecologist confirms that the assumptions are based on sound professional judgement agrees that they make sense ecologically, taking into account the constraints of the Metric, and taking a precautionary approach. These recalculations, as set out in Appendix 1, demonstrate a higher loss of biodiversity units than the Metric, and are being taken forward as the amount of BNG which will be sought off-site.
- 9.48 Whilst off-site BNG provision is not ideal, and the concern of some objectors in this regard are noted, the principle of off-site BNG is allowed for where appropriate. This is a site which is allocated for development and is constrained. Policies seek to ensure that effective and efficient use of sites are secured, and in this case the significant benefit of much needed housing provision (including affordable) needs to be balanced against full on-site BNG provision. Also the wider THV scheme (to which this will be tied) provides for significant landscaping and habitat provision, plus upgrade of the LWS. In this case, the County Ecologist raises no objection in principle to a degree of off-site BNG.
- 9.49 The 'drop-in' application will result in a net loss of 16.58 habitat units and a net gain of 0.6 habitat units. To ensure no net loss and to provide the minimum 10% BNG, 18.71 habitat units will need to be delivered off-site and managed for at least 30 years. The applicant is exploring options for delivering off-site BNG through a third part provider. To meet the aspirations of BHCC, and to prevent a

negative/reduced multiplier being applied through the Metric, any offsite BNG should be delivered within the same LPA administrative area or the same Natural Character Area. Off-site BNG delivery will also need to ensure that trading rules are met, i.e. that habitats created are of the same broad habitat type or a habitat of higher distinctiveness. In this case, the habitats being lost (other neutral grassland, mixed scrub, and other woodland, broadleaved) are all of medium distinctiveness. Full details will need to be agreed once an off-site BNG site has been identified, but the focus should be on providing a mosaic of grassland and scattered/dense scrub, to mimic the habitats being lost. Appropriate BNG can be secured via condition.

- 9.50 Given the above, the proposal is considered to comply with policies CP10 and DM37, and SPD11.

**Transport:**

- 9.51 The concerns of some local residents and groups with regard to transport matters, including traffic generation and safety, are acknowledged. Much of this concern relates to development of the THV site in principle, but also some concern has been expressed that 182 dwellings would generate more traffic than a school and lead to more trips to schools outside the site.
- 9.52 Outline planning permission has already been granted for the comprehensive redevelopment of the wider THV site (including detailed permission for 3 vehicular accesses off King George VI Avenue) which thoroughly considered transport issues including safety. The assessment of this current 'drop-in' application therefore focuses on any differences in terms of transport impact between the consented scheme compared to that now proposed.
- 9.53 It can be seen from the evidence provided with the application that replacement of part of the school site with 182 dwellings (and sports facilities on the remainder) would have a comparable transport impact, even when factoring in that children will have to travel to secondary schools outside the site. At some times of the day a reduction of trips would result, and at others only a slight increase in trips is forecast. In summary, the applicant's forecast trip generation assessment concluded that the replacement of the consented secondary school with 182 residential dwellings would result in a net reduction of 162 two-way vehicle trips in the AM peak and an increase of 10/11 two-way trips in the PM peak. The additional 10/11 trips in the PM peak would not be expected to be impactful to the surrounding existing road network. The applicant has forecast that there would be an overall reduction in total person trips in both the AM and PM peak of 619 and 64 total person trips respectively, which is expected with the removal of the secondary school and therefore considered robust.
- 9.54 On this basis, no additional mitigation, highways works or promotion of sustainable modes is proposed over and above that secured under BH2022/00203 (and no reduction is proposed either).
- 9.55 The Local Highway Authority and National Highways (NH) confirm that the evidence provided is robust and raise no objection to the proposal subject to



condition, and provided this application is tied into the original S106 (BH2022/00203) to ensure the appropriate site-wide transport measures are delivered, and the site is not developed separately. In particular, NH wish to see conditions/obligations to secure a Travel Plan, Construction Environmental Management Plan (CEMP) and completion of the A27/Devils Dyke Road Gyratory improvement works permitted by BH2022/00203 prior to occupation of any dwellings proposed in this application. The LHA and NH concur that no additional mitigation above that secured as part of the wider THV scheme is required in relation to the current proposal.

9.56 The proposed additional dwellings would be accessed using the main King George VI access opposite Goldstone Crescent as approved under the original scheme, which is considered appropriate. That access was subject to a Stage 1 Road Safety Audit and found to be acceptable in principle. Exact details of access arrangements would be secured at Reserved Matter Stage and via S106/s278 agreement and would be subject to further road safety audits.

9.57 The measures secured in principle under BH2022/00203 include the following, and the current application would not be delivered sparsely to them, as secured by S106:

- alterations to the A27 dumbbell roundabouts with pedestrian/cycle crossing points
- phased highway works to King George VI Avenue (KGVI Ave)
- Three main accesses into the site - one at s/w corner at top of Goldstone Crescent, and 2 further up KGVI Avenue between the main access and the A27 roundabout.
- Measures to reduce the severance of KGVI Avenue including down-grading features such as reduced speed to 30MPH, narrowing, introduction of 'gateway' features, new signalised crossings and accesses (Parameter Plans show potential for further secondary and tertiary accesses although these are only illustrative at outline stage). A bus priority gate is proposed.
- New segregated pedestrian and cycleways are proposed either side of KGVI Ave, and around Three Cornered Copse and island over Dyke Road Avenue.
- A pedestrian/cycle link through to KGVI Drive is proposed with ramp.
- Extended footway in Hangleton Road
- A planted dormice island crossing and informal pedestrian crossing is proposed.
- Tree planting is proposed on both sides of KGVI Avenue.
- a new pedestrian/cycle link to the South Downs National Park (SDNP) to the north-east of the site, north of the A27 roundabout to link to existing paths
- an enhanced link to SDNP behind existing schools to west
- enhancement of local bus stops (real-time information, shelters etc)
- Financial contribution towards provision of new bus service servicing the site or enhancement of existing bus service
- Residential and Non-Residential Travel Plans including measures to promote and incentivise use of sustainable travel including provision of travel packs and subsidy for bus or train travel
- Car Club parking and vehicles

- Extension of city bike hire scheme
  - Signing and lining enhancement for safe pedestrian and cycle routes through existing residential streets to south to link to Goldstone Crescent, shops at Victoria Avenue, and Hove Park.
  - Enhancement of pathway through Three Cornered Copse
  - Alterations to off-site junctions where required (Nevill Road/Woodland Drive/Droeway and Old Shoreham Road/Goldstone Crescent/Fonthill Road)
- 9.58 The S106 would ensure that appropriate infrastructure is phased and delivered at the right time to serve the wider THV scheme and the current proposal.
- 9.59 In addition to the above, conditions are recommended as previously to secure an appropriate highway layout within the site and the wider THV site, plus linkages outside the site. The Transport and Key Infrastructure Parameter plan continues the principles approved under BH2022/00203 for the wider THV site. A site-wide Design Code and Cycle and Pedestrian Strategy is sought by condition to ensure sustainable modes are encouraged. Detailed car parking numbers would be secured at Reserved Matters stage in accordance with SPD14: Parking Standards.
- 9.60 On the basis of the above, the transport impacts of the proposal are considered acceptable and in accordance with relevant policies including CP9, DA7, DM33, DM35 and DM36.

**Amenity:**

- 9.61 The impact of introducing a new neighbourhood on an undeveloped greenfield site is a significant change, however, development of the wider THV site has been previously accepted, and was deemed acceptable in terms of impact to neighbouring amenity, and in terms of the amenity of the proposed occupiers.
- 9.62 As part of the recent permission conditions were imposed to ensure that neighbouring amenity was not adversely affected, for example during the construction phase through use of a Construction Environmental Management Plan or via conditions restricting noise from plant etc. Conditions also ensured there was no adverse impact to groundwater supplies or public health.
- 9.63 The construction impacts of developing 182 houses is not significantly different than development of a school in terms of amenity, and it is recommended that the same conditions be reimposed for this site. The impacts in terms of traffic generation and air quality from occupiers of 182 dwellings are also similar. In terms of the proposed new occupiers, the site is located well back from the noisier edges of the site (as defined within the acoustic parameter plan) and also well back from roads, as required for air quality purposes. Consultees including the Environmental Health Team raise no objection on amenity grounds, subject to imposition of appropriate conditions.
- 9.64 On this basis the proposal is considered to comply with relevant policies including DM20.

## **Sustainability**

- 9.65 The proposals have been subject to an Environmental Statement (under the 2017 EIA Regulations) that contains a chapter on climate change and the application contains an Energy Statement, Sustainability Statement and Sustainability Checklist, all of which have been assessed by the council's Sustainability officer and found to be robust.
- 9.66 The original THV proposals as permitted under BH2022/00203 were considered to be a sustainable exemplar, as required by policy DA7, as they went beyond the council's environmental standards and future-proof the development. This development would be subject to the same conditions and thus secures a similar scheme, although it acknowledged that in some areas Building Regulations now exceed policy requirements (eg EV charging and overheating). In summary, conditions are recommended to secure: submission of energy and heating strategy including heat network feasibility, future-proofing measures, a requirement to meet BREEAM Communities 'excellent' standard, ecological mitigation and enhancement, sustainable drainage systems, land/groundwater contamination prevention, flood risk mitigation, measures to prevent overheating, measures for appropriate ventilation, water efficiency, incorporation of green bio-diverse roofs, and site waste management. On this basis the Sustainability officer raises no objection to the proposal.
- 9.67 The proposal is therefore considered acceptable in accordance with relevant policies including DA7, CP8, DM43, DM44, DM45 and DM46.

## **Other matters**

- 9.68 The submitted Environmental Statement (ES) predicts the impacts of the development and demonstrates that there will be no significant residual negative environmental effects, after appropriate mitigation and/or compensation. The ES has been assessed by expert internal and external consultees and is considered robust. Its suitability considers alternative uses/layouts. The ecological reports are deemed satisfactorily up to date. The updated data search and habitat surveys undertaken in December 2020 and August 2021 served to confirm that baseline conditions had not significantly changed within the Zone of Influence of the proposed development since the species-specific surveys were undertaken in 2016-2018.
- 9.69 Development of the site was previously accepted under BH2022/00203, albeit for a school/sports use, and circumstances have not changed significantly since permission was granted in June last year. Impacts of the respective land uses are not dissimilar in terms of environmental impact (except with regard to ecology). No objections have been raised by expert internal or external consultees, subject to the imposition of appropriate conditions and S106 obligations to secure similar mitigation as before. The full list of recommended conditions covering a wide range of topic areas can be viewed at Appendix B.

## **10. CONCLUSION AND PLANNING BALANCE**

- 10.1 The replacement of part of the school land with further housing is a departure from Policy DA7. It is however considered that an exceptional case can be made for this.
- 10.2 Evidence provided with the application uses robust methodology and demonstrates that pupil numbers are falling in the city and will continue to fall for a significant period into the future. This demographic trend is confirmed by the council's Education team, who concur that a further secondary school is no longer needed to serve the city and that existing schools will have sufficient capacity.
- 10.3 Provision of housing is considered an appropriate alternative land use. There is no policy justification to require a further community use. Part of the former school site would retain the sports facilities, as per the original permission, and this with other community uses in the wider THV site are considered acceptable to meet the demands of the new (larger) THV population. Policy DA7 seeks a minimum of 700 units and the proposal for further dwellings makes effective and efficient use of the site, which is welcomed. The scheme would deliver much needed housing, including policy-compliant 40% affordable housing plus self-build plots, and this has to be given substantial weight within the planning balance (as per the NPPF), given the council's significant 5-year housing supply shortfall.
- 10.4 The submitted EIA is considered robust and concludes that there would be no significant environmental effects, after appropriate mitigation and/or compensation is applied. No significant concerns have been expressed by expert consultees. The transport and other environmental impacts of 182 dwellings and sports facilities versus a school would be broadly similar, and can be appropriately mitigated against. The scheme has been amended to ensure ecological impacts are acceptable – it provides a balance of on-site mitigation measures and a degree of off-site biodiversity net gain, which is appropriate in principle and can be secured via condition.
- 10.5 Similar conditions and S106 are recommended to be secured to this development as were applied to the wider THV site. The proposal would be tied into the original THV scheme for the wider site approved last year via a S106 legal agreement and would only be brought forward in conjunction with it. The S106 (and conditions) will ensure that all necessary associated infrastructure and mitigation/compensation required to meet the demands created by this site are satisfactorily met. They would ensure delivery of a comprehensive and cohesive scheme and provide for a sustainable mixed-use neighbourhood at Toad's Hole Valley as sought by policy DA7.
- 10.6 Approval (subject to a completed S106 agreement) is therefore recommended.

## **11. CLIMATE CHANGE/SUSTAINABILITY**

- 11.1 The proposals involve development of a greenfield as opposed to an already developed brownfield site, however, the principle of development is supported as it is an allocated site in the City Plan. The development of the site was previously

accepted under BH2022/00203. The proposals are landscape-led and contain significant mitigation and enhancement measures to ensure biodiversity and climate change are satisfactorily addressed. These can be secured by condition and s106 agreement. See also comments under Sustainability section above.

## **12. INFRASTRUCTURE, SECTION 106 AND COMMUNITY INFRASTRUCTURE LEVY**

- 12.1 In addition to the policy requirements above, policy CP7 seeks to ensure that the necessary social, environmental and physical infrastructure is appropriately provided in time to serve the development. To make the development acceptable and enable the granting of planning permission, inadequacies in infrastructure arising from proposed development are required to be mitigated through Section 106 Planning Obligations via a legal agreement. Further off-site impacts may also be mitigated via the Community Infrastructure Levy (CIL), charged by the council since 5 October 2020.
- 12.2 Approval of the application is recommended subject to completion of a Section 106 legal agreement (secured via a Deed of Variation to the S106 attached to the main THV permission BH2022/00203), and the recommended S106 Heads of Term are as set out in Appendix A. These measures as set out will ensure this application cannot be carried out in isolation to the original THV development and ensure timely and comprehensive delivery of infrastructure to serve this development as well as the wider THV scheme, plus will secure appropriate mitigation/compensation measures. This will ensure the proposals comply with relevant policy requirements.
- 12.3 In the event that the draft S106 agreement has not been signed by all parties by the 8<sup>th</sup> July 2023, it is recommended that the application shall be refused for the reasons set out at Appendix C.
- 12.4 Some off-site measures sought by consultees would need to be considered as part of future CIL bids, in accordance with the council's Developer Contributions Technical Guidance and Infrastructure Delivery Plan. It should be noted that at the council's Policy and Resources Committee on 1/7/21 it was agreed that up to £2million of the CIL receipts from the THV proposals would be ring-fenced for necessary trunk road junction works to be carried out at the Devil's Dyke Roundabout as required by National Highways.
- 12.5 The amount of CIL liability for the type and scale of development proposed is approximately £1.51 million in addition to the estimated £6.85 million for the remainder of the THV site (which included the school). As an outline scheme only, however, this is very much an estimate and the actual figures secured would be based on the floor area created and type and size of dwellings developed. The exact amount would be confirmed by CIL liability notice at the appropriate time, and it would be collected on a phased basis at Reserved Matters stage, should this application be approved.

### **13. EQUALITIES**

- 13.1 As an outline scheme, only illustrative layouts have been provided and there are no detailed plans of buildings or public realm at this stage. A percentage of all dwellings shall be conditioned to be built to Wheelchair Accessible standard (10% of all affordable, and 5% of overall scheme). Accessible designs for the remainder can be secured at Reserved Matters (RM) stage where appropriate.
- 13.2 All highway designs and infrastructure will accord with standards and guidance to ensure that they are fully accessible for everybody. At RM stage the layout will need to include a proportion of disabled parking spaces in accordance with SPD14 standards as per condition
- 13.3 The Design Code secured by condition will ensure that accessibility is a key design principle to be adhered to at RM stage.

## **Appendix A – Section 106 Heads of Term**

- Implementation of this application with BH2022/00203 only, and not carried out separately
- Affordable housing (40% of overall dwellings). With 55% even split of social/affordable rent and 45% intermediate eg shared ownership/First Homes. Mix of affordable to be 30% 1-bed/34% 2-bed/33% 3-bed/3% 4-bed)
- Addition of 9 custom/self-build plots
- Neighbourhood Equipped Area of Play
- Additional 0.11ha of food growing space
- Provision of sports facilities on part of former school site
- Enlarged community centre to accommodate changing for sports
- Employment training strategy and additional contribution of £70,800
- Public art component additional value of £59,600
- Biodiversity Net Gain monitoring fees
- Updated phasing and drawings

## **Appendix B – Conditions and Informatives**

### **Conditions:**

#### **1. Drawings (regulatory)**

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

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

<b>Plan Type</b>	<b>Reference</b>	<b>Date Received</b>
Proposed drawing	Site Location Plan 1460-050-P4	16th December 2022
Report/Statement	Environmental Statement	9th August 2022
Report/Statement	Environmental Statement Appendices	9th August 2022
Report/statement	Ecology Addendum to environmental statement including Biodiversity Net Gain Metric	21 December 2022
Report/statement	Arboricultural Implications Report	9 <sup>th</sup> August 2022
Report/statement	Design & Access Statement	9 <sup>th</sup> August 2022
Report/statement	Outline Landscape and Ecological Management Plan (except for LWS landscape buffers)	9 <sup>th</sup> August 2022
Report/statement	Outline SNCI Habitat Creation and Management Plan	9 <sup>th</sup> August 2022

#### **2. Overall Time Limit for Commencement (regulatory):**

Within four years from the date of this permission the applicant will apply for discharge of the Reserved Matters, and the development shall then be commenced before the expiration of two years from the date of approval of the last of the Reserved Matters.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 of the Town and Country Planning Act 1990 (as amended) and to ensure timely delivery of the development and implementation in line with up to date City Plan policy.

**3. Time Limit Reserved Matters & Phasing (pre-commencement):**

Approval of the following details (hereinafter called the 'reserved matters') shall be obtained from the Local Planning Authority in writing, prior to the commencement of development:

- (i) appearance
- (ii) layout
- (iii) scale
- (iv) landscaping
- (v) access

The development shall accord with the approved details.

Reason: To enable the Local Planning Authority to control the development in detail and to ensure timely delivery of the development and implementation in line with up to date City Plan policy and priorities for this site and to ensure appropriate infrastructure is delivered to serve the whole site in a comprehensive way, to comply with policies SS1, DA7, SA6, CP1, CP2, CP3, CP4, CP7, CP8, CP9, CP10, CP11, CP12, CP13, CP16, CP17, CP18, CP20 of the Brighton and Hove City Plan Part One, DM1, DM9, DM11, DM18, DM19, DM22, DM33, DM35, DM36, DM37 and DM38 of the Brighton and Hove City Plan Part Two, Supplementary Planning Guidance Note 15: Toad's Hole Valley and to comply with Section 92 of the Town and Country Planning Act 1990.

**4. No separate implementation/highway delivery (regulatory):**

The development hereby permitted shall not be implemented or carried out independently of the development for the whole of the Toad's Hole Valley site as approved under BH2022/00203.

The development shall not be carried out earlier than Phase 2 of that original BH2022/00203 development and shall not be first occupied until the main access onto King George VI Avenue opposite Goldstone Crescent as shown on drawings 205585/PD03 Rev G and 205585/PD03.7 Rev E submitted on 9/5/22 with that application have been completed or until the associated portion of the main internal spine road serving the wider Toad's Hole Valley site within the application site as indicated in the submitted parameter plans, and an associated bus turning area, have been completed.

Reason: To ensure a comprehensive, cohesive and sustainable mixed-use development is delivered on the whole Toads Hole Valley site. In the interests of proper planning as the development is isolated within the middle of a development site and it forms part of a wider neighbourhood development and masterplan for the whole Toad's Hole Valley site and cannot be brought forward independently, and it relies on the associated supporting infrastructure, highway works, open and



landscaped space including food growing space, sports, play and community facilities, and other land uses of the original development to meet the demands created by the new population. And in the interests of ensuring highway safety and promotion of sustainable modes of transport and an appropriate housing mix. To comply with Policies SS1, DA7, SA4, SA5, SA6, CP1, CP2, CP3, CP4, CP5, CP8, CP9, CP10, CP11, CP12, CP13, CP14, CP15, CP16, CP17, CP18, CP19 and CP20 of the Brighton and Hove City Plan Part One and policies DM1, DM9, DM11, DM18, DM19, DM20, DM22, DM29, DM33, DM35, DM36, DM37, DM40, DM43 and DM38 of the Brighton and Hove City Plan Part Two and SPD15: Toad's Hole Valley.

**5. Parameter Plans (regulatory):**

The development hereby permitted including landscaped buffer zones, location, quantum of development, layout, height and associated infrastructure of the development proposed through Reserved Matters applications pursuant to this Outline Planning Permission shall have regard to, and shall be in substantial accordance with, the principles set out in the following submitted plans listed below, and shall be also be compatible with and in broad accordance with the associated plans for the remainder of the main Toads Hole Valley site as approved under BH2022/00203 (save where reference to the school is made):

The application site, as submitted on 6/2/23:

Parameter Plan: Land Use

Parameter Plan: Phasing Plan in Relation to Permitted Scheme

Parameter Plan: Transport & Key Infrastructure

Parameter Plan: Landscape & Ecology

Parameter Plan: Building Heights

Parameter Plan: Density

Parameter Plan: Acoustic Parameter Plan (submitted 9/8/22)

Illustrative masterplan

For context with wider Toad's Hole Valley site (BH2022/00203), as submitted on 21/12/22:

Parameter Plan: Land Use (except with regard to school)

Parameter Plans: Phases 2, 3 and 4

Parameter Plan: Transport & Key Infrastructure

Parameter Plan: Landscape & Ecology (except with regard to landscape buffers adjacent to LWS, formerly SNCI)

Parameter Plan: Building Heights

Parameter Plan: Density

Parameter Plan: Acoustic Parameter Plan

Illustrative masterplan

Reason: To ensure the development is compatible with, and has due regard to, that approved for the wider Toad's Hole Valley site, and as the Local Planning Authority has had regard to these drawings in determining whether the amount and type development proposed can be accommodated within the site (and wider Toads Hole Valley site overall) in an acceptable and sustainable way in terms of mix of land uses, overall scale and density, open space, transport and infrastructure delivery, landscaping and ecology mitigation and enhancement,

flood risk, building heights and acoustics, in accordance with Policies SS1, DA7, SA4, SA5, SA6, CP1, CP2, CP3, CP4, CP5, CP8, CP9, CP10, CP11, CP12, CP13, CP14, CP15, CP16, CP17, CP18, CP19 and CP20 of the Brighton and Hove City Plan Part One and policies DM1, DM9, DM11, DM18, DM19, DM20, DM22, DM29, DM33, DM35, DM36, DM37, DM40, DM43 and DM38 of the Brighton and Hove City Plan Part Two and SPD15: Toad's Hole Valley.

**6. Site Waste Management Plan (pre-commencement):**

No development, including enabling works such as site clearance and excavation, shall commence until a Site Waste Management Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details approved.

Reason: To maximise the sustainable management of waste and to minimise the need for landfill capacity and to comply with policy WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

**7. Piling methods (regulatory/pre-commencement):**

Piling penetrative construction methods shall not be carried out other than with the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: Due to the sensitive nature of groundwater beneath this site and the proximity to the drinking water abstraction a piling risk assessment will be required to ensure that the proposal does not harm groundwater resources in line with the National Planning Policy Framework, to comply with policies and SA4 and CP18 of the Brighton and Hove City Plan Part One, DM20, DM40, DM41, DM42 and DM43 of the Brighton and Hove City Plan Part Two and SPD16: Sustainable Drainage.

**8. Development on Land affected by Contamination (pre-commencement):**

No development shall commence until a Remediation Strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This Strategy will be undertaken by a competent person and shall include the following components:

A) A preliminary risk assessment, which has identified:

- (i) all previous uses
- (ii) potential contaminants associated with those uses
- (iii) a conceptual model of the site indicating sources, pathways and receptors
- (iv) potentially unacceptable risks arising from contamination at the site

B) A site investigation scheme, based on (A) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.

C) The results of the site investigation and the detailed risk assessment referred to in (B) and, based on these, an options appraisal and remediation strategy

giving full details of the remediation measures required and how they are to be undertaken.

D) A Verification Plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (C) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. The verification plan shall comprise built drawings of the implemented scheme, photographs of the remediation works in progress and certificates demonstrating that imported and/or material left in situ is free from contamination.

Any changes to these components require the written consent of the local planning authority.

The scheme shall be implemented as approved prior to first occupation.

Reason: To safeguard the health of future residents, to comply with policies, SA4 of the Brighton and Hove City Plan Part One and DM20, DM40, DM41 and DM42 of the Brighton and Hove City Plan Part Two.

**9. Previously Unidentified Contamination (regulatory/pre-commencement):**

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority.

The remediation strategy shall be implemented as approved prior to first occupation.

Reason: To ensure that the development does not contribute to, is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with the National Planning Policy Framework to comply with policies DM20, DM40, DM41 and DM42 of the Brighton and Hove City Plan Part Two.

**10. Parameter Plan: heights (regulatory):**

The heights of the development within the site shall not exceed the maximum 16 metres as set out in the submitted Heights Parameter Plan submitted on 6/2/23.

Reason: In the interests of visual amenity as the heights have been tested in wider views and it has been demonstrated that any increase is likely to have a detrimental impact on the wider setting and views into and out of the locality including the setting of the South Down National Park and heritage assets, to comply with policies and DA7, SA4, SA5, CP12, CP15 and CP13 of the Brighton and Hove City Plan Part One, DM18, DM19, DM22 and DM29 of the Brighton and Hove City Plan Part Two and SPD17:Urban Design Framework.

**11. Housing size and mix (regulatory/pre-commencement):**

No development shall take place (except enabling works and site clearance) until details of the housing mix proposed including details of size of units and tenure have been submitted to and approved in writing by the Local Planning Authority. The development shall provide a mix which is in substantial accordance with the illustrative mix submitted with the application and shall include a minimum of 50% 3/3+ bedroomed units, and the Toads Hole Valley development overall (including this development in conjunction with the wider site as approved under BH2022/00203) shall provide at least 50% 3/3+ bedroomed units overall.

All dwellings shall as a minimum accord with Nationally Described Space Standards for internal space and storage.

Reason: To ensure a balanced and sustainable provision of housing including family sized dwellings on the site, to comply with policies CP19, DA7 and SA6 of the Brighton and Hove City Plan Part One and DM1 of the Brighton and Hove City Plan Part Two.

**12. Wheelchair accessible standard (regulatory):**

A minimum of 10% of the affordable housing and 5% of private market housing hereby permitted shall be built in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings) prior to first occupation and shall be retained as such thereafter. All other dwellings 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 provide a mix of units, to comply with policy CP19 of the Brighton and Hove City Plan Part One and DM1 of the Brighton and Hove City Plan Part Two.

**13. Archaeology (pre-commencement):**

No development shall take place until the applicant has secured the implementation of a Programme of Archaeological Works in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with the National Planning Policy Framework and policies CP15 of the Brighton and Hove City Plan Part One and policy DM31 of the Brighton and Hove City Plan Part Two.

**14. Archaeology (pre-occupation):**

No residential units hereby permitted shall be first occupied until the Archaeological Site Investigation and Post-Investigation Assessment (including provision for analysis, publication and dissemination of results and archive

deposition) for that phase has been completed and evidence submitted to and approved in writing by the Local Planning Authority.

The Archaeological Site Investigation and Post-Investigation Assessment will be undertaken in accordance with the Programme of Archaeological Works set out in the Written Scheme of Investigation approved under the condition 13 above.

Reason: To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with the National Planning Policy Framework and policies CP15 of the Brighton and Hove City Plan Part One and policy DM31 of the Brighton and Hove City Plan Part Two.

**15. Ground levels (pre-commencement):**

No development shall take place until details of the existing and proposed ground levels (referenced as Ordnance Datum) showing any changes to levels, finished ground slab levels, and spot heights and cross sections to show the buildings and land levels adjoining the site, have been submitted to and approved in writing by the Local Planning Authority.

The development shall be implemented in accordance with the approved level details.

Reason: As this matter is fundamental to the acceptable delivery of the permission to safeguard the character and appearance of the area and the amenities of nearby properties, in addition to comply policies CP12, CP13, CP15, DA7, SA4 and SA5 of the Brighton & Hove City Plan Part One and DM18, DM19, DM22 and DM29 of the Brighton and Hove City Plan Part Two and SPD17:Urban Design Framework.

**16. Drainage Scheme & SUDs (pre-commencement - site-wide and phased):**

A) No development shall take place until evidence has been submitted to and approved in writing by the Local Planning Authority to demonstrate that the drainage proposed within the site is compatible and in accordance with an overarching Site Wide Surface Water Drainage Strategy approved for the whole Toad's Hole Valley site (BH2022/00203). The drainage systems shall incorporate the use of Sustainable Drainage Systems (SuDS) features such as ponds, basins and swales and shall accord with a framework programme for phased implementation across the wider Toad's Hole Valley site and shall outline how these drainage systems will be managed and maintained. The drainage shall be in accordance with the principles contained in SPD15: Toads Hole Valley and SPD16: Sustainable Drainage.

B) No development within the phase in which this development is located shall take place until the detailed design of the Drainage Scheme for that phase has been submitted to, and approved in writing by, the Local Planning Authority. The Scheme shall be prepared in accordance with the overarching site-wide strategy as stated in section A) above and shall subsequently be implemented in accordance with the approved details before first occupation of the development. The Drainage Scheme for the development shall include details of the following, incorporated within a Sustainable Drainage Statement:

1. A list of all SuDS measures considered and selected, detailing constraints, available options and how they would be used on site to achieve integrated SuDS design.
2. Full detailed engineering drawings including levels, cross and long sections, location, size, volume, depth and any inlet and outlet features. This should be supported by a clearly labelled drainage layout plan showing pipe networks. The plan should show any pipe 'node numbers' that have been referred to in network calculations and it should also show invert and cover levels of manholes.
3. An assessment to demonstrate appropriate SuDS management and treatment trains for water quality with reference to the SUDS Manual and inclusion of above ground features reducing the requirement for any underground storage and pollution mitigation.
4. Calculations to demonstrate:
  - (i) A Do-Nothing scenario where runoff is discharged offsite without restriction.
  - (ii) The proposed system which will provide sufficient storage to ensure no increase in surface water run-off volumes or onsite flooding for all rainfall events up to and including the 1 in 100 year + 40% uplift for climate change supported by a time incremental analysis to demonstrate this is achieved.
  - (iii) How the system operates during a 1 in 100 year critical duration storm event plus 40% uplift for climate change, including drain down times for all storage features and exceedance routes for any surcharge beyond the design storm.
  - (iv) How this phase of construction impacts on the previous and subsequent phases of construction of the wider Toad's Hole Valley site (BH2022/00203). This will be used to assess the residual risk of the development stages.
5. The full input and output model file/s used in calculations, for example MicroDrainage, in both .pdf and modelling software formats.
6. Where infiltration forms part of the proposed system such as infiltration trenches, basins and soakaways, soakage test results at similar test locations and depths and in accordance with BRE digest 365 must be provided.
7. The implementation of silt traps for protection of any residual tanked elements from siltation.
8. An estimate of the cost of replacing the chosen system once it has reached its design life.
9. Details of measures to maintain and secure safe public access arrangements within shared areas of public open space and how such areas will incorporate informal recreation or amenity use.
10. A phasing and timing of implementation plan.
11. How nature-based infiltration systems are incorporated and how balancing ponds or other SuDs features will incorporate biodiversity features
12. How SuDS will interact with and facilitate facilities to recycle, harvest and conserve water resources including rainwater recycling.

C) Up on completion of the drainage works and prior to first occupation, a Management and Maintenance Plan for the SuDS features and drainage network shall be submitted to and approved in writing by the Local Planning Authority. This shall include:

(i) Provision of complete set of as-built drawings for site drainage.

(ii) A timetable for the management and maintenance plan for the lifetime of the development which shall include arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime including any private elements undertaken by a management company. This plan shall ensure use of chemical pesticides/herbicides are minimised or not used.

(iii) a Verification Report demonstrating that the SuDS drainage system for the catchment area for the development has been constructed in accordance with the approved design drawings.

D) The SUDs drainage systems shall be implemented prior to first occupation and maintained in accordance with the approved details under parts B) and C) and for the lifetime of the development.

Reason: It is fundamental to the acceptable delivery of the permission to ensure that the principles of sustainable drainage are incorporated into this proposal to provide a satisfactory means of surface water disposal to prevent the increased risk of flooding and pollution of controlled waters, and in the interests of sustainability and to provide amenity/recreation space, to comply with policies SS1, DA7, CP7, CP8, CP11, CP16, SA4 and SA6 of the Brighton & Hove City Plan Part One, policies DM20, DM40, DM41, DM42 and DM43 of the Brighton and Hove City Plan Part Two and SPD16: Sustainable Drainage, SPD17: Urban Design Framework and SPD15: Toad's Hole Valley.

**17. Drainage/sewage - SW (pre-commencement):**

No development shall take place until evidence has been submitted to and approved in writing by the Local Planning Authority to demonstrate that occupation of the development implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate waste water network capacity is available to adequately drain the development.

The development shall be carried out as approved.

Reason: To ensure provision of an adequate sewage network is available prior to development, to comply with policies CP11, DA7, SA4 and CP7 of the Brighton and Hove City Plan Part One and policies DM20, DM40, DM41, DM42 and DM43 of the Brighton and Hove City Plan Part Two and SPD16: Sustainable Drainage.

**18. Drainage/foul/surface - SW (pre-commencement):**

No development shall take place until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.

The approved means of foul and surface water sewerage disposal shall be implemented within the development.

Reason: To ensure adequate foul sewage drainage/treatment and surface water disposal measures are available to serve the development, to comply with policies and CP11, DA7, SA4, CP7 and CP8 of the Brighton and Hove City Plan Part One and policies DM20, DM40, DM41, DM42 and DM43 of the Brighton and Hove City Plan Part Two and SPD16: Sustainable Drainage.

**19. No infiltration of Surface Water into Ground (regulatory)**

No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the Local Planning Authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters.

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

Reason: To ensure adequate pollution prevention measures are put in place due to the sensitivity of controlled waters in this location to ensure that the development does not contribute to, is not put at unacceptable risk from, or adversely affected by unacceptable levels of water pollution caused by mobilised contaminants. This is in line with the National Planning Policy Framework and policies CP11, CP7, CP8, DA7 and SA4 of the Brighton and Hove City Plan Part One and policies DM20, DM40, DM41, DM42 and DM43 of the Brighton and Hove City Plan Part Two and SPD16: Sustainable Drainage.

**20. Energy and Heating Strategy (pre-commencement):**

No development shall take place until evidence that the development is to be built in accordance with an overarching site-wide Energy Strategy for the whole Toad's Hole Valley development as approved under BH2022/00203 has been submitted to the Local Planning Authority for written approval. This shall be via an Energy Statement that identifies the carbon footprint of the development for each stage of the energy hierarchy:

- (i) Be lean: savings from energy demand reduction
- (ii) Be clean: energy savings from low carbon technologies
- (iii) Be green: savings from renewable technologies.

The residential development shall be built to achieve an energy efficiency standard of a minimum of 31% CO<sub>2</sub> emission improvement relative to the threshold set in the Building Regulations Part L 2013, until superseded by new Building Regulations the Future Homes Standard. Evidence shall be submitted to demonstrate that the development will achieve a minimum Energy Performance Certificate (EPC) rating 'B'. The Energy Strategy and Statement shall have regard to the new energy efficiency standards in place at the time of implementation and any Future Homes Standard or Future Buildings Standard in force at that time.

The Statement shall contain a whole life carbon assessment accounting for build, occupancy, maintenance and end of life stages. In addition the Energy Statement



shall set out how the use of recycled, sustainable and low-carbon building materials and circular economy principles will be incorporated in the development. All energy calculations shall use SAP10 emissions factors.

The Energy Statement shall demonstrate that a fabric first, passive design approach has been adopted to reduce energy demand. The Energy Statement shall assess the potential for renewable / low carbon energy on site and shall prioritise exploration of solar PV, solar thermal, air source and ground source heat pumps. The Energy Statement shall assess low-carbon heating options to supply heating efficiently, cleanly and affordably to residential buildings. This shall include a Feasibility Study for a low-carbon heat network, together with a low temperature distribution system either for this site or as part of the wider Toad's Hole Valley site. The agreed heating system shall be implemented within the development unless evidence is submitted to prove it is not technically feasible or financially viable under current costs, technologies and funding regimes, and considering heat demand.

No dwellings shall be occupied until evidence has been submitted to and approved in writing by the Local Planning Authority to demonstrate that the carbon emission targets sought have been achieved.

The agreed energy efficiency measures set out in the Energy Strategy and Statements shall be incorporated within the development prior to first occupation and retained.

Reason: In the interests of sustainability and as Policy DA7 of the Brighton and Hove City Plan Part One aims to ensure development of Toads Hole Valley is of an exemplary standard in terms of environmental, social and economic sustainability and achieves a One Planet approach and promotes the city's UNESCO Biosphere objectives, and to ensure ecological enhancement and mitigation, to comply with policies DA7, CP8, SA4, SA5, SA6, CP12, CP14, CP18 and CP10 of the Brighton & Hove City Plan Part One, DM44, DM45 and DM46 of the Brighton and Hove City Plan Part Two and SPD15: Toad's Hole Valley.

**21. Heating - future proofing (pre-commencement part):**

No development of any flats hereby permitted shall take place until detailed plans and evidence have been submitted to the Local Planning Authority for written approval to demonstrate how the blocks will be able to connect to any future decentralised heat network, should one become available. Evidence should demonstrate the following:

- a) Plant room size and location showing facility for expansion for connection to a future district heat network: to include sufficient physical space to be allotted for installation of heat exchangers and any other equipment required to allow connection;
- b) A route onto and through site: details of below ground works which will be implemented within the scheme to ensure that appropriate piping routes are available and safeguarded to enable future connections to a heat network, demonstration of where connections will be made into the blocks, space on site for the pipework connecting the point at which primary piping comes onsite

with the on-site heat exchanger/ plant room/ energy centre. Proposals must demonstrate a plausible route for heat piping and demonstrate how suitable access could be gained to the piping and that the route is protected throughout all planned phases of development.

- c) Metering: installed to record flow volumes and energy delivered on the primary circuit.

The approved future-proofing measures shall be implemented before first occupation of the buildings within which they are located/ connected to and shall be retained.

Reason: To ensure the development is future-proofed in the interests of sustainability and as Policy DA7 of the Brighton and Hove City Plan Part One aims to ensure development of Toads Hole Valley is of an exemplary standard in terms of environmental, social and economic sustainability and achieves a One Planet approach and promotes the city's UNESCO Biosphere objectives, to comply with policies DA7, CP8, SA4, SA5, SA6, CP12, CP14 and CP10 of the Brighton & Hove City Plan Part One, DM44, DM45 and DM46 of the Brighton and Hove City Plan Part Two and SPD15: Toad's Hole Valley.

**22. Ventilation (ground floor slab level):**

The development hereby permitted shall not exceed ground floor slab level until a written scheme has been submitted to the local planning authority for written approval which demonstrates how and where ventilation will be provided to each residential building within the development including specifics of where the clean air is drawn from, heat recovery, and that sufficient acoustic protection is built into the system to protect end users of the development.

The approved scheme shall provide suitable protection in terms of air quality and shall be implemented before occupation and thereafter retained.

Reason: To ensure the development is future-proofed in the interests of sustainability and as Policy DA7 of the Brighton and Hove City Plan Part One aims to ensure development of Toads Hole Valley is of an exemplary standard in terms of environmental, social and economic sustainability and achieves a One Planet approach and promotes the city's UNESCO Biosphere objectives, to comply with policies DA7, CP8, SA4, SA5, SA6, CP12, CP14, CP18 and CP10 of the Brighton & Hove City Plan Part One and QD27 of Brighton and Hove Local Plan, DM44, DM45 and DM46 of the Brighton and Hove City Plan Part Two and SPD15: Toad's Hole Valley.

**23. Overheating and climate change (within 6 months commencement):**

Within 6 months of commencement of development evidence shall be submitted to the Local Planning Authority for written approval, in the form of an Overheating and Climate Change Analysis to demonstrate that residential units have been designed to ensure they incorporate measures to adapt to future climate change and do not overheat at any time of year. This analysis shall use dynamic thermal modelling in line with the guidance and data set out in Chartered Institute of Building Services Engineers TM52 and TM59 Design Methodology for the Assessment of Overheating Risk in Homes. Evidence shall be submitted to

demonstrate that the buildings have been designed with regard to climate change and are adaptable to meet predicted future weather without affecting their energy consumption or compromising healthy building principles. This shall include evidence that they have been designed for comfort to keep cool in hotter summers, and designed for structural stability, weatherproofing and water management.

The approved design measures to prevent overheating and adaptations to climate change shall be implemented within the development prior to first occupation and retained.

Reason: To ensure the development is future-proofed in the interests of sustainability and as Policy DA7 of the Brighton and Hove City Plan Part One aims to ensure development of Toads Hole Valley is of an exemplary standard in terms of environmental, social and economic sustainability and achieves a One Planet approach and promotes the city's UNESCO Biosphere objectives, to comply with policies DA7, CP8, SA4, SA5, SA6, CP12, CP14 and CP10 of the Brighton & Hove City Plan Part One, DM44, DM45 and DM46 of the Brighton and Hove City Plan Part Two and SPD15: Toad's Hole Valley.

**24. Water Efficiency (pre-occupation):**

None of the residential units hereby approved shall be occupied until evidence that they have been built to achieve as a minimum, a water efficiency standard of not more than 105 litres per person per day maximum indoor water consumption has been submitted to the Local Planning Authority for written approval.

The approved water efficiency measures shall be implemented and retained.

Reason: To ensure the development is future-proofed in the interests of sustainability and as Policy DA7 of the Brighton and Hove City Plan Part One aims to ensure development of Toads Hole Valley is of an exemplary standard in terms of environmental, social and economic sustainability and achieves a One Planet approach and promotes the city's UNESCO Biosphere objectives, to comply with policies DA7, CP8, SA4, SA5, SA6, CP12, CP14 and CP10 of the Brighton & Hove City Plan Part One and SPD15: Toad's Hole Valley.

**25. Rainwater Strategy (6 months commencement):**

Within 6 months of commencement of the development hereby permitted a Rainwater Harvesting Strategy shall be submitted to the Local Planning Authority for written approval. This shall detail how rainwater will be collected, stored, managed and used and how green living roofs, water butts and tanks will be incorporated into the development, and it shall accord with the form part of an overarching Sustainable Drainage Strategy for the whole Toad's Hole Valley site as approved under BH2022/00203.

The approved measures shall be implemented and retained prior to first occupation of each respective building containing the measures.

Reason: To ensure the development is future-proofed in the interests of sustainability and as Policy DA7 of the Brighton and Hove City Plan Part One

aims to ensure development of Toads Hole Valley is of an exemplary standard in terms of environmental, social and economic sustainability and achieves a One Planet approach and promotes the city's UNESCO Biosphere objectives, to comply with policies DA7, CP8, SA4, SA5, SA6, CP12, CP14 and CP10 of the Brighton & Hove City Plan Part One and SPD15: Toad's Hole Valley and DM43 of the Brighton and Hove City Plan Part Two.

**26. BREEAM Communities (pre-commencement):**

No development shall take place until an updated Steps 2 and 3 BREEAM Communities Assessment demonstrating that the development will meet the BREEAM Communities standard of 'excellent', and which cross references the master plan "Step 1" assessment for the whole Toad's Hole Valley site as approved under BH2022/00203, has been submitted to the Local Planning Authority for written approval for the respective phase at the design stage. This shall be evidenced by submission of independent verification in the form of a BREEAM Assessment report. The BREEAM Communities Assessments shall include the following at each step:

Step 1 - Establishing the principle of development - including a range of mandatory performance credits across the range of master-planning issues such as consultation, flood risk, noise pollution, energy, water, ecology.

Step 2 - determining the layout of the development - including options for:

- biodiversity and habitat protection and enhancement
- pedestrian, cyclist and vehicular movement
- public transport
- street and building layout, use and orientation
- housing type, provision and location
- utilities and other infrastructure provision
- public realm and green infrastructure.

Step 3 - Designing the details - including options for:

- landscaping
- construction materials
- management and long-term stewardship of facilities and services
- building design
- inclusive design
- resource efficiency during and after construction
- using local employment during construction.

The development of each phase shall be built in accordance with the approved BREEAM details.

Reason: In the interests of sustainability and as Policy DA7 of the Brighton and Hove City Plan Part One aims to ensure development of Toads Hole Valley is of an exemplary standard in terms of environmental, social and economic sustainability and achieves a One Planet approach and promotes the city's UNESCO Biosphere objectives, to comply with policies DA7, CP8, SA4, SA5, SA6, CP12, CP14 and CP10 of the Brighton & Hove City Plan Part One and

SPD15: Toad's Hole Valley and policies DM43, DM44, DM45, DM46, DM18 and DM19 of the Brighton and Hove City Plan Part Two.

**27. Biodiverse Green roofs (6 months commencement):**

Within 6 months of commencement a Biodiverse Green Roof Strategy which demonstrates how green living roofs shall be incorporated on all flat or other suitable roofs in the development shall be submitted to the Local Planning Authority for written approval. As a minimum, all blocks of residential flats shall incorporate green roofs. The details shall include the location, area coverage in sqm, a cross section, construction method statement, the seed mix, and a maintenance and irrigation programme.

The biodiverse green roofs shall then be constructed, maintained and irrigated in accordance with the approved details before first occupation of each respective building they are located on and shall be retained as such thereafter.

Reason: In the interests of sustainability and as Policy DA7 of the Brighton and Hove City Plan Part One aims to ensure development of Toads Hole Valley is of an exemplary standard in terms of environmental, social and economic sustainability and achieves a One Planet approach and promotes the city's UNESCO Biosphere objectives, and to ensure ecological enhancement and mitigation and to mitigate the wider visual impact of the development particularly in views from and to the South Downs National Park, to comply with policies DA7, CP8, SA4, SA5, SA6, CP12, CP14 and CP10 of the Brighton & Hove City Plan Part One and SPD15: Toad's Hole Valley and DM43, DM18, DM22 and DM37 of the Brighton and Hove City Plan Part Two.

**28. Design Code Implementation (pre-commencement each phase):**

No development shall take place until a Design Code Compliance Statement has been submitted for written approval to demonstrate how the design of the development has complied with the objectives of the site-wide Design Code approved for the wider Toads Hole Valley site under BH2022/00203.

The design of the development shall be landscape-led and in broad accordance with the Design and Access Statement, and shall be carried out in accordance with the approved Design Code Compliance Statement.

Reason: As these matters are fundamental to ensure a holistic and clearly defined set of design principles to provide cohesion and consistency across the phases of the wider Toads Hole Valley development site, in order to achieve a distinctive place and a good quality neighbourhood layout and built environment, and to respect its sensitive edge of Downland setting, and to ensure the development is sustainable and vibrant, and has due regard to landscape, biodiversity, visual impact, amenity, health, inclusivity and flood risk, to comply with policies and SS1, CP8, CP9, CP10, CP11, CP12, CP13, CP14, CP16, CP18, SA4, SA5 and SA6 of the Brighton and Hove City Plan Part One, policies DM18, DM19, DM20, DM22, DM33, DM35, DM36, DM37, DM38, DM43, DM44, DM45 and DM46 of the Brighton and Hove City Plan Part Two and as Policy DA7 of the Brighton and Hove City Plan Part One aims to ensure development of Toads Hole Valley is of an exemplary standard in terms of environmental, social and economic

sustainability and achieves a One Planet approach and promotes the city's UNESCO Biosphere objectives, and to comply with SPD15:Toads Hole Valley, SPD06: Trees and Development Sites, SPD11: Nature Conservation and Development and SPD14: Parking Standards and SPD16: Sustainable Drainage and SPD17: Urban Design Framework.

**29. Health Impact Assessment (regulatory/pre-commencement RM):**

Reserved Matters applications for the development shall include a detailed Health Impact Assessment (HIA) based on up to date population figures and projections to demonstrate how the scheme addresses the following and is also in accordance with the HIA for the wider Toad's Hole Valley site BH2022/00203:

- (i) Healthy Housing - healthy housing quality and design; internal design layout for wheelchair use and the needs of older people; design for accessible car parking;
- (ii) Active Lifestyles - how more people will travel actively, and walking and cycling will be prioritised with a clear separation between cyclists and pedestrians; the needs of protected characteristic groups, with particular regard to disability/dementia friendly paving; benches on steep roads within and adjacent to the scheme
- (iii) Access to open space and nature - public open spaces including those for childrens play and sports; how spaces and sports facilities are inclusive to all; provision of informal structured activities;
- (iv) Safe and vibrant neighbourhoods - GP healthcare and other social infrastructure; integration of health facilities with other community facilities; the health impact on other primary care services i.e. dentists, pharmacies and opticians.
- (v) Access to work and training - how the proposals include access to work and training; the inclusion of managed and affordable work spaces.
- (vi) Access to Healthy Food - food growing including community orchards and allotments; the type of retail offer, to avoid a cluster of hot food takeaways.
- (vii) Healthy Environment - measures to minimise air pollution caused by traffic and energy facilities; inclusion of a car club; enhancement/provision of bus service; electric vehicle charging points.

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

Reason: To ensure a sustainable and healthy neighbourhood, to comply with policies DA7, SA6 and CP18 of the Brighton and Hove City Plan Part One and SPD15: Toad's Hole Valley.

**30. Materials samples (pre-commencement of ground floor slab level):**

No development shall take place above ground floor slab level until samples of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):

- (i) samples of all brick, render and tiling (including details of the colour of render/paintwork to be used)

- (ii) samples of all cladding to be used, including details of their treatment to protect against weathering
- (iii) samples of all hard surfacing materials
- (iv) samples of the proposed window, door and balcony treatments
- (v) samples of all other materials to be used externally

Development shall be carried out in accordance with the approved details and shall accord with the approved Design Code for that respective phase.

Reason: To ensure a satisfactory appearance to the development and to comply with policies CP12, DA7, SA4, SA5 and CP15 of the Brighton & Hove City Plan, policy DM18 of the Brighton and Hove City Plan Part Two and SPD15 Toads Hole Valley.

**31. Crime prevention measures (pre-occupation):**

No occupation shall take place until details of crime prevention measures have been submitted to and approved in writing by the Local Planning Authority. This can be evidenced through Secured By Design certification. The approved measures shall be incorporated within the development and retained.

Reason: To ensure the development incorporates design features which deter crime or disorder and the fear of crime, to comply with strategic objective SO23 and policies CP12 and SA6 of the Brighton and Hove City Plan Part One and policy DM18 of the Brighton and Hove City Plan Part Two.

**32. Ecological Mitigation and Enhancement Strategy – overarching (pre-commencement):**

No development shall take place including any enabling works or site clearance or submission of any reserved matters applications until an overarching Ecological Mitigation and Enhancement Strategy (EMES) for the site has been submitted to and approved in writing by the Local Planning Authority.

The EMES shall detail the protection and enhancement of retained habitats, the mitigation and/or compensation for the loss of habitat, the restoration of seminatural habitats and enhancement of the site for biodiversity. The EMES shall be in substantial accordance with the details contained in the following:

- (i) Environmental Impact Assessment (Enplan, 09/08/22) including Chapter 5 and associated technical appendices including proposed mitigation measures, submitted 9/8/22
- (ii) Ecology Addendum (EPR, December 2022 submitted on 21/12/22)
- (iii) Outline Landscape and Ecological Management Plan (EPR Ltd 28/4/22) submitted 9/8/22 (except with regard to the width of landscape buffers to LWS)
- (iv) Outline SNCI Habitat Creation, Restoration and Management Plan (EPR Ltd, 28/4/22) submitted 9/8/22, and
- (v) Landscape & Ecology Parameter Plan submitted 6/2/23

The EMES shall include:

- 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 of initial aftercare and remedial measures;
- j) details for disposal of any wastes arising from works
- k) evidence that the EMES has been produced by a suitably qualified ecologist
- l) evidence that the EMES for this site accords with, and is compatible with, the EMES for the wider Toad's Hole Valley site as approved under BH2022/00203.

The EMES shall be implemented in accordance with the approved details prior to first occupation or first planting season following occupation (as to be agreed) and all features shall be retained in that manner thereafter unless otherwise agreed in writing by the Local Planning Authority.

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, the National Planning Policy Framework, and to comply with policies CP10, CP8 and DA7 of the Brighton and Hove City Plan Part One and policies DM22, DM37, DM38 and DM43 of the Brighton and Hove City Plan Part Two.

**33. Ecology – detailed EMEP (pre-commencement):**

No development shall take place until a detailed Ecological Mitigation and Enhancement Plan (EMEP) has been submitted to and approved in writing by the Local Planning Authority. This EMEP shall be produced by a suitably qualified ecologist and shall accord with the overarching principles contained in the site-wide EMES approved under the condition above and shall accord with the overall strategy for the wider Toads Hole Valley site as approved under BH2022/00203, and shall include:

- 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;
- d) type and source of materials to be used where appropriate, e.g. native species of local provenance;
- e) 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 of initial aftercare and remedial measures;
- j) details for disposal of any wastes arising from works.
- k) details of number, type and location of bird, insect and bat boxes. These shall include as a minimum of 1 bee brick and 1 swift bricks/boxes per residential unit and shall detail a number of starling boxes at suitable locations within the site.
- l) details of biodiverse green walls and green roofs (a specification should evidence that the 4 criterion to meet 'Good' condition have been met as defined in the Biodiversity Metric Technical Supplement (Natural England, April 2022))
- m) details of how the development will be permeable to wildlife

The approved mitigation and enhancement measures shall be implemented before the development is first occupied (or if located on individual buildings, before those buildings are first occupied), or in the case of soft landscaping they shall be implemented within the first planting season following approval of the details and should any plant fail or die within the first 5 years they shall be replaced. The approved measures shall be retained.

Reason: To mitigate against the loss of wildlife habitats on site and to ensure satisfactory enhancement of biodiversity, to comply with policies CP10, CP8 and DA7 of the Brighton and Hove City Plan Part One and policies DM22, DM37, DM38 and DM43 of the Brighton and Hove City Plan Part Two.

**34. Landscape and Ecological Management Plan (pre-commencement):**

No development shall take place until a detailed Landscape and Ecological Management Plan (LEMP) based on the Outline Landscape and Ecological Management Plan (EPR Ltd 28/4/22) submitted 9/8/22 (except with regard to the width of the landscape buffers to the LWS), and also based on the LEMP (EPR Ltd 23/12/21) submitted for the whole Toads Hole Valley site BH2022/00203 has been submitted to and approved in writing by the Local Planning Authority. The content of the detailed LEMP shall provide measures to manage and maintain the measures secured in the conditions 32 and 33 above and will secure the long term management of the amenity planting and open spaces, and shall be produced by a suitably qualified ecologist and shall include the following:

- a) description and evaluation of features to be managed;
- b) ecological trends and constraints on site that might influence management;
- c) aims and objectives of management;
- d) appropriate management options for achieving aims and objectives;
- e) prescriptions for management actions, together with a plan of management compartments;
- f) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- g) details of the body or organisation responsible for implementation of the plan;
- h) ongoing monitoring and remedial measures
- i) details of how the LEMP accords with that for the overarching Toad's Hole Valley site approved under BH2022/00203.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plans shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved LEMP shall be implemented in accordance with the approved details prior to first occupation or first planting season following occupation, as agreed.

Reason: Biological communities are constantly changing and require positive management to maintain their conservation value. The implementation of a LEMP will ensure the long term management of habitats, species and other biodiversity features, to comply with policies CP10, CP8 and DA7 of the Brighton and Hove City Plan Part One and policies DM22, DM37, DM38 and DM43 of the Brighton and Hove City Plan Part Two.

**35. Further ecological surveys over a longer period (pre-commencement):**

No development shall take place until evidence has been submitted to and approved in writing by the Local Planning Authority to demonstrate that all ecological surveys relating to the site which informed the ecological mitigation and enhancement measures approved under conditions 32 and 33 are up to date and remain valid, in accordance with best practice (CIEEM, April 2019, *Advice Note on the Lifespan of Ecological Reports and Surveys*). If these are deemed to require updating, further ecological surveys should be commissioned to:

- i) establish if there have been any changes in the presence and or abundance of protected species, supporting habitats and/or notable/priority habitats, and
- ii) identify any likely new ecological impacts that might arise from any changes.

The supplementary surveys shall be of an appropriate type for the above habitats and/or species and survey methods shall follow national good practice guidelines.

Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme under conditions 32 and 33, the original approved ecological mitigation, compensation and enhancement measures will be revised and new or amended measures, and a timetable for their implementation, will be submitted to and approved in writing by the local planning authority prior to the commencement of development. Works shall then be carried out in accordance with the proposed new approved ecological measures and timetable.

Reason: Given this site is to form part of a large-scale phased development of Toad's Hole Valley over approximately 10 years, ecological surveys may not remain valid for particular species given the period of time passed between original approval and implementation. Species are mobile and habitats can

change and become more or less suitable, it is therefore important that the surveys reflect the situation at the time on any given impact occurring to ensure adequate mitigation, compensation and enhancement can be put in place and to ensure no offences are committed, to comply with policies CP10, CP8 and DA7 of the Brighton and Hove City Plan Part One and policies DM22, DM37, DM38 and DM43 of the Brighton and Hove City Plan Part Two.

**36. Ecology Addendum works (regulatory pre-occupation)**

All ecological measures and/or works shall be carried out in accordance with the details contained in the Ecology Addendum (EPR, December 2022) as submitted on 21/12/22 with the planning application prior to first occupation.

Reason: To ensure that the measures considered necessary as part of the ecological impact assessment are carried out as specified, including measures to minimise risk of microplastics from the sports facilities and to capture detail of the buffer zones, and to provide a net gain for biodiversity as required by paragraphs 174 and 180 of the National Planning Policy Framework, Section 40 of the Natural Environment and Rural Communities Act 2006, as amended, Policy CP10 of the Brighton & Hove City Plan Part One and Policy DM37 of the City Plan Part Two.

**37 Biodiversity Net Gain (pre-commencement)**

No development shall commence unless and until a Biodiversity Management Plan to ensure that there is a minimum 10% net gain in biodiversity within a 30 year period as a result of the development has been submitted to and agreed in writing by the Local Planning Authority. The net biodiversity impact of the development shall be measured in accordance with the DEFRA biodiversity metric as applied in the area in which the site is situated at the relevant time and the Biodiversity Management Plan shall include:

1. Proposals for the on-site biodiversity net gain;
2. A management and monitoring plan for onsite biodiversity net gain including 30 year objectives, management responsibilities, maintenance schedules and a methodology to ensure the submission of monitoring reports in years 2,5,10,15,20,25 and 30 from commencement of development, demonstrating how the BNG is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed;
3. Proposals for off-site biodiversity net gain to achieve the approved equivalent 18.71 residential unit off-site net gain provision;
4. A management and monitoring plan for all offsite biodiversity net gain including 30 year objectives, management responsibilities, maintenance schedules and a methodology to ensure the submission of monitoring reports in years 2,5,10,15,20,25 and 30 from commencement of development, demonstrating how the BNG is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed;

The development shall be implemented in full accordance with the requirements of the approved Biodiversity Management Plan.

Reason: In the interests of ensuring measurable net gains to biodiversity and in accordance with Policies CP8, CP10 and DA7 of the Brighton and Hove City Plan

Part One and DM37 of the Brighton and Hove City Plan Part Two and paragraphs 174 and 180 of the National Planning Policy Framework 2021.

**38. External Lighting Strategy (including biodiversity) (pre-occupation):**

The development hereby permitted shall not be first occupied until an External Lighting Design Strategy has been submitted to and approved in writing by the Local Planning Authority. The Strategy shall include the impact of any proposed lighting of adjacent sites (including sports facilities) on the development site, and shall include any lamps and luminaires erected as part of the development and any lighting of public open spaces and shall:

- a) identify those areas/features on site that are particularly sensitive for bats, badgers and dormice and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging;
- b) demonstrate how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the species in a) above using their territory or having access to their breeding sites and resting places;
- c) include details of levels of luminance, hours of use, predictions of both horizontal illuminance across the site and vertical illuminance affecting immediately adjacent receptors, hours of operation, design and appearance and details of maintenance;
- d) include evidence to demonstrate that the predicted illuminance levels have been tested by a competent person to ensure that the illuminance levels agreed in part c) are achieved. Where these levels have not been met, a report shall demonstrate what measures have been taken to reduce the levels to those agreed in part c);
- e) demonstrate that the external lighting installations comply with the recommendations of the Institution of Lighting Professionals (ILP) Guidance Notes for the Reduction of Obtrusive Light (2011), or similar guidance recognised by the council;
- f) demonstrate that the lighting has had regard to, and will not unduly impact, the South Downs National Park Dark Skies Reserve status.
- g) demonstrate that there will be no light spill above 0.5 lux onto Toads Hole Valley Local Wildlife Site (formerly SNCI)

All external lighting shall be installed, operated and maintained in accordance with the specifications and locations set out in the approved Strategy, and these shall be maintained thereafter in accordance with the approved Strategy. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

Reason: To safeguard the amenities of the occupiers of adjoining properties and to safeguard the rural setting of the South Downs National Park and its Dark Skies Reserve status to comply with policies SA4, SA5, CP10, CP16 and DA7 of the Brighton and Hove City Plan Part One and to protect species and wildlife habitats as many species active at night (e.g. bats and badgers) which are sensitive to light pollution. The introduction of artificial light might mean such species may be

disturbed and /or discouraged from using their breeding and resting places, established flyways or foraging areas. Such disturbance can constitute an offence under relevant wildlife legislation and would be contrary to policies CP10 and DA7 of the Brighton and Hove City Plan Part One and policies DM20, DM40, and DM37 of the Brighton and Hove City Plan Part Two.

**39. Acoustic Design Statement (pre-commencement):**

No development shall take place until an Acoustic Design Statement (ADS) outlining how the layout, design and detailed noise mitigation measures of the proposed development ensures there is no undue impact from road traffic noise or other sources such as sports facilities to the occupiers and users of the development has been submitted to and approved in writing by the Local Planning Authority.

The ADS shall be prepared by a competent person and shall demonstrate how the design and layout has ensured that best practicable noise conditions are provided. The ADS shall include periods for daytime as 0700-2300 hours and night-time as 2300-0700 hours, and shall identify appropriate noise mitigation measures for all land uses. All residential units shall thereafter be designed so as not to exceed the noise criteria based on BS8233:2014, unless otherwise agreed in writing by the Local Planning Authority:

Dwellings indoors in daytime: 35 dB LAeq, 16 hours

Outdoor living area in daytime: 55 dB LAeq, 16 hours

Inside bedrooms at night-time: 30 dB LAeq, 8 hours (45 dB LAmax).

The final ADS shall be based on the principles of ProPG, Planning and Noise: New Residential Development, BS8233 2014 and WHO standards.

No development of buildings or land uses containing noise sensitive receptors shall be carried out within the red 'unacceptable' noise zones of the site as set out in the approved Acoustic Parameter Plan.

Each respective property shall not be first occupied or used until the approved noise mitigation measures have been incorporated within the development. The approved measures shall thereafter be retained.

Reason: To safeguard the amenities of the prospective occupiers and users of the development, to comply with policies DA7 of the Brighton and Hove City Plan Part One and policies DM20 and DM40 of the Brighton and Hove City Plan Part Two.

**40. Alternative ventilation (pre-commencement above slab level):**

If relying on closed windows to meet the acoustic guide values agreed under condition 39 above, the development hereby permitted shall not exceed ground floor slab level until a written scheme has been submitted to the local planning authority for approval that demonstrates appropriate alternative ventilation measures that do not compromise the façade insulation or increase internal noise levels. If applicable, any room should have adequate ventilation e.g. trickle ventilators, acoustically treated as necessary. The scheme shall demonstrate how

and where ventilation will be provided to each dwelling 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.

Noise mitigation measures, including associated alternative ventilation arrangements shall not compromise the need to provide the required cooling of the dwellings or the removal of pollutants such as moisture and CO<sub>2</sub> under Building Regulations. Regard should also be had to guidance by Acoustic and Noise Consultants and in Chartered Institute of Building Services Engineers TM59 Design Methodology for the Assessment of Overheating Risk in Homes.

The agreed ventilation measures shall be incorporated within the development before first occupation of each respective building and shall be retained.

Reason: In order to protection of the amenities of prospective residents and occupiers, in accordance with polices CP8 and DA7 of the Brighton and Hove City Plan Part One and DM20 and DM40 of the Brighton and Hove City Plan Part Two.

**41. Plant/machinery noise: (g/f slab level):**

No development above ground floor slab level of any part of the development permitted shall take place until a scheme for the suitable treatment of all plant and machinery against the transmission of sound and/or vibration has been approved in writing by the Local Planning Authority. Noise associated with plant and machinery shall be controlled such that the Rating Level shall achieve no higher than measured background sound pressure levels at 1m from the nearest noise sensitive property, unless otherwise agreed in writing. The Rating Level and existing background noise levels are to be determined as per the guidance provided in BS 4142:2014. Plant noise shall not exceed 45dBLAeq1hr in external areas, unless otherwise agreed in writing. In addition, there should be no significant adverse impacts from low frequency noise.

The approved 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 occupiers and users of the development to comply with policies DM20 and DM40 of the Brighton and Hove City Plan Part Two.

**42. Delivery and service management plan (g/f slab level/pre-occupation):**

No development above ground floor slab level shall take place until a Delivery & Service Management Plan, which includes details of how deliveries, servicing and refuse collection will take place and the frequency of those vehicle movements, has been submitted to the Local Planning Authority for written approval.

The Delivery and Service Management Plan shall detail how refuse and recycling serving the residential dwellings including blocks of flats will be accessed and how refuse collection vehicles and their operators will access the facilities, including the dimensions of turning areas and road gradients and details of the type, size and location of the refuse and recycling storage areas and the Plan shall have

due regard to Planning Advice Note 5 Design Guidance for the Storage and Collection of Recyclable Materials and Waste (September 2007) (or a subsequent amended version of PAN05) and the principles set out in the approved Design Code.

All deliveries, servicing and refuse collection shall thereafter be carried out in accordance with the approved details from first occupation and retained as such thereafter.

Reason: In order to ensure that the safe operation of the development, the provision of satisfactory facilities for the storage and collection of refuse and recycling and to protect amenity, to comply with policy CP8 and DA7 of the Brighton & Hove City Plan Part One, polices DM20, DM36 and DM40 of the Brighton and Hove City Plan Part Two and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.

**43. Refuse & recycling (pre-occupation):**

The development shall not be occupied until a scheme for the storage of refuse and recycling for each residential unit has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out and provided in full in accordance with the approved details prior to first occupation of the development to which it relates and the refuse and recycling storage facilities shall thereafter be retained for use at all times. The scheme shall have due regard to Planning Advice Note 5 Design Guidance for the Storage and Collection of Recyclable Materials and Waste (September 2007) (or a subsequent amended version of PAN05) and the principles set out in the approved Design Code.

Reason: To ensure the provision of satisfactory facilities for the storage of refuse and to comply with policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.

**44. Details of any CHP and use of ultralow gas boilers (pre-installation)**

No Combined Heat and Power system shall be installed within the development until the following specifications have been provided to the Local Planning Authority for written approval prior to any installation: kWh output, location of flue and height above buildings, height above ground, spot height of ground at the proposed location, flue width, plume temperature and exit velocity and NOx emissions per kWh. Any Ultralow NOx boilers within the development shall have NOx emission rates of less than 30 mg/kwh unless otherwise agreed.

The approved system and specification shall be implemented within the development.

Reason: To safeguard the amenities of residents and to minimise air pollution and to protect visual amenity, to comply with policies CP12, CP18, DA7, SA4, SA5 and CP8 of the Brighton & Hove City Plan Part One and DM20, DM40, DM44, DM45 and DM46 of the Brighton and Hove City Plan Part Two.

**45. Tree Protection/method statement (pre-commencement):**

Prior to the commencement of the development hereby approved (including any site clearance or enabling works), a Scheme for the protection of the retained trees (based on the SJA Trees Arboricultural Implications Report April 2022 and associated drawing SJA-TPP-21210-042 submitted on 09/08/22), in accordance with BS 5837:2012, including a tree protection plan(s) (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 and protection measures shall be retained until the completion of the development and no vehicles, plant or materials shall be driven or placed within areas enclosed by tree/hedge protection fences.

Reason: As this matter is fundamental to protecting the trees which are to be retained during construction works in the interest of the visual amenities of the area and biodiversity and to comply with policies DA7, SA4, SA5 CP8, CP10, CP12 and CP13 of the Brighton & Hove City Plan Part One, DM22 and DM37 of the Brighton and Hove City Plan Part Two and SPD06: Trees and Development Sites.

**46. Tree protection - supervision (pre-commencement):**

Prior to the commencement of the development hereby approved (including any site or ground clearance, tree works, demolition or construction), details of all tree and hedge protection monitoring and site supervision by a suitably qualified tree specialist (where arboricultural expertise is required) shall be submitted to and approved in writing by the Local Planning Authority.

The development thereafter shall be implemented in strict accordance with the approved details during the construction period.

Reason: As this matter is fundamental to protecting the trees/hedge which are to be retained during construction works in the interest of the visual amenities of the area and biodiversity and to comply with policies DA7, CP8, SA4, SA5, CP10, CP12 and CP13 of the Brighton & Hove City Plan Part One, DM22 and DM37 of the Brighton and Hove City Plan Part Two and SPD06:Trees and Development Sites.

**47. Trees - Meeting (pre-commencement):**

No development hereby permitted shall take place (including any site clearance or enabling works) until evidence has been submitted to and approved in writing by the Local Planning Authority (LPA) to demonstrate that a pre-commencement meeting has been held on site and attended by the developers appointed arboricultural consultant, the site manager/foreman and a representative from the Local Planning Authority (LPA) to discuss details of the working procedures and agree either the precise position of the approved tree/hedge protection measures to be installed OR that all tree/hedge protection measures have been installed in accordance with the approved tree protection plan.



The development of each phase shall thereafter be carried out in accordance with the approved details or any variation as may subsequently be agreed in writing by the LPA.

Reason: As this matter is fundamental to protecting the trees/hedge which are to be retained during construction works in the interest of the visual amenities of the area and biodiversity and to comply with policies CP8, CP10, DA7, SA4, SA5, CP12 and CP13 of the Brighton & Hove City Plan Part One, DM22 and DM37 of the Brighton and Hove City Plan Part Two and SPD06:Trees and Development Sites.

**48. Hard and Soft Landscaping Scheme (RM and g/f slab level):**

- A) Landscaping proposals within the Reserved Matters applications shall contain the amount, type and location of soft landscaping in substantial accordance with the landscape-led approach contained within the Design and Access Statement and Arboricultural Implications Report submitted 9/8/22, Parameter Plans and Illustrative Masterplan submitted 6/2/23 and as contained within the Outline Landscape & Ecological Management Plan (EPR Ltd 28 April 2022) submitted on 09/08/22 (except with regard to the width of the landscape buffers to the LWS). Proposals shall also be in accordance with the Landscape and Visual Impact Assessment as set out in Chapter 9 of the Environmental Statement and associated appendices submitted 9/8/22. The landscaping proposals at Reserved Matters stage shall also generally adhere to the Landscape Character Areas of the Design Code for the development and the Toad's Hole Valley wider Design Code as approved under BH2022/00203 and shall accord with the Landscape and Ecological Management Plan required by condition 34.
- B) No development shall take place above ground floor slab level until a Landscaping Scheme for hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority. The approved landscaping shall be implemented in accordance with the approved details and the soft landscaping shall be carried out in the first planting season after completion or first occupation of the development, whichever is the sooner.
- C) The Landscaping Scheme to be submitted for approval shall accord with the principles as set out in the site-wide landscaping scheme approved for the whole Toad's Hole Valley site under BH2022/00203 and shall include the following:
- (i) details of all hard and soft surfacing to include type, position, design, dimensions and materials;
  - (ii) Details of how any sustainable drainage system (SUDs) features may be used in addition for public amenity in terms of amenity open space or recreation space or landscaping or to provide visual amenity;
  - (iii) detailed planting plans and an outline written specification (including cultivation and other operations associated with plant and grass establishment). A proportion of native species shall be used including those that encourage wildlife, and shall include

- grass/wildflower mixes, street trees and structure planting. The plans and specifications shall be accompanied by a schedule detailing species, nursery stock sizes (and indicative ultimate heights) and numbers/densities of all proposed trees/plants including details of tree pit design, use of guards or other protective measures and defects liability periods;
- (iv) details of a planted landscape buffer of a minimum 25 metres wide between the residential units and the Local Wildlife Site to the west (formerly SNCI) and at least 20 metres of this buffer closest to the LWS shall be dense thorny shrub, as illustrated in the submitted Parameter Plans;
  - (v) details of significant tree planting along the internal spine road as shown in the illustrative masterplan (see condition below also);
  - (vi) details of how different parts of the landscaping will be continuously connected throughout the site and connected to the wider Toad's Hole Valley site as approved under BH2022/00203 for biodiversity via continuous green connections;
  - (vii) details of how the landscaping has responded to the steep topography and visual sensitivity of parts of the site in accordance with the Parameter Plans;
  - (viii) details of hard landscaping works including proposed finished levels and contours, details of car parking surfacing and layouts (and these shall include tree planting to break up their expanse) and details of other vehicle and pedestrian access and circulation areas;
  - (ix) details of all boundary treatments to include type, position, design, dimensions and materials;
  - (x) details of minor artefacts and ancillary structures such as street furniture including benches, tree pits and guards, refuse bins or other storage, details of lighting column designs, height and material(s);
  - (xi) details of water features, walls, steps, mounds, acoustic bunds etc., and such details to include representative cross/long-sections where necessary;
  - (xii) a timetable programme for implementation of the landscaping scheme
  - (xiii) details of management and maintenance and who is responsible for this via a Landscape Management Plan for 5 years following completion of the respective phase.
  - (xiv) details of a landscape buffer between the residential units and the sports facilities to the north within the main Toads Hole Valley site as approved under BH2022/00203 and as shown on the submitted parameter plans.

The development shall be carried out in full accordance with the agreed details. Any trees or plants which within a period of 5 years from the completion of each respective phase 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 and ensure the provision of amenity afforded by appropriate landscape design and in the interest of the visual amenities of the area and biodiversity to comply with policies DA7, SA4, SA5, CP8, CP10, CP12, CP16 and CP13 of the Brighton & Hove City Plan Part One and DM18, DM22, DM38, DM43 and DM37 of the Brighton and Hove City Plan Part Two.

**49. Tree Planting Scheme (ground floor slab level - phased):**

No development shall take place above ground floor slab level until a Scheme for Proposed Tree Planting, indicating positions or density, species, and planting size have been submitted to approved in writing by the Local Planning Authority. This may form part of the overall Landscaping Scheme for the site (see condition above) and shall include:

- a) details of the location for tree planting for different areas within the site including a Street Tree Planting scheme for all streets within the development
- b) details of tree planting pits to a specification that will ensure the successful long term establishment of trees suitable to the soil and site conditions, a minimum 18 to 24 cubic metres per pit. Where space is a limiting factor in the provision of an adequate planting pit then the use of a proprietary subsoil planting infrastructure should be used
- c) details of species selected for the main internal spine road, and in the area of the taller buildings which include blocks of flats in the site and the neighbourhood centre opposite and these shall have an ultimate growth height (i.e. within 40 years) of not less than 20 meters and shall be 'extra heavy standard' nursery stock at the time of planting with 16- 18cm girth at 1metre high unless otherwise agreed
- d) details of the size at planting of all remaining trees not included in c) above
- e) all tree planting shall comply with BS 8545 (2014) Trees: from nursery to independence in the landscape
- f) details of a timetable for implementation including details of management and maintenance and who is responsible for this via a Landscape Management Plan for 5 years following completion.

Any such trees planted pursuant to this condition that are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective within five years of planting shall be replaced with specimens of a similar size and species as originally required.

Reason: To ensure the provision of the amenity value afforded by trees in respect of the proposed development. Sufficient tree pits are essential as the shallow chalk horizons in this area are not conducive to healthy tree growth and the excavation of an adequate tree planting pit will be critical for all new tree plantings. In the interests of visual amenity and biodiversity, to comply with policies DA7, SA4, SA5, CP8, CP10, CP12, CP16 and CP13 of the Brighton & Hove City Plan Part One, DM18, DM22, DM38, DM43 and DM37 of the Brighton and Hove City Plan Part Two and SPD15.

**50. Biodiversity CEMP (pre-commencement):**

No development or enabling works, including site clearance shall take place until a Biodiversity Construction Environmental Management Plan (BCEMP) has been submitted to and approved in writing by the local planning authority. The BCEMP shall include the following:

- a) risk assessment of potentially damaging construction activities to biodiversity features;
- b) identification of "biodiversity protection zones";
- c) practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (to be provided as a set of method statements);
- d) the location and timing of sensitive works to avoid harm to biodiversity features;
- e) the times during enabling/construction when specialist ecologists need to be present on site to oversee works;
- f) responsible persons and lines of communication;
- g) the appointment of and the role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- h) use of protective fences, exclusion barriers and warning signs.

The method statements as referred to in c) above are required for the protection of breeding birds, badgers, reptiles and dormice. The content of the method statements shall include the:

- (i) purpose and objectives for the proposed works/measures;
- (ii) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
- (iii) extent and location of proposed works/measures shown on appropriate scale maps and plans;
- (iv) timetable for implementation, demonstrating that works/measures are aligned with the proposed phasing of enabling and construction;
- (v) persons responsible for implementing the works/measures;
- (vi) initial aftercare and long-term maintenance (where relevant);
- (vii) disposal of any wastes arising from the works/measures
- (viii) details of how the BCEMP for this site accords and is compatible with that for the wider Toad's Hole Valley site approved under BH2022/00203 and associated phasing of that development.

All clearance and construction activities shall be carried out in accordance with the approved BCEMP.

Reason: To protect the biodiversity of the site, to comply with policies CP10, CP8 and DA7 of the Brighton and Hove City Plan Part One, DM22 and DM37 of the Brighton and Hove City Plan Part Two and SPD15.

**51. Construction Environment Management Plans (pre-commencement):**

A) No development or enabling works, including site clearance shall take place until evidence has been submitted to demonstrate that the construction of the development will be carried out in accordance with an overarching Site-Wide Framework Construction Environmental Management Plan (FCEMP) for the

whole Toad's Hole Valley site as permitted under BH2022/00203 has been submitted to and approved in writing by the Local Planning Authority (in consultation with National Highways).

B) No development or enabling including site clearance works shall take place until a Detailed Construction Environmental Management Plan (DCEMP) for this site has been submitted to and approved in writing by the Local Planning Authority. The DCEMP shall accord with the principles set out in the approved FCEMP for the wider Toad's Hole Valley site and shall include the following:

- (i) The details of the types of works to be carried out at this phase.
- (ii) The timing of the enabling/construction works and how this relates to the phases across the wider Toad's Hole Valley site as approved under BH2022/00203, including the forecasted construction, enabling, occupation and completion date(s).
- (iii) Where this site is to be constructed concurrently with another phase of The Toad's Hole Valley development as approved under BH2022/00203, the details of how different contractors and site owners will coordinate across phases within the site to ensure the CEMPs are consistently adhered to and are compatible. This will include liaison with the overarching Toad's Hole Valley site-wide CEMP Site Manager. Details shall also be included to demonstrate how the CEMPs will have due regard to any works being carried out at the time to developments in the vicinity of the site.
- (iv) The details of a Community Engagement Scheme which shall demonstrate how the contractors will liaise with local people before and during construction to ensure that residents, businesses, elected councillors and public transport operators are kept aware of progress on the site and how any complaints will be dealt with, reviewed and recorded. Details of the extent of the local community engagement area to be liaised with shall be included. The scheme shall include details of publicity measures including information boards on site, newsletters/emails and a website, and may include regular public meetings. The information provided shall include contact details of the site operations manager(s), contracts manager(s), and any other relevant personnel in case of complaints. .
- (v) The details of mitigation measures to minimise disturbance to neighbours from noise, dust, vibration, site traffic and deliveries to and from the site, and how this will be monitored and how pollution incidents will be recorded and dealt with.
- (vi) The details of hours of construction including all associated vehicular movements including deliveries.
- (vii) The details of construction lighting.
- (viii) The details of the anticipated number, frequency and types of vehicles used during construction including forecasts of the daily number and peak hour frequencies of construction vehicle movements associated with the site, such forecasts to be include details of movement purpose and vehicle type, including size, and details of any variation by phase and/or time of year

- (ix) details of measures to prevent or control mud, dust and waste being deposited on or affecting the safety and operation of the public highway and public transport which shall include the provision of wheel washing facilities and may include other works required to mitigate the impact of construction upon the public highway, including the provision of temporary Traffic Regulation Orders.
- (x) A plan showing construction traffic routes and the method of access and routing of vehicles during construction and details of the form, siting and installation of temporary wayfinding signage to the site. Construction traffic shall be directed to use routes so as to minimise insofar as reasonably practicable impacts of construction traffic on the transport network and the environment and such a routing plan shall show any variant routes for different vehicle types and/or at different times of day or year and/or in relation to different construction phases
- (xi) The details of the temporary construction site access(es) for access/egress by vehicles, cyclists and pedestrians vehicular access to the site and details of turning areas within the site to ensure vehicles can enter and exit in forward gear. This shall include evidence of any associated temporary traffic restrictions and any temporary traffic management orders proposed or Traffic Regulation approvals, and the designs shall be submitted in scaled drawings and supported by computer generated vehicle tracking assessments to prove the effectiveness of the design. The designs shall also ensure continued access to other premises in the vicinity of the site during construction.
- (xii) The details of locations of alternative waiting facilities to prevent vehicle idling or waiting to access the site.
- (xiii) The details of any necessary temporary road closure orders or diversions on the highway network in the vicinity of the site including any temporary closures, diversion or alterations to of any pedestrian or cycleway routes through or adjacent to the site. Details of any proposal to restrict, alter or stop bus access through or in the vicinity of the site or the provision of temporary bus stops necessary as a result of any temporary road closures shall also be included.
- (xiv) The details of measures to mitigate against the effects of the construction and development in respect of the adopted highway (including, inter alia, pavements, signage, drainage, lighting, trees and street furniture), cycle hire docking stations, bus stops and shelters, and real-time public transport information displays located in the area
- (xv) The details of a scheme to provide for and manage the on-site parking of vehicles including motorcycles and bicycles by site operatives, contractors and visitors, which shall be based on an assessment of anticipated demand, details of where this shall be located, and how this shall be managed.
- (xvi) The details of the provision for the loading and unloading of plant, materials and removal of waste. All plant, machinery and waste will be stored on site.
- (xvii) The details of the proposed measures on the site to separate and enclose any proposed enabling or construction works including details of any proposed security hoardings and fencing and how they will be maintained.
- (xviii) The details of how any residual land comprising the development not

being developed as part of this phase will be treated and made safe and fenced off or made good.

- (xix) the siting and layout of site compounds and welfare facilities for contractors including details of any related access, engineering measures, pedestrian routes, showering facilities, acoustic screening and the provision of sound insulation required to mitigate or eliminate specific environmental impacts.
- (xx) Evidence to demonstrate that the owners/contractors have applied for and obtained prior consent under the Control of Pollution Act 1974 from the council throughout construction.
- (xxi) Evidence to demonstrate that the owners/contractors have adopted the 'Considerate Contractor Scheme' (or equivalent at the time of submission throughout construction).
- (xxii) evidence that a hydrogeological risk assessment has been carried out.

The enabling and construction works shall be carried out at all times in accordance with the respective approved details, unless any variations are otherwise first submitted to and approved in writing by the Local Planning Authority.

Reason: As this matter is fundamental to the protection of amenity, water quality, and for highway safety throughout development works, and to ensure that the A27 continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety, in compliance with policies CP9 and DA7 of the Brighton & Hove City Plan Part One and DM20, DM40 and DM43 of the Brighton and Hove City Plan Part Two.

**52. Site-wide pedestrian and cycling movement strategy (pre-RM applications):**

No Reserved Matters applications shall be submitted until a Pedestrian and Cycling Strategy has been submitted to and approved in writing by the Local Planning Authority which accords with the site-wide strategy for the whole Toad's Hole Valley site approved under BH2022/00203. The Strategy shall be in broad accordance with the Transport and Key Infrastructure Parameter Plan submitted on 6/2/23 and shall include details of main cycle and pedestrian routes through the site and connections to the wider cycle and pedestrian route network in the area of the site, including outside the main Toad's Hole Valley site in particular to connect by bicycle and foot to nearby services and facilities and open spaces including the South Downs National Park. The Strategy shall include, but not be limited to, details of:

- (i) The hierarchy of cycle and pedestrian routes within the site;
- (ii) Links to off-site cycle and pedestrian network including the national cycle network;
- (iii) The design of cycleways and footways/pedestrian routes, including surfacing and width, to meet current best practice guidelines at the time of approval and to ensure segregation;
- (iv) Phasing of provision of infrastructure for cycling and pedestrians on each hierarchy of road and open space;
- (vi) The public engagement and involvement in the preparation of the Pedestrian and Cycling Strategy;

- (vii) How the Strategy accords with the principles in the Design Code and the site-specific and wider Toad's Hole Valley landscape and ecological strategies secured by Condition under BH2022/00203.

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

Reason: To encourage and promote sustainable transport and in interests of amenity in accordance with Policies DA7, CP8, CP9 and CP13 of the Brighton and Hove City Plan Part One and DM18, DM33, DM35, DM36, DM37, DM40, DM20 and DM43 of the Brighton and Hove City Plan Part Two and SPD15 Toads Hole Valley.

**53. On-site highways/parking (pre RM applications/ pre-occupation):**

Each Reserved Matters application shall be accompanied by a Highway Infrastructure Plan detailing the internal site layout with the spine road, all the roads/footways/cycleways/public rights of way/crossing points and associated verges, landscaping, drainage and lighting necessary to connect the dwellings to highways and public rights of way within the main Toad's Hole Valley site approved under BH2022/00203, as well to existing linkages outside the site.

The Plan shall include detailed plans demonstrating the number and location of car and motorcycle parking spaces and these shall accord with Supplementary Planning Guidance Note 14: Parking Standards, unless otherwise agreed in writing. The Plan shall accord with the submitted Parameter Plans and the approved Pedestrian and Cycling Strategy and the principles set out the approved Design Code, approved landscaping scheme and the approved Parameter Plans. Street trees shall be included throughout the development and along all streets and within all car parking areas. The approved car parking areas shall include provision for disabled users and electrically charged vehicles and parking for motorcycles. The Plan shall include details of all bus stops within the site which shall include bus cages, raised kerbs, shelters and real-time information in broad accordance with the submitted Parameter Plans. The Plan shall be submitted to the Local Planning Authority for written approval. Associated details of any internal sub-phases shall be submitted for written approval.

The respective car parking areas, roads, footways, cycleways and public rights of way shall be provided in accordance with the approved details prior to the respective occupation of the residential uses and shall be permanently retained for those purposes at all times thereafter.

Reason: To ensure satisfactory infrastructure is in place before buildings are first occupied to meet the travel demands created by the development and the parking needs of occupiers including the disabled to prevent parking overspill, and to encourage and promote sustainable transport and in the interests of highway safety and accessibility. In addition to ensure car parking areas and roads are broken up by greenery in the interests of visual amenity and biodiversity. To comply with policies CP9, CP13, SA4, SA5 and DA7 of the Brighton and Hove City Plan Part One and DM18, DM22, DM33, DM35, DM36, DM38, DM43 and



DM37 of the Brighton and Hove City Plan Part Two and SPD15 Toads Hole Valley.

- 54. Cycle Parking (Regulatory - with RM matters applications/pre-occupation):**  
The Reserved Matters applications shall be accompanied by detailed plans and a document demonstrating the number, type and location of secure cycle parking facilities for the occupants of, and visitors to, the development. The provision shall include one communal store per block of flats for 'bike maintenance' and a maintenance stand shall be provided within each bicycle store within the blocks of flats unless otherwise agreed. The cycle parking shall be in accordance with the principles set out in the approved Design Code and approved Pedestrian and Cycling Strategy.

No respective dwelling shall be first occupied until the approved cycle parking facilities which serve that dwelling or block of flats have been fully implemented and made available for use and they 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 CP9 and DA7 of the Brighton and Hove City Plan Part One, DM33, DM35 and DM36 of the Brighton and Hove City Plan Part Two and SPD14: Parking Standards.

**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. (Flood Risk) The applicant is advised to contact the council's Flood Risk Manager for further advice as to what information is required to comply with conditions above at [sustainabledrainage@brighton-hove.gov.uk](mailto:sustainabledrainage@brighton-hove.gov.uk) and to have regard to SPD16: Sustainable Drainage and best practice design guidance.
3. (Ecology) Where possible, bee bricks required by the condition above should be placed in a south facing wall in a sunny location at least 1 metre above ground level. Swift bricks 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 swift bricks above windows or doors. Where swift bricks are not practical due to the nature of construction, alternative designs of suitable swift nest boxes should be provided in their place.
4. (Southern Water) A formal application for connection to the water supply is required in order to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk).

5. (Air quality/transport) The developer is advised to consider the incorporation of superfast broadband for flexible reliable online working to the dwellings and communal rooms as this can play a part in minimising road traffic congestion (and associated air pollution) associated with morning and evening commuting.
6. (Air quality/transport) The developer should seek to ensure HGV construction movements avoid local Air Quality Management Areas and aim to ensure they meet the euro-VI emission standard available since 2014. Non-Road Mobile Machinery (including bulldozers, loaders, and tower cranes) should aim to meet emissions standard IIIB. From 2025 NRMM should aim to meet emission standard stage IV. Diesel generators and other constant speed engines should aim to meet emissions stage V from 2025.
7. (Cycle parking) In order to be in line with policy cycle parking must be secure, convenient (including not being blocked in a garage for cars and not being at the far end of a rear garden), accessible, well lit, well signed, near the main entrance, by a footpath/hardstanding/driveway and wherever practical, sheltered. It should also be noted that the Highway Authority would not approve vertical hanging racks as they are difficult for many people to use and therefore not considered to be policy and Equality Act 2010 compliant. Also, the Highway Authority approves of the use of covered, illuminated, secure 'Sheffield' type stands spaced in line with the guidance contained within the Manual for Streets section 8.2.22. Or will also consider other proprietary forms of covered, illuminated, secure cycle storage including the 'slide cycle in' type cycle store seen in railway stations, the 'lift up door' type cycle store, the metal Police approved 'Secure-By-Design' types of cycle store, the cycle 'bunker' type store and the 'two-tier' type system again seen at railway stations where appropriate. Also, where appropriate provision should be made for tricycles, reclining cycles and 'cargo bikes.'
8. (Electric Charging) Details of the site's proposed parking provision will come forward as a part of a reserved matters application (RMA). Given the recent change in Part S of the Building Regulations, which came into effect on 15 June 2022, and requires: "Every new home with on-site parking is to have an electric vehicle charge point." The delivery of active electric vehicle charging provision for 100% of car parking spaces from the start, in line with building regulations and the Council's 2030 Net Zero aspiration is required to be demonstrated/included in any detailed planning application/RMA for this site. All new EV charge points being installed will need to provide a minimum power supply of 7kW or have the cable routes ready for this supply, unless sought otherwise via condition.
9. (Energy Efficient Standard – residential) 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.
10. (Water Efficient Standard) 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.

11. (Part O) The applicant is advised that Part O of Building Regulations 2022 is aimed at designing out the need for mechanical air conditioning systems in dwellings that would otherwise be prone to overheating and limiting unwanted solar gains. There are optional methods to demonstrate compliance through the Building Regulations.

### **Appendix C – Reasons for refusal should the S106 not be signed**

In the event that the draft S106 Agreement has not been signed by all parties by 8<sup>th</sup> July 2023, the application shall be refused for the following reasons:

1. Co-dependent implementation

The proposed development fails to provide a mechanism (via a Section 106 legal agreement) to ensure the development is only carried out in conjunction with the wider Toad's Hole Valley site as approved under BH2022/00203. The proposal therefore fails to ensure a comprehensive, cohesive and sustainable mixed-use development is delivered on the whole Toads Hole Valley site. The proposed development would otherwise be isolated within the middle of a development site when it can only form part of a wider neighbourhood development and masterplan for the whole Toad's Hole Valley site. Without a S106 the associated supporting infrastructure, sustainable transport modes, highway works, open and landscaped space, food growing space, sports, play and community facilities, and other land uses of the original development and housing mix the development requires cannot be delivered. The proposal would therefore be contrary to Policies SS1, DA7, SA4, SA5, SA6, CP1, CP2, CP3, CP4, CP5, CP8, CP9, CP10, CP11, CP12, CP13, CP14, CP15, CP16, CP17, CP18, CP19 and CP20 of the Brighton and Hove City Plan Part One and policies DM1, DM9, DM11, DM18, DM19, DM20, DM22, DM29, DM33, DM35, DM36, DM37, DM40, DM43 and DM38 of the Brighton and Hove City Plan Part Two and SPD15: Toad's Hole Valley.

2. Phasing:

The proposed development fails to provide a mechanism (via a Section 106 legal agreement) to ensure the development comes forward in an appropriately phased way alongside the main Toad's Hole Valley site approved under BH2022/00203 which enables the necessary supporting social, environmental, community, health, ecological, open space, sports and play, employment, transport (including sustainable transport linkages) and other physical infrastructure and mitigation measures to be satisfactorily provided in a timely and cohesive way to serve the demands created by the development and mitigate its impacts, and the proposal would thus fail to deliver a comprehensive or sustainable neighbourhood, contrary to policies SS1, DA7, SA6, CP1, CP2, CP3, CP4, CP7, CP8, CP9, CP10, CP11, CP12, CP13, CP16, CP17, CP18, CP20 of the Brighton and Hove City Plan Part

One, DM1, DM9, DM11, DM19, DM33, DM35, DM36, DM37 and DM38 of the Brighton and Hove City Plan Part Two, Supplementary Planning Guidance Note 15: Toad's Hole Valley, the Council's Developer Contributions Technical Guidance and the NPPF.

3. Transport:

The proposed development fails to provide a mechanism (via a Section 106 legal agreement) to ensure the provision of necessary transport and travel measures and highway works to satisfactorily mitigate its impacts or meet the travel demand created by the development. Without a section 106 agreement the necessary highway works could not be secured for sufficient junction and road capacity or the promotion of use of sustainable modes of transport including walking, cycling and bus use including strategic linkages to adjacent areas including the South Downs National Park. In addition, there would not be a mechanism to ensure the proposed highway works are carried out in a timely way or are safely designed. The proposal would not deliver a sustainable neighbourhood at Toad's Hole Valley and would fail to ensure the wider Toad's Hole Valley development is delivered in a comprehensive and cohesive way. The proposal would therefore be contrary, and would be contrary to policies SS1, DA7, SA6, CP7, CP8, CP9, CP12, CP13 and CP18 of the Brighton and Hove City Plan Part One, DM33, DM35 and DM36 of the Brighton and Hove City Plan Part Two, Supplementary Planning Guidance Note 15: Toad's Hole Valley, the Council's Developer Contributions Technical Guidance and the NPPF.

4. Affordable housing:

The proposed development fails to provide a mechanism (via a Section 106 legal agreement) to secure the necessary provision of 40% affordable housing within the scheme, contrary to policies SS1, CP1, CP7, CP19, CP20, DA7 and SA6 of the Brighton and Hove City Plan Part One, DM1 of the Brighton and Hove City Plan Part Two, Supplementary Planning Guidance Note 15: Toad's Hole Valley, the Council's Developer Contributions Technical Guidance and the NPPF.

5. Custom/self-build housing:

The proposal fails to provide a mechanism (via a Section 106 legal agreement) to secure the necessary inclusion of an element of custom/self-build housing plots, contrary to policies SS1, SA6, CP1, CP7, CP19 and DA7 of the Brighton and Hove City Plan Part One, DM1 of the Brighton and Hove City Plan Part Two, Supplementary Planning Document 15: Toad's Hole Valley and the council's statutory duty to ensure sufficient serviced plots of land to meet demand on the Custom Housebuilding Register, the Council's Developer Contributions Technical Guidance and the NPPF para 62.

6. Employment space delivery:

The proposal fails to provide a mechanism (via a Section 106 legal agreement) to secure delivery (and marketing) of necessary cleared and serviced employment land and employment floorspace on at least 3.5 hectares of the site as approved under BH2022/00203 as required as part of a sustainable new neighbourhood at Toad's Hole Valley. The proposal would fail to ensure the wider Toad's Hole Valley development is delivered in a comprehensive and cohesive way. The proposal would therefore be contrary to policies EM4 and EM9 of the Brighton &

Hove Local Plan and SS1, DA7, SA6, CP2, CP3 and CP7 of the Brighton and Hove City Plan Part One, DM11 of the Brighton and Hove City Plan Part Two, the Council's Developer Contributions Technical Guidance, Supplementary Planning Guidance Note 15: Toad's Hole Valley and the NPPF.

7. Ecology/Biodiversity:  
The proposal fails to provide a mechanism (via a Section 106 legal agreement) to secure delivery of the necessary and appropriate ecological mitigation and enhancement on and off-site required which contribute towards the wider Toad's Hole Valley sustainable neighbourhood and would not secure an appropriately comprehensive or cohesive ecological scheme, contrary to policies SS1, CP7, DA7 and CP10 of the Brighton and Hove City Plan Part One, DM37 of the Brighton and Hove City Plan Part Two, Supplementary Planning Guidance Note 15: Toad's Hole Valley, Supplementary Planning Document 11: Nature Conservation and Development, the council's Developer Contributions Technical Guidance and the NPPF.
8. Open space:  
The proposal fails to provide a mechanism (via a Section 106 legal agreement) to secure delivery of the necessary and appropriate open space within the wider Toad's Hole Valley development to meet the demand created by this development for public open amenity space, children's play areas, food growing areas and landscaping and which also contribute towards the wider Toad's Hole Valley sustainable neighbourhood. The proposal would fail to ensure the wider Toad's Hole Valley development is delivered in a comprehensive and cohesive way. The proposal would therefore be contrary to policies SS1, CP7, SA6, DA7, CP12, CP13, CP14, CP16, CP17 and CP18 of the Brighton and Hove City Plan Part One, DM18, DM22, DM37 and DM38 of the Brighton and Hove City Plan Part Two, Supplementary Planning Guidance Note 15: Toad's Hole Valley, the Council's Developer Contributions Technical Guidance, Planning Advice Note 06: Food Growing and Development and the NPPF.
9. Sports facility:  
The proposal fails to provide a mechanism (via a Section 106 legal agreement) to secure delivery of necessary and appropriate sports and exercise facilities to meet the demand created by the development and the wider strategic needs of the city, and which contribute towards the wider Toad's Hole Valley sustainable neighbourhood. The proposal would fail to ensure the wider Toad's Hole Valley development is delivered in a comprehensive and cohesive way. The proposal would therefore be contrary to policies SS1, CP7, SA6, DA7, CP12, CP13, CP14, CP16, CP17 and CP18 of the Brighton and Hove City Plan Part One, DM22 of the Brighton and Hove City Plan Part Two, Supplementary Planning Guidance Note 15: Toad's Hole Valley, the Council's Developer Contributions Technical Guidance, the Brighton and Hove Local Football Facilities Plan and the NPPF.
10. Community facility:  
The proposal fails to provide a mechanism (via a Section 106 legal agreement) to secure the delivery (and marketing) of a necessary and appropriate multi-use community centre facility (which includes sports provision and South Down National Park interpretation material within it) to meet the demand created by the

new development and strategic city-wide needs. and which contribute towards the wider Toad's Hole Valley sustainable neighbourhood. The proposal would fail to ensure the wider Toad's Hole Valley development is delivered in a comprehensive and cohesive way. The proposal would therefore be contrary to policies SS1, CP5, CP7, DA7, SA6, CP12, CP17 and CP18 of the Brighton and Hove City Plan Part One, DM9 of the Brighton and Hove City Plan Part Two, Supplementary Planning Guidance Note 15: Toad's Hole Valley, the Council's Developer Contributions Technical Guidance and the NPPF.

11. Health facility:

The proposal fails to provide a mechanism (via a Section 106 legal agreement) to secure delivery (and marketing) of a necessary and appropriate doctors surgery facility to serve the development and which contribute towards the wider Toad's Hole Valley sustainable neighbourhood. The proposal would fail to ensure the wider Toad's Hole Valley development is delivered in a comprehensive and cohesive way. The proposal would therefore be contrary to policies SS1, SA6, DA7, CP7, CP12 and CP18 of the Brighton and Hove City Plan Part One, DM9 of the Brighton and Hove City Plan Part Two, the Council's Developer Contributions Technical Guidance, Supplementary Planning Guidance Note 15: Toad's Hole Valley and the NPPF.

12. Neighbourhood centre:

The proposal fails to provide a mechanism (via a Section 106 legal agreement) to secure delivery (and marketing) of a necessary and appropriate neighbourhood centre which includes ancillary supporting retail and community uses to serve the development and which contribute towards the wider Toad's Hole Valley sustainable neighbourhood. The proposal would fail to ensure the wider Toad's Hole Valley development is delivered in a comprehensive and cohesive way. The proposal would therefore be contrary to policies SS1, SA6, DA7, CP4, CP7, CP12, CP18 of the Brighton and Hove City Plan Part One, the Council's Developer Contributions Technical Guidance, Supplementary Planning Guidance Note 15: Toad's Hole Valley and the NPPF.

13. Construction training:

The proposal fails to provide a mechanism (via a Section 106 legal agreement) to secure an Employment and Training Strategy specifying how the developer or their main contractors will provide opportunities for local people to gain employment or training on the construction phase of the proposed development contrary to policy SS1, SA6, CP2, CP7 and DA7 of the Brighton & Hove City Plan Part One and Supplementary Planning Guidance Note 15: Toad's Hole Valley the Council's Developer Contributions Technical Guidance.

14. Employment Scheme:

The proposal fails to provide a mechanism (via a Section 106 legal agreement) to secure a financial contribution towards the City Council's Local Employment Scheme to support local people to employment within the construction industry, contrary to policy SS1, SA6, CP2, CP7 and DA7 of the Brighton & Hove City Plan Part One and Supplementary Planning Guidance Note 15: Toad's Hole Valley and the Council's Developer Contributions Technical Guidance.

15. Public Art:  
The proposal fails to provide a mechanism (via a Section 106 legal agreement) to secure delivery of an on-site artistic component, contrary to policies SS1, SA6, CP5, CP7, DA7 and CP13 of the Brighton & Hove City Plan Part One, and Supplementary Planning Guidance Note 15: Toad's Hole Valley and the Council's Developer Contributions Technical Guidance and Planning Advice Note 10: Public Art and the Council's Public Art Strategy 2022.
  
16. Compliance/monitoring:  
The proposal fails to provide a mechanism (via a Section 106 legal agreement) to secure a financial contribution to ensure timely monitoring and compliance of the conditions and obligations associated with the scheme and ensure effective implementation of relevant Development Plan policies, and to ensure timely delivery of the scheme, contrary to policy SS1, SA6, CP7 and DA7 of the Brighton & Hove City Plan Part One and the Council's Developer Contributions Technical Guidance.





Vanessa Brown and Samer Bagaean  
Hove Park Ward

BH2022/02534 Toads Hole Valley

As the Councillors for Hove Park Ward which is directly opposite this site, and the Ward most affected by this huge development at Toads Hole, we wish to strongly object to this further outline planning application.

We understand we do not require another secondary school, but better use could be made of this site. This will make the number of homes over a thousand which is an overdevelopment with all the attendant traffic problems.

There is insufficient infrastructure to support all these homes.

We believe a better use of this land would be more sporting facilities, additional medical facilities or parkland for the use of the thousands of residents who will be living on the site.



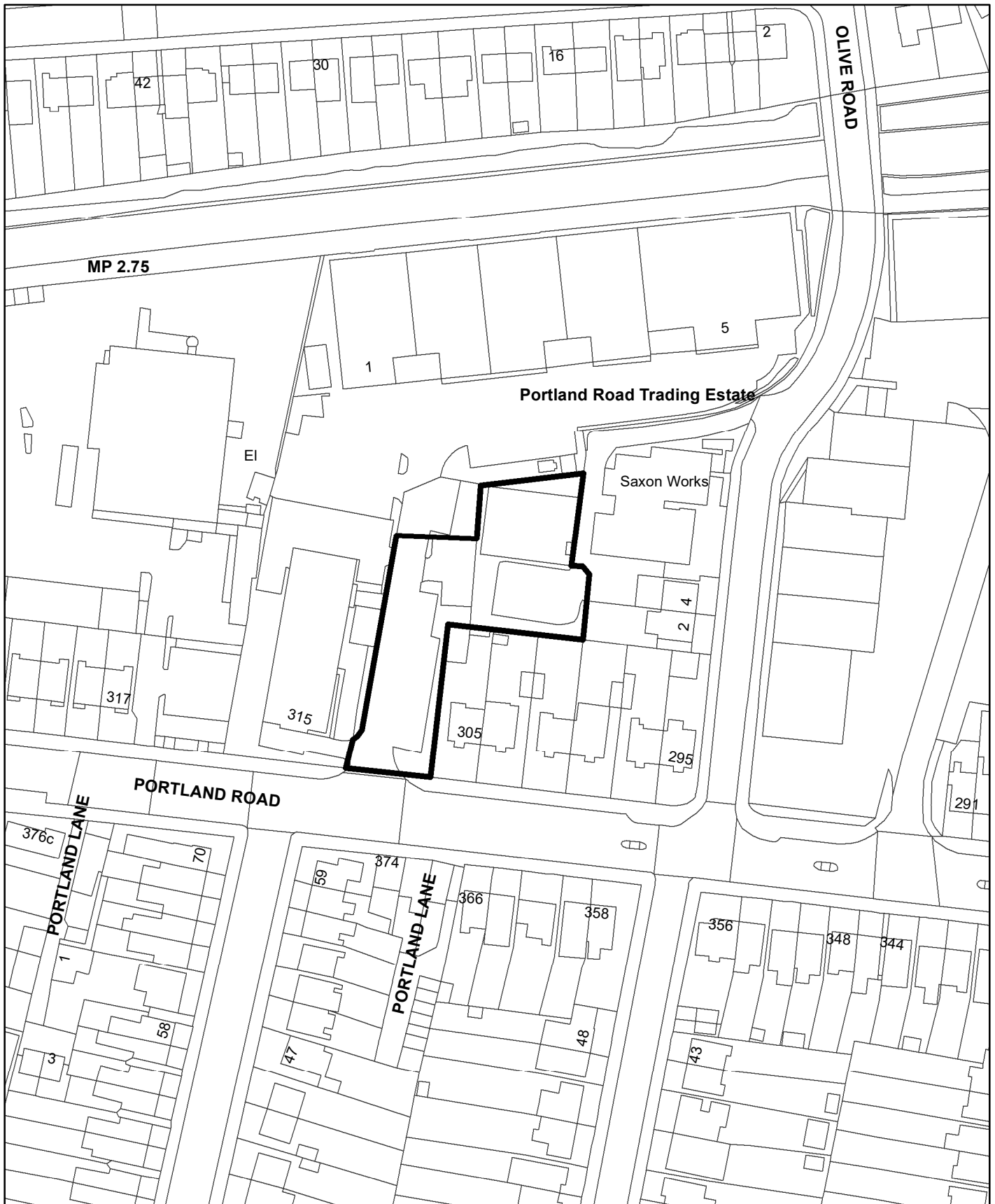
# **ITEM B**

**Saxon Works,  
Land To The Rear Of 303-305 Portland Road  
BH2021/04068  
Full Planning**

**DATE OF COMMITTEE: 8<sup>th</sup> March 2023**



# BH2021 04068- Saxon Works, Land To The Rear Of 303-305 Portland Road



N



**Scale: 1:1,250**



<b><u>No:</u></b>	<b>BH2021/04068</b>	<b><u>Ward:</u></b>	<b>Wish</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Saxon Works Land To The Rear Of 303-305 Portland Road Hove BN3 5SE</b>		
<b><u>Proposal:</u></b>	<b>Demolition of existing buildings and erection of 2 to 5 storey residential building (C3) including basement vehicle parking and 3 storey commercial building comprising flexible Class E floorspace, with associated cycle and bin storage, landscaping and associated works. (For information: proposal is for 26no. residential units and 219sqm of commercial floorspace).</b>		
<b><u>Officer:</u></b>	Russell Brown, tel: 293817	<b><u>Valid Date:</u></b>	17.11.2021
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	16.02.2022
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Guy Dixon Savills Mocatta House Trafalgar Place Brighton BN1 4DU		
<b><u>Applicant:</u></b>	Martin Homes Portland Road Ltd C/O Savills		

## 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 amended plans improving the accessibility of the commercial premises; a s106 agreement on the Heads of Terms set out below and the following Conditions and Informatives as set out hereunder, **SAVE THAT** should the s106 Planning Obligation not be completed on or before the **8<sup>th</sup> July 2023** the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 14.1 of this report:

### Section 106 Head of Terms:

#### Affordable housing:

- Late stage review

#### Transport:

- Monitoring fees for travel plans

#### Employment and training opportunities:

- £11,100 contribution towards skills needs on site, pre-employment training for new entrants to the industry on site and apprentice placements
- Employment and Training Strategy
- Strategies for the demolition and construction phases

#### 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>
Location and block plan	A.001		17 November 2021
Proposed Drawing	D.01	N	13 October 2022
Proposed Drawing	D.02	N	13 October 2022
Proposed Drawing	D.03	N	13 October 2022
Proposed Drawing	D.04	N	13 October 2022
Proposed Drawing	D.05	O	19 October 2022
Proposed Drawing	D.06	O	19 October 2022
Proposed Drawing	D.08	M	05 October 2022
Proposed Drawing	D.09	M	05 October 2022
Proposed Drawing	D.10	N	13 October 2022
Proposed Drawing	D.020	M	05 October 2022
Proposed Drawing	D.021	N	13 October 2022
Proposed Drawing	D.022	O	19 October 2022
Proposed Drawing	D.023	N	13 October 2022
Proposed Drawing	D.024	M	05 October 2022
Existing Drawing	Layout	A	11 January 2022
Existing Drawing	001	A	11 January 2022
Existing Drawing	002	A	11 January 2022
Existing Drawing	003	A	11 January 2022
Existing Drawing	004	A	11 January 2022
Existing Drawing	005	A	11 January 2022
Existing Drawing	006	A	11 January 2022
Existing Drawing	007	A	11 January 2022
Report/Statement	Air Quality Assessment	V1	17 November 2021
Arboricultural Report	Arboricultural Impact Assessment, Method Statement and Tree Protection Plan		17 November 2021
Report/Statement	Archaeological Desk-Based Assessment	001	28 April 2022
Report/Statement	BREEAM Pre-assessment report	V1	17 November 2021
Report/Statement	Drainage Statement	A	28 April 2022
Report/Statement	Ecological Assessment		28 April 2022
Report/Statement	Land Contamination Preliminary Risk Assessment	Rev 0	17 November 2021

- 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. The commercial premises hereby permitted shall only be used for a use within Use Class E(a), (c) and (g) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) and for no other purpose. Notwithstanding the provisions 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), no change of use shall occur without planning permission obtained from the Local Planning Authority.

**Reason:** The Local Planning Authority would wish to retain control over any subsequent change of use of these premises in the interests of safeguarding the amenities of the neighbouring occupiers, the capacity and safety of the local highways network, and to comply with Policies CP9 of the Brighton & Hove City Plan Part One and DM20 and DM33 of the Brighton & Hove City Plan Part Two.

4. No development above ground floor slab level of the commercial block shall take place until details to demonstrate how it would be flexible and adaptable, details of the standard of internal fit out and details of the marketing strategy have been submitted and approved in writing by the Local Planning Authority. The scheme and marketing shall be implemented in accordance with the agreed schemes.

**Reason:** To demonstrate that the commercial premises is appropriate to meet the likely needs of a range of potential end users and to ensure its successful take up in compliance with Policy DM11 of the Brighton & Hove City Plan Part Two.

5. No development above ground floor slab level of any part of the development hereby permitted shall take place until details relating to materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including:
  - a) photos and product specifications of all brick (including mortar, bonding and pointing), roof coverings, lintels and finials;
  - b) 1:20 scale plan and section drawings of the chalk grassland green roof, including depth of substrate and seeding mix;
  - c) product specifications of all the hard landscaping materials;
  - d) product specifications of the proposed window, door and terrace balustrades treatments (including the opaque panels); and
  - e) all other materials to be used externally.

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

**Reason:** To ensure a satisfactory appearance to the development, to deliver the biodiversity benefits of the development and to comply with Policies CP10, CP12 and CP14 of the Brighton & Hove City Plan Part One and DM18 and DM37 of the Brighton & Hove City Plan Part Two, as well as SPD17.

6. No development shall take place until an Ecological Design Strategy (EDS) addressing retention and protection of existing habitats during construction, habitat removal and reinstatement, provision for wildlife corridors and habitat connectivity, reptile rescue and translocation, and creation of new wildlife features (including green roofs, bird and bat boxes) 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 in compliance with Policies CP10 of the Brighton & Hove City Plan Part One and DM37 of the Brighton & Hove City Plan Part Two, as well as SPD11.

7. Prior to any demolition works, an endoscope survey of the two potential bat roost features shall be carried out and a report containing its findings shall be submitted to and approved in writing by the Local Planning Authority. Any works necessary shall be carried out in accordance with the approved details and shall be retained in that manner thereafter.

**Reason:** To safeguard these protected species from the impact of the development and ensure appropriate integration of new nature conservation and enhancement features in accordance with Policies CP10 of the Brighton & Hove City Plan Part One and DM37 of the Brighton & Hove City Plan Part Two, and SPD11.

8. Prior to the first occupation of the development hereby permitted, a scheme for landscaping in compliance with drawing no. D.10 Rev I received on 7 June 2022 shall be submitted to and approved in writing by the Local Planning Authority. 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. The scheme shall include the following:

- 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, including some food-bearing plants, as well as the sustainable drainage system used shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development hereby permitted.
- b. Details of all boundary treatments to include type / design, position, dimensions and materials shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development hereby permitted.

Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become, in the opinion of the Local Planning Authority, seriously damaged or diseased, shall be replaced 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 and to comply with Policies CP10, CP12 and CP13 of the Brighton & Hove City Plan Part One, DM18, DM22 and DM37 of the Brighton & Hove City Plan Part Two, as well as SPD06, SPD11 and SPD16.

8. 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 Brighton & Hove City Plan Part Two, as well as SPD16.

9. Prior to the commencement of the development hereby approved (including demolition and all preparatory work), the fencing specified in Appendix 4 of the Arboricultural Impact Assessment, Method Statement and Tree Protection Plan (PJC Consultancy Ltd, dated 15 October 2021) shall be carried out in strict accordance with the approved plan and retained as such during the implementation works.

**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 CP12 and CP13 of the Brighton & Hove City Plan Part One and DM22 of the Brighton & Hove City Plan Part Two, as well as SPD06.

10. 26 (twenty six) swift bricks shall be incorporated within the external walls 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 DM37 of the Brighton & Hove City Plan Part Two, as well as SPD11.

11. A bee brick shall be incorporated within the external walls of the residential and commercial buildings 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 DM37 of the Brighton & Hove City Plan Part Two, as well as SPD11.

12. The windows annotated with frosted glass to their lower half on the south and east-facing elevations of the development hereby permitted shall be implemented as such prior to the first occupation of the residential building and thereafter permanently retained as such.

**Reason:** To safeguard the privacy of the occupiers of the adjoining property and to comply with Policy DM20 of the Brighton & Hove City Plan Part Two.

13. The use of the commercial building hereby permitted shall not be carried out except between the hours of 08:00 and 18:00 on Mondays to Saturdays and between 10:00 and 16:00 Sundays, including Bank or Public Holidays.

**Reason:** To safeguard the amenities of the neighbouring occupiers and to comply with Policies DM20 and DM40 of the Brighton & Hove City Plan Part Two.

14. The development hereby permitted shall not be occupied until full details of external lighting being installed, including levels of luminance, hours of use / operation and details of maintenance, are submitted to and approved in writing by the Local Planning Authority. The predicted illuminance levels shall be tested by a competent person to ensure that the illuminance levels are achieved. Where these levels have not been met, a report shall demonstrate what measures have been taken to reduce the levels.

The external lighting shall be installed, operated and maintained in accordance with the approved details and thereafter retained.

**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to comply with Policies DM20 and DM40 of the Brighton & Hove City Plan Part Two.

15. The development hereby permitted shall not exceed ground floor slab level until a written scheme to address ventilation and overheating has been submitted to and approved in writing by the Local Planning Authority. It shall demonstrate how and where ventilation will be provided to each flat within the development including specifics of where the clean air is drawn from and ensure that the residential units do not suffer from overheating. The approved scheme shall be implemented before occupation and thereafter retained.

**Reason:** To safeguard the amenities of the occupiers of the development, to deliver the sustainability benefits of the development and to comply with Policies CP8 of the Brighton & Hove City Plan Part One and DM1 and DM20 of the Brighton & Hove City Plan Part Two.

16. The three disabled car parking spaces for the residential occupants of the development hereby approved shall be provided in full and made available for use prior to the first occupation of the residential building and shall thereafter be retained in perpetuity.

**Reason:** To ensure that the development provides for the needs of disabled residents in compliance with Policy DM36 of the Brighton & Hove City Plan Part Two, as well as SPD14.

17. Notwithstanding the site layout and parking plan shown on the approved basement plan, no residential units shall be first occupied until details of the motorcycle parking facilities for the occupants of the development hereby approved shall be 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 residential building and shall thereafter be retained for use at all times.

**Reason:** To ensure that satisfactory facilities for the parking of motorcycles are provided in accordance with Policies CP9 of the Brighton & Hove City Plan Part One and DM36 of the Brighton & Hove City Plan Part Two, as well as SPD14.

18. Notwithstanding the details hereby approved, the development hereby permitted shall not be occupied until details of secure and inclusive cycle parking facilities, including a revised basement plan, for the occupants of, and visitors to the development have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.

**Reason:** To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with Policy DM33 of the Brighton & Hove City Plan Part Two, as well as SPD14.

19. 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 use at all times.

**Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with Policies CP8 of the Brighton & Hove City Plan Part One, WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan and DM20 of the Brighton & Hove City Plan Part Two.

20. Within three months of the date of first occupation of the development hereby approved, the following shall have been submitted and approved in writing by the Local Planning Authority:
- a) A Residential Travel Plan
  - b) A Commercial Travel Plan

The Travel Plans shall include details of the co-ordinator, objectives, targets, monitoring and remedial measures. They shall thereafter be fully implemented in accordance with the approved details.

**Reason:** To ensure the promotion of safe, active and sustainable forms of travel and comply with Policies CP9 of the Brighton & Hove City Plan Part One and DM35 of the Brighton & Hove City Plan Part Two.

21. No development, including demolition, shall take place until a Demolition Environmental Management Plan (DEMP) has been submitted to and approved in writing by the Local Planning Authority. It shall include:
- (i) A scheme of how the contractors will liaise with local residents to ensure that residents are kept aware of demolition progress and how any complaints will be dealt with reviewed and recorded (including joining the details of considerate constructor scheme);
  - (ii) 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;
  - (iii) details of hours of construction including all associated vehicular movements;
  - (iv) a plan showing construction traffic routes;
  - (v) details of any site entrances and their management, construction compound and offices;
  - (vi) details of any Department for Transport Abnormal Load Notification and/or Order; and
  - (vii) details of where staff will park when the site is under construction.

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

**Reason:** As this matter is fundamental to the protection of neighbouring amenity, highway safety and managing waste throughout demolition works and to comply with Policies CP8 and CP9 of the Brighton & Hove City Plan Part One, DM20, DM33 and DM40 of the Brighton and Hove City Plan Part Two and WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013, as well as SPD03.

22. No development, apart from demolition, shall take place until a Construction Environmental Management Plan (CEMP) have been submitted to and approved in writing by the Local Planning Authority. They shall include:
- (i) 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 joining the considerate constructor scheme);
- (ii) 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;
  - (iii) details of hours of construction including all associated vehicular movements;
  - (iv) a plan showing construction traffic routes;
  - (v) details of any site entrances and their management, construction compound and offices;
  - (vi) details of any oversailing of the highway construction, falsework, formwork and scaffolding;
  - (vii) details of the use of any cranes, lifts, escalators and lifting vehicles;
  - (viii) details of any Department for Transport Abnormal Load Notification and/or Order; and
  - (ix) details of where staff and buses will park when the site is under construction.

The demolition and construction works shall be carried out in accordance with the approved CEMP and no part of the development hereby approved shall be occupied until the approved highway works have been carried out in accordance with the agreed details.

**Reason:** As this matter is fundamental to the protection of neighbouring amenity, highway safety and managing waste throughout development works and to comply with Policies CP8 and CP9 of the Brighton & Hove City Plan Part One, DM20, DM33 and DM40 of the Brighton and Hove City Plan Part Two and WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013, as well as SPD03.

23. None of the residential units hereby approved shall be occupied until each residential unit built has achieved as a minimum, a water efficiency standard 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 water to comply with Policies CP8 of the Brighton & Hove City Plan Part One and DM44 of the Brighton and Hove City Plan Part Two.

24. The development hereby permitted shall not exceed ground floor slab level until details, including a revised Energy & Sustainability Statement and product specifications, of the Air Source Heat Pumps (ASHPs) have been submitted to and approved in writing by the Local Planning Authority. The ASHPs shall then be installed in accordance with the approved details.

**Reason:** The Exhaust ASHPs proposed are not considered an optimal solution as they may require additional heat sources, are likely to have a high power demand and are expensive to run. As such, details are required to deliver the sustainability benefits of the development, to ensure the provision of heating and hot water for each residential unit and to comply with Policies CP8 of the

Brighton & Hove City Plan Part One and DM1 and DM20 of the Brighton & Hove City Plan Part Two.

25. Within three months of first occupation of the non-residential development hereby permitted, a Post Construction Review Certificate issued by the BREEAM Building Research Establishment confirming that the non-residential development built has achieved a minimum BREEAM New Construction rating of 'Very Good' shall be submitted to and approved in writing by the Local Planning Authority.

**Reason:** To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with Policies CP8 of the Brighton & Hove City Plan Part One and DM44 of the Brighton & Hove City Plan Part Two.

26. Provision within the development hereby approved shall be made to ensure the site can be connected to a district heating system in the future, including securing and safeguarding a route onto the site from the highway for a connection.

**Reason:** To ensure the development helps the city to achieve its ambition of becoming carbon neutral by 2030 and to comply with Policies SA6 and CP8 of the Brighton & Hove City Plan Part One and DM46 of the Brighton & Hove City Plan Part Two.

27. No development, including demolition and excavation, shall commence until a whole-life carbon assessment has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details approved.

**Reason:** To ensure the development helps the city to achieve its ambition of becoming carbon neutral by 2030 and to comply with Policy CP8 of the Brighton & Hove City Plan Part One, as well as SPD17.

28. No development, including demolition and excavation, shall commence until a Site Waste Management Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details approved.

**Reason:** To maximise the sustainable management of waste and to minimise the need for landfill capacity and to comply with Policy WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

- 29.
- i) The development hereby permitted shall not be commenced until a programme of archaeological works in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority.
  - ii) The development hereby permitted shall be brought into use or occupied until the archaeological site investigation and post-investigation assessment



(including provision for analysis, publication and dissemination of results and archive deposition) has been completed and approved in writing by the Local Planning Authority. The archaeological site investigation and post-investigation assessment will be undertaken in accordance with the programme set out in the approved written scheme of investigation.

**Reason:** To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with Policies CP15 of the Brighton & Hove City Plan Part One and DM31 of the Brighton & Hove City Plan Part Two.

30. One wheelchair accessible dwelling within the development hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings) prior to first occupation and shall be retained as such thereafter. All other dwellings 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 DM1 of the Brighton & Hove City Plan Part Two.

31. Other than demolition works and works to trees the development hereby permitted shall not be commenced until the following has been submitted to and approved in writing by the Local Planning Authority:
- i) The supply of a detailed drainage design including the details and sizes of all pipes, pits and tanks proposed.
  - ii) A CCTV survey of the existing sewerage system.
  - iii) Written agreement from Southern Water for the connection to the Southern Water sewer.
  - iv) Provision of exceedance routes in case of an exceedance event

The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

**Reason:** As this matter is fundamental to the acceptable delivery of the permission to prevent the increased risk of flooding, to prevent pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal and to comply with Policies CP11 of the Brighton & Hove City Plan Part One and DM40, DM42 and DM43 of the Brighton & Hove City Plan Part Two, as well as SPD16.

- 32.
1. No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the Local Planning Authority:

- (a) 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 1075:2011+A22017;  
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,
  - (b) 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.
2. The development hereby permitted shall not be occupied or brought into use until there has been submitted to, and approved in writing by, the Local Planning Authority a written verification report by a competent person approved under the provisions of part 1b that any remediation scheme required and approved under the provisions of part 1b has been implemented fully in accordance with the approved details. 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.

**Reason:** To safeguard the health of future residents or occupiers of the site and to comply with Policy DM41 of the Brighton & Hove City Plan Part Two.

33. Access to the flat roofs other than the terraces hereby approved shall be for maintenance or emergency purposes only and the flat roofs 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 Policy DM20 of the 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 under Part 1 of the Wildlife and Countryside Act 1981 disturbance to nesting wild birds, their nests and eggs is a criminal offence. The nesting season is normally taken as being from 1st March - 30th September. The developer should take appropriate steps to ensure nesting birds, their nests and eggs are not disturbed and are protected until such time as they have left the nest.

3. The applicant is advised of the possible presence of bats on the development site. All species of bat are protected by law. It is a criminal offence to kill bats, to intentionally or recklessly disturb bats, damage or destroy a bat roosting place and intentionally or recklessly obstruct access to a bat roost. If bats are seen during construction, work should stop immediately and Natural England should be contacted on 0300 060 3900.
4. The applicant is advised that advice regarding permeable and porous hard surfaces can be found in the Department of Communities and Local Government document 'Guidance on the permeable surfacing of front gardens'.
5. Swift bricks 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.
6. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.
7. The applicant is advised that the application of translucent film to clear glazed windows does not satisfy the requirements of Condition 13.
8. The applicant is advised that the details of external lighting required by Condition 14 should comply with the recommendations of the Institution of Lighting Engineers (ILE) 'Guidance Notes for the Reduction of Light Pollution (2011)' similar guidance recognised by the Council. A certificate of compliance signed by a competent person (such as a member of the Institution of Lighting Engineers) should be submitted with the details. Please contact the Council's Pollution Team for further details. Their address is Environmental Health & Licensing, Bartholomew House, Bartholomew Square, Brighton, BN1 1JP (telephone 01273 294490 email: [ehlpollution@brighton-hove.gov.uk](mailto:ehlpollution@brighton-hove.gov.uk) website: [www.brighton-hove.gov.uk](http://www.brighton-hove.gov.uk)).
9. In order to be in line with Policy DM33 Safe, Sustainable and Active Travel of the Brighton & Hove City Plan Part Two 2022, cycle parking should be secure, convenient (including not being blocked in a garage for cars and not being at the far end of a rear garden), accessible, well-lit, well-signed, near the main entrance, by a footpath/hardstanding/driveway and wherever practical, sheltered. It should also be noted that the Local Highway Authority would not usually support vertical hanging racks as they are difficult for many people to use and therefore not considered to be policy and Equality Act 2010 compliant. The Local Highway Authority's preferred cycle parking is 'Sheffield' type stands, spaced in line with the guidance contained within the Manual for Streets section 8.2.22 or other proprietary forms of covered, illuminated, secure cycle storage including the Police approved Secure By Design cycle stores, "bunkers" and two-tier systems where appropriate.

10. 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.
11. The water efficiency standard required under Condition 24 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.
12. 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. In addition, single façade flats, dwellings adjacent to noise and pollutants are unlikely to achieve the required standard of Part O.
13. The applicant is advised that details of the BREEAM assessment tools and a list of approved assessors can be obtained from the BREEAM websites ([www.breeam.org](http://www.breeam.org)).
14. The applicant is advised to contact the East Sussex County Archaeologist to establish the scope for the Written Scheme of Archaeological Investigation as required by the archaeology condition.
15. Where asbestos is found / suspected on site, it will fall under the Control of Asbestos Regulations 2012, overseen by the Health and Safety Executive. Further information can be found here: <https://www.hse.gov.uk/asbestos>

## **2. SITE LOCATION**

- 2.1. This application relates to a site containing a single storey industrial building in use as a steel and iron workshop (Use Class B2) within the south eastern corner of the Portland Road Trading Estate, which also includes the access road to it, parking spaces and an abandoned marketing suite building to the south. Vehicle and pedestrian access to the site is from Olive Road to the east and Portland Road to the south close to the junction with Portland Villas.
- 2.2. The site is bounded to the north by the wider Portland Road Trading Estate, several commercial buildings to the east, residential properties to the east and south and a four storey converted office building to the west, which is now residential and known as Martello Lofts. The remaining context consists of a mix of commercial units and residential properties, primarily of two storeys, and the railway line further to the north.

- 2.3. The site is not within a conservation area, nor is it a listed building or in the vicinity of one. However, the site is part of a Protected Employment Led Mixed Use designation and mostly within Controlled Parking Zone (CPZ) L.

### 3. RELEVANT HISTORY

- 3.1. Pre-application advice (**PRE2019/00282**) was sought for the demolition of existing buildings and construction of two blocks with new business floorspace (B1) and 48 residential units (including 19 affordable units) together with landscaping, parking and cycle parking. Advice was issued on 9 April 2020
- 3.2. **BH2018/01622**: Outline application for demolition of existing 6no dwellings (C3) to facilitate a mixed-use redevelopment comprising of the erection of 1no four storey building and 1no three storey building incorporating up to 1650sqm of commercial space (B1) and up to 47no dwellings (C3) with associated basement level vehicular and cycle parking with landscaping to include layout, scale and access (appearance and landscaping to be reserved matters). Refused 2 October 2020 for the following reasons:
1. The proposed development fails to provide appropriate mitigation of the transport impacts of the development or promote sustainable transport modes contrary to policies TR7 of the Brighton & Hove Local Plan and CP7 and CP9 of the Brighton and Hove City Plan Part One.
  2. The proposed development does not include an appropriate artistic element commensurate to the scale of the scheme and therefore fails to address the requirements of CP5, CP7 and CP13 of the Brighton and Hove City Plan Part One.
  3. The proposed development fails to provide an Employment and Training Strategy specifying how the developer or their main contractors will provide opportunities for local people to gain employment or training on the construction phase of the proposed development contrary to policies DA4 and CP7 of the Brighton and Hove City Plan Part 1 and the City Council's Developer Contributions Technical Guidance.
  4. The proposed development fails provide a financial contribution towards the City Council's Local Employment Scheme secured via Section 106 Agreement to support local people to employment within the construction industry contrary to policy CP7 of the Brighton and Hove City Plan Part 1 and the City Council's Developer Contributions Technical Guidance.
  5. The proposed development fails to provide a financial contribution towards the improvement and expansion of capacity of local schools required to meet the demand for education created by the development, contrary to policy CP7 of the Brighton and Hove City Plan Part 1 and the City Council's Developer Contributions Technical Guidance.
  6. The proposed development fails to provide a financial contribution towards the enhancement of open space to meet the demand created by the development contrary to policies CP7 and CP16 of the Brighton and Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.

- 3.3. **BH2016/02053:** Erection of 2no three storey buildings, first building comprising of 3no one bedroom flats and 1no two bedroom flat. Second building comprises of six office spaces with cycle stores and associated works. Granted 20 July 2017
- 3.4. Of relevance at Martello Lofts:
- 3.5. **BH2023/00103:** Approval of Details reserved by Condition 2 (Car Parking) of application BH2015/00278. Under consideration
- 3.6. **BH2016/06335:** Creation of additional floor to provide 2no one bedroom flats and 2no two bedroom flats (C3). Granted 20 July 2017
- 3.7. **BH2015/00691:** External alterations to all elevations including to layout of doors and windows, installation of French doors, balconies and new entrance door and other associated works in association with prior approval application. Granted 19 June 2015
- 3.8. **BH2015/00278:** Prior approval for change of use from offices (B1) to residential (C3) to form 28no units. Prior Approval Required Approved 25 March 2015

#### 4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for the demolition of the existing buildings and the erection of a 2 to 5 storey residential building of 26 units (Use Class C3) including basement vehicle parking and a 3 storey commercial building comprising 219sqm of flexible Class E floorspace, with associated cycle and bin storage, landscaping and boundary treatment.
- 4.2. Changes have been made during the course of the application to the mix and number of dwellings (32 to 26), number of storeys / height of the building (reduction from part 3, part 6), siting on the plot (moving further away from the southern boundary), layout, access, elevational treatment, the commercial building, cycle parking and the landscaping / public realm.

#### 5. REPRESENTATIONS

- 5.1. **Sixty one (61) objections**, were received raising the following concerns:  
Land use
- This is a re-zoning of commercial land for primarily residential use.
  - Loss of employment floorspace and of employment land.
  - The application site is not allocated for development in the City Plan.
  - Conditions should be imposed on the Class E building restricting its use.
  - The loss of local businesses on this estate would be such a shame.
  - More commercial / retail space is not needed as there are several empty premises on Boundary Road and competition already on the trading estate.

- There is no need for the development on this site given there are plenty of vacant sites and ones allocated in the City Plan to develop instead.
- The proposal should be employment-led.

#### Affordable housing and viability

- Affordable housing is sorely needed, the expected requirement for 40% should be upheld in every case, including this. The claim that it is unviable is highly questionable when the site was bought, but is not sufficiently profitable.
- The provision of a basement car park significantly adds to development costs and is a sign that the site is being overdeveloped.

#### Design

- The design is poorly conceived and it would be far higher than anything in the surrounding area, being completely out of keeping and out of scale.
- Four storeys was refused so five storeys is gross overdevelopment.
- A stepped down approach to height next to houses should be enforced as per BH2018/01622, otherwise it would unduly dominate the area around it.
- This eyesore / ugly new proposal also takes the building much further forward than BH2016/02053 and ruins the line of the buildings on the road, and should match the 1930s design.
- Excessive density
- This development would totally change the character of the area.
- The design seems to be using the cheapest of materials.
- The footprint of this application is too large for the comparatively small site.
- It would be of an incongruous bulk with visual clutter.
- There is no desire for such scale of development in the area.
- No visual impact assessment on boundary and height has been provided.
- The BREEAM report shows significant concerns, scoring zero on multiple measures such as energy and carbon emissions, low carbon design, daylight, ventilation, security and safe access.
- The amended building is now even higher than before despite previous objections.
- The site does not fall within one of the defined areas for tall buildings within Hove.

#### Amenity

- Overlooking / loss of privacy and views
- Increased noise and pollution, including a decline in air quality
- The position of the car parking and the ramp to the basement car park would result in increased noise and disturbance.
- The combination of the length and height of the commercial building would increase the sense of enclosure to 305 Portland Road.
- Such a build would impact on the amount of visible sky.
- The proposed block is too overbearing and causes overshadowing.
- Loss of light is worrying to the houses, flats and their patio gardens. This means those affected would have to use internal lighting during the day, which is wrong in the current climate crisis.

- Should permission be granted, all reasonable restrictions on construction hours (Monday - Friday 9am - 5pm) should be placed on this site.
- The five storey building with open balconies to the south and west would allow occupiers to look straight into existing residents' houses and gardens.

#### Standard of accommodation

- Some of the apartments are ridiculously small.
- Disability access shown on the plans must be secured prior to occupation.

#### Highways / Transport

- The development would add far more traffic to the saturated area in an unsustainable manner, although this is already the case at peak times.
- Road safety and access for vehicles and pedestrians should be paramount and is inadequate for this development given an increased risk of accidents.
- No changes have been made to the previous rejected transport report, which is inaccurate and contains errors.
- Car parking space provision is inadequate and the loss of car parking spaces would further displace car parking for residential properties.
- There are multiple inconsistencies within reports, including the height of the existing building and the number of cycle and car parking spaces. Any development should be car free.

#### Ecology and trees

- Trees home to several bird and mammal species are not shown to exist.
- The close proximity of the proposed building to the property line of all neighbouring gardens would damage long-established trees and shrubbery.

#### Other

- The proposal does not constitute sustainable development.
- Given the incomplete, unsightly and dysfunctional Martello Lofts development, any new build by the applicant would be similarly subject to lengthy delays, ongoing disruption for years to come, fail to provide promised facilities would not be of high quality.
- Lack of information about these proposals for local residents.
- The loss of even a small bit of green space is wrong.
- A greater proportion of two bed flats would ensure people would not have to move if they started a family.
- The statement of community involvement is contradictory and notification would not have reached as many members of the public as possible. It has been minimal as part of a 'tick-box' approach.
- There are no planning application notices to be seen / lack of consultation
- No account has been taken of impact on access, amenities, sewerage / water supply, doctors and schools, all of which are already over extended.
- Detrimental effect on property values.

5.2. **Twenty one (21) objections** were received following re-consultation of the application raising the following concerns:

- Because of the additional traffic
- Inappropriate height of development



- Noise
- Overdevelopment
- Overshadowing and significant loss of light
- Too close to the boundary
- Volume of traffic, increase in congestion and highways safety
- The proposed building is significantly of keeping with the area
- The proposed buildings themselves are ugly, of poor design, out of character and scale and of a bulky design that would ruin the streetscene.
- Loss of privacy from windows, terraces and balconies
- There is already empty commercial space in the area and no need for more.
- Traffic from this site would further add to the already high levels of pollution.
- There's no affordable housing in this proposed development.
- Detrimental effect on property value
- Restriction of view
- The proposed buildings would be overbearing with excessive density and would dominate the whole area.
- We do not want to live next to a buildings site for an extended period of time.
- There is still no acceptable transport assessment.
- The 3 storey commercial building is further forward than existing buildings and results in the loss of 6 car parking spaces for Martello Lofts.
- The ongoing lack of considered & proportional consultation.
- The local area infrastructure is already at breaking point.
- Residential amenity by reason of increased sense of enclosure and general reduction in quality of life
- Contrary to NPPF paragraph 134: *"permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area and the way it functions."*
- The proposals do not constitute an employment-led development, resulting in the loss of valuable employment floorspace and land contrary to City Plan Part One Policy CP3.
- The resulting social and financial cost would be borne by residents and Council tax payers.
- Not enough parking, plus there is no parking on Portland Road.
- Damaging trees in a neighbouring garden
- The excavation of the land will not be done with care and due consideration for existing residents.
- There is no reason for granting private parking on this development given the perfectly good bus and train links so it should, at best, be car-free.
- The proposals do not constitute sustainable development as per NPPF paragraph 11(d).

## 6. CONSULTATIONS

### Internal:

#### 6.1. **Air Quality:** Recommend approval with conditions

- 6.2. **Arboriculture:** No objection, subject to mitigation planting
- 6.3. **City Regeneration / Economic Development:** Mitigative steps should minimise any disruption to trade for the current business on this site. It is not considered that this redevelopment is 'employment led' as residential space outweighs the planned commercial floorspace. The provision of high quality, modern office space, which is much needed in the city, would be welcomed. Details of the proposed employment levels / density should be provided. The preferred option would be deconstruction and the reuse of existing building materials, if possible.
- 6.4. **Ecology:** Recommend for approval in principle, subject to conditions
- 6.5. **Employment and Skills:** Support, subject to employment and training strategies and a £11,100 contribution being secured by a legal agreement
- 6.6. **Environmental Health:** No objection subject to the imposition of conditions
- 6.7. **Heritage:** No comment / no impact
- 6.8. **Planning Policy:** Approve with suggested conditions
- 6.9. **Private Sector Housing:** No comments to make
- 6.10. **Sustainability:** Recommend approval, subject to conditions and further details of heating and hot water solutions, an estimate of average electricity consumption, additional BREEAM credits and anti-overheating measures / ventilation strategy
- 6.11. **Sustainable Drainage:** Recommend approval, subject to agreement to meeting conditions
- 6.12. **Transport:** Acceptable subject to conditions
- 6.13. **Urban Design:** Support / seek amendments - Design proposals present a number of positive attributes, but the proposed amenity spaces against the west site boundary would be poorly lit due to overshadowing and there is no speculative calculations or targets for embodied carbon.

**External:**

- 6.14. **County Archaeology:** Recommend for approval subject to a condition
- 6.15. **Designing Out Crime Officer (Sussex Police):** No major concerns, but additional measures to mitigate against any identified local crime trends and site-specific requirements should always be considered.
- 6.16. **Southern Water:**

- Foul sewerage disposal to service the proposed development can be facilitated. A formal application for any new connection to the public sewer is required.
- Limiting the surface water flow to less than (50% betterment) the existing flows into the surface water system can be permitted, if proven to be connected and ensured that there is no overall increase in flows.
- General hard standing that may be subject to oil / petrol spillages should be drained by means of appropriate oil trap gullies or petrol / oil interceptors.
- The drainage design should ensure that no groundwater and / or land drainage will enter the public sewerage network.
- An informative stating the construction should not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to, and approved in writing by, the LPA in consultation with Southern Water should be attached in the event of an approval.
- Water supply to service the proposed development can be facilitated. A formal application for a connection to the water supply is required.
- It is possible that a sewer now deemed to be public could be crossing the development site. An investigation of the sewer will be required to ascertain its ownership if one is found during construction works.

## **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 City Plan Part Two (adopted October 2022);
- 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 Joint Area Action Plan (October 2019).

## **8. RELEVANT POLICIES**

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SA6 Sustainable Neighbourhoods

SS1 Presumption in Favour of Sustainable Development

CP1 Housing delivery

CP2 Sustainable economic development

CP3 Employment land  
CP7 Infrastructure and developer contributions  
CP8 Sustainable buildings  
CP9 Sustainable transport  
CP10 Biodiversity  
CP12 Urban design  
CP13 Public streets and spaces  
CP14 Housing density  
CP15 Heritage  
CP18 Healthy city  
CP19 Housing mix  
CP20 Affordable housing

Brighton & Hove City Plan Part 2:

DM1 Housing Quality, Choice and Mix  
DM11 New Business Floorspace  
DM18 High quality design and places  
DM19 Maximising Development Potential  
DM20 Protection of Amenity  
DM22 Landscape Design and Trees  
DM31 Archaeological Interest  
DM33 Safe, Sustainable and Active Travel  
DM35 Travel Plans and Transport Assessments  
DM36 Parking and Servicing  
DM37 Green Infrastructure and Nature Conservation  
DM40 Protection of the Environment and Health – Pollution and Nuisance  
DM41 Polluted sites, hazardous substances & land stability  
DM42 Protecting the Water Environment  
DM43 Sustainable Urban Drainage  
DM44 Energy Efficiency and Renewables

Supplementary Planning Documents

SPD03 Construction and Demolition Waste  
SPD06 Trees and Development Sites  
SPD11 Nature Conservation and Development  
SPD14 Parking Standards  
SPD16 Sustainable Drainage  
SPD17 Urban Design Framework

Other Documents

Urban Characterisation Study 2009 - West Hove Neighbourhood  
Developer Contributions Technical Guidance - June 2020  
East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan -  
Policies WMP3d and WMP3e

**9. CONSIDERATIONS & ASSESSMENT**

- 9.1. The main considerations in the determination of this application relate to:
- Principle of development

- Affordable housing
- Density
- Design
- Biodiversity, Landscaping, Trees and Ecology
- Impact on Neighbouring Amenity
- Standard of Accommodation
- Impact on Highways
- Air Quality
- Sustainability
- Archaeology

**Principle of development:**

- 9.2. Policy CP1 sets out the housing targets for the plan period with a provision target of 13,200 new homes for the city up to 2030. The Council's most recent housing land supply position against this minimum target was published in the SHLAA Update 2020 and shows a five-year housing supply shortfall of 342 (equivalent to 4.7 years of housing supply).
- 9.3. However, on 24 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. In addition, following an amendment to the standard method set out in national planning practice guidance, from 16 June 2021 onwards Brighton & Hove is required to apply an additional 35% uplift as one of the top 20 cities in the urban centres list.
- 9.4. 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).
- 9.5. 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).
- 9.6. The provision of 26 units of residential accommodation would be a benefit of significant weight, making a relatively small, but important contribution towards the Council's housing target given the importance of making efficient use of sites.
- 9.7. Policy CP19 requires proposals to have considered housing mix and local assessments. The proposed unit mix is four studios (15%), 8 x 1 beds (31%), 9 x 2 beds (35%) and 5 x 3 beds (19%). A unit mix compliant with the demographic analysis mentioned in the supporting text of the policy would be 6 x 1 beds, 9 x 2 beds, 8 x 3 beds and 3 x 4 beds. It is noted that there is a higher demand for 2 and 3 bedroom properties in terms of market housing.

This is a relatively constrained site close to a main road and a busy industrial estate, and therefore considered unsuitable for larger family accommodation hence the absence of 4 beds. Whilst the proposal would provide more 1 beds than 3 beds, there is a limited market for larger family size units within flatted schemes such as this proposal. Furthermore, if additional larger units are incorporated into the proposal, fewer units would be delivered in total further compromising the scheme financially and jeopardising its deliverability. As such, the LPA considers the unit mix to be acceptable in this instance.

- 9.8. In terms of the provision of employment floorspace, the site is designated for employment-led (residential and employment) mixed use development, which this proposal delivers. Part 4 of Policy CP3 also states that there should be no net loss in employment floorspace unless this can be justified. 376m<sup>2</sup> of B2 floorspace would be lost through the demolition of the existing building and 219m<sup>2</sup> of flexible Class E floorspace is proposed. It has been argued that the site is constrained for a B2 commercial use; it lacks a main road frontage and prominence in the streetscene; the existing vehicular access is narrow; and it would conflict with a C3 use in a mixed use scheme insofar as it would cause amenity issues. It has also been argued that a new high quality flexible Class E employment building with good natural light would be provided; it has the potential to support the city's key employment sectors, it would repair the streetscene and remove unsightly built form thereby resulting in significant townscape improvements; it would allow cars in particular to enter the site more safely; and it would result in increased employment density. These are all factors mentioned in paragraph 4.36 of the policy that can be taken into consideration.
- 9.9. It is considered that there is an opportunity for a more effective and efficient use of the site, a need for townscape improvements, improved amenity of surrounding users and occupiers and for the proposed floorspace to be flexible. Whilst it is acknowledged that the existing amount of employment floorspace could be re-provided on site, reasonably this would need to be accommodated in the frontage building meaning that it would be much larger, which would be unacceptable on design and amenity grounds. There would be an increase in employment density from a potential nine Full Time Equivalent (FTE) jobs for the existing B2 unit (although it currently only employs two FTE staff) to 15-16 FTE jobs based on a mix of retail (approximately 100m<sup>2</sup>) and office (approximately 119m<sup>2</sup>). This would increase to 18 FTE jobs if solely office. Particularly in light of the aforementioned factors and benefits, and the desire to create adaptable floorspace to achieve suitable long-term viable use, this is considered to outweigh the loss of 157m<sup>2</sup> of B2 floorspace in this instance. As such, the loss of employment floorspace is acceptable in principle.
- 9.10. As previously mentioned, the new employment building of three storeys high on the Portland Road frontage would provide a mix of retail and office space. However, the LPA considers it reasonable to restrict it to Use Classes E(a), (c) and (g) by condition since the other uses within the class could cause adverse effects on neighbouring amenity and the local highways network. It is still important to ensure that flexible design features to provide future adaptability are incorporated for a range of uses, occupants and business sizes. It is

therefore recommended that a condition to secure these and details of the marketing strategy to ensure the successful take up of the employment floorspace be added in compliance with Policy DM11.

- 9.11. It has been demonstrated that this development would contribute towards meeting the identified housing needs of the city and it would not result in the loss of jobs. As such, the principle of the development is considered acceptable. The acceptability or otherwise of the scheme is subject to affordable housing, density, design, biodiversity, landscaping, trees, ecology, neighbouring amenity, the standard of accommodation, highways, sustainability and archaeology. These matters are discussed below.

**Affordable housing:**

- 9.12. Policy CP20 requires development of 15 net dwellings or more to provide 40% of the units as affordable housing. The applicant has submitted a Financial Viability Assessment Report in support of their proposal to provide no affordable housing on the basis of the development not being viable, which it is suggested would make a loss of £2,280,000 due to the Residual Land Value and Site Value Benchmark.

- 9.13. The report has been the subject of a review by the Council's independent viability consultant. They disagree with the Residual Land Value and Site Value Benchmark provided by the applicant given the differences in the Gross Development Value of the commercial element and the construction costs, but ultimately agree that the proposed development produces a deficit of £498,808 (compared to the applicant's figure of £2,280,000). As such, it is accepted that no affordable housing can be provided. However, in case the viability situation improves in terms of sales revenue values rising or base construction costs falling, a late stage review in order to secure any uplift in sales figures as a commuted sum would form part of the Section 106 Agreement.

**Density:**

- 9.14. The site is within the West Hove neighbourhood where the average gross density is 27 dwellings per hectare (dph), which is moderately low. Large plot sizes, wide streets, and other uses within the neighbourhood have contributed to the low figure.

- 9.15. CPP1 Policy CP14 outlines that residential development should be of a density that is appropriate to the 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 subject to various criteria. To make full, efficient and sustainable use of the land available, new residential development is expected to achieve a minimum net density of 50 dph, provided it contributes positively to creating or maintaining sustainable neighbourhoods and that all of the aforementioned criteria can be satisfactorily met.

- 9.16. The site is approximately 0.14 hectares, although the part on which the residential development is located is approximately 0.117 hectares. With 26 dwellings proposed to be on site, the dph would be 222 dph. The West Hove neighbourhood's positive characteristics are its sea views, well preserved

street pattern, architecture (including fine examples of the Arts and Craft movement) and character, and each street being very individual, making the area very legible. There are some taller apartment buildings following the redevelopment of grander houses. The site is within the Portland character area, which is mainly comprised of late 20<sup>th</sup> Century public housing and commercial development close to the railway line.

- 9.17. The various criteria set out by Policy CP14 require a high standard of design and maintaining or creating a coherent townscape; respecting, reinforcing or repairing the character of the neighbourhood and contributing positively to its sense of place; the inclusion of a mix of dwelling types, tenures and sizes to reflect identified local needs; being easily accessible by sustainable transport; being well served by local services and community facilities; and providing outdoor recreation space appropriate to the demand it would generate.
- 9.18. The submitted drawings demonstrate that the design would be of a high standard and that it would maintain a coherent townscape and respect the character of the neighbourhood, thereby contributing positively to its sense of place. This has been achieved through appropriate scale and massing in relation to the urban grain and neighbouring dwellings to break down the perceived bulk; the commercial building repairing the Portland Road street frontage; contemporary and innovative materiality and appearance; high quality public realm including enhanced urban greening and biodiversity; substantial private external amenity space.
- 9.19. As previously noted, the mix of dwelling types and sizes adequately reflect identified local needs. The site is less than 10 mins walk, or three minutes cycling to Portslade train station, and 17 and 4 minutes respectively to Aldrington train station. There are also three bus stops served by seven routes within 1-2 minutes' walk of the site. As such, it is in a sustainable location. Furthermore, it is well served by local services (on Portland Road and Boundary Road a short walk away) with community facilities nearby including a nursery, Portslade Health Centre, Links Road Surgery, Portslade County Clinic, churches and schools (West Hove Infant and Hove Park Upper Schools). In terms of outdoor recreation space, all of the proposed dwellings would have external amenity space and there is additional communal space for the dwellings at fourth floor level and for the commercial building to the southern boundary of the site.
- 9.20. Special Area Policy SA6 sets out how to create and maintain sustainable neighbourhoods. Assessing the proposal against these priorities, it would have the potential to result in environmental sustainability improvements to new buildings; it provides a mix of dwelling sizes; the dwellings meet the nationally described space standards; it supports tree planting; it potentially secures good quality employment and training opportunities for residents; and would support improvements to the public realm and biodiversity. Cycle parking spaces are also proposed and the site benefits from close proximity to existing cycle infrastructure. As such, the proposed development would contribute towards creating a sustainable neighbourhood.



- 9.21. CPP2 Policy DM19 requires compliance with Policy CP14 as well as opportunities for an appropriate mix of uses to be maximised and an efficient use of the site in terms of building layouts, design, open space, amenity space, access and car parking.
- 9.22. As previously discussed, the proposal is for a mixed use development and the quantum of residential and commercial is considered acceptable. Building layouts, design, amenity space, access and car parking are discussed in more detail in the following sections, but they are considered acceptable. In terms of open space, there is none currently on site such that there is a requirement to re-provide any, but landscaped areas are provided to the south and east of the residential building as well as in front of the commercial building.
- 9.23. As such, the density of the proposed development is considered acceptable because it would contribute positively to creating or maintaining sustainable neighbourhoods and meet the criteria in Policies CP14 and DM19.

**Design and Appearance:**

- 9.24. The existing building is not of any historic or architectural merit. As such, its demolition to make way for a replacement building is considered acceptable. The sustainability implications of this will be discussed later in this report.
- 9.25. The subject site is almost shaped like an S-bend with a strip of land running north to south along part of the private access road to the trading estate. The topography of the site and that of Olive Road and the trading estate access road involves a gradual change in level up towards the railway line to the north. Neighbouring building heights vary from the 5-8m high warehouse buildings to the north and the east to the four storey residential block known as Martello Lofts on the adjacent land to the west and the two storey semi-detached dwellinghouses fronting Portland Road.
- 9.26. The built footprint of the proposed residential block makes efficient use of the site, which is supported. As previously noted, the density is relatively high and this means that meaningful amenity space and the quality of public realm areas are of even greater importance. The proposed ground floor layout locates family dwellings to the south so that they benefit from larger garden spaces, which is considered appropriate. The public realm prioritises the pedestrian as much as possible with a dedicated and clearly legible pedestrian footway from Portland Road to the residential entrance via a covered colonnade and a dedicated crossing point over the vehicular access, thereby successfully generating a public realm 'gateway' into the site. This is further enhanced by the commercial building fronting Portland Road, the proposed footprint of which positively reflects the rhythm of urban grain on this frontage. As such, the public realm areas are of high quality and function well.
- 9.27. The proposed site layout is considered to optimise the environmental orientation, positioning the bulk of ground level amenity space and planting to the south, and minimising the north-facing façade by means of the L-shaped building footprint.

- 9.28. 3D contextual views taken from Olive Road and Portland Road as well as from the rear gardens of 295 and 305 Portland Road have been provided to support the proposed design. This has been amended during the course of the application process from four storeys high at 7m away from the southern site boundary and six storeys at the northern end of the site such that two storeys are proposed at 9.2m away and five storeys are proposed respectively. The reduction to two storeys is necessary for neighbouring amenity reasons, but would also create a more comfortable visual relationship to the Portland Road properties. The reduction in height is welcomed since the fourth storey sits below the height of the adjacent Martello Lofts residential building whilst the fifth storey would only be 1.88m higher. The direct steps in height are considered to successfully break down the mass and perceived bulk of the building with the southern parapet partially masking the fourth storey, again in views from the Portland Road properties, but also reducing the visual impact on the streetscene and in wider views. As such, whilst there is still some concern regarding the scale of the development, it is considered that the scheme can be supported in this instance.
- 9.29. The presence of the proposed commercial building on Portland Road is considered to help mask the scale of the proposed residential block in views from the public realm to the south and takes the opportunity to close the existing open frontage of the site, which is supported.
- 9.30. The general design and massing of the commercial building has been revised such that it would now respond well to the established rhythm of the urban grain evidenced in the adjacent semi-detached dwellings, retaining equal spacing between built form over ground floor and matching existing ridge heights. The gradual stepping at the rear of this building is considered to be the most sympathetic response in terms of direct visual impact to neighbouring dwellings and site constraints.
- 9.31. In terms of materiality, the prevailing materials on Portland Road and Olive Road are overwhelmingly red brick with white accents and red clay tile. However, the industrial / commercial uses on this site present a light buff brick stock and a more utilitarian appearance. Given the back land context of the site, the proposed residential building successfully references the industrial heritage through its materiality (light buff brick and concrete sills), which is also considered to be high quality as demonstrated in the indicative brick detailing and concrete sills. Further details of all materials are recommended to be secured by condition.
- 9.32. An interesting, layered elevational composition that generates shadow, texture and contrast is shown in the rendered elevations, bay studies and 3D views submitted of the residential building. This is added to by the semi-recessed terraces on the south elevation and the stepped effect as the building line steps in at second, third and fourth floor levels. The material composition on the proposed south and north elevations has been improved with additional concrete lintel layers and textured brickwork.

- 9.33. The proposed materiality of the commercial building of brick in different bonding and patterning, copper sprayed aluminium framed fenestration and projecting balconies and expressed fair faced concrete lintels would complement the prevailing red brick of Martello Lofts and adjacent semi-detached properties, which is considered an acceptable approach. Its proportions to the front elevation also reflect those of the neighbouring semi-detached properties. Following revisions, all elevations of the commercial building are as well-detailed as the front. As such, its appearance is considered acceptable.
- 9.34. The Council's Urban Designer has reviewed the scheme twice and following amendments considers it generally acceptable subject to a whole-life carbon assessment with associated calculations being secured by condition and the external amenity spaces of the west-facing one bed units at ground, first and second floors being well-lit. This is dealt with in paragraph 9.54.
- 9.35. As such, the proposal would make an efficient use of an existing site and be contextually appropriate design in compliance with City Plan Part One Policies CP12 and CP13, City Plan Part Two Policy DM18, SPD17 and paragraphs 130 and 134 of the NPPF that require developments to add to the overall quality of the area through being visually attractive as a result of good architecture, layout and landscaping; to be sympathetic to local character and the surrounding built environment while not preventing increased densities; to optimise the potential of the site to accommodate an appropriate amount of development; to reflect local design policies; and raise the standard of design more generally in an area where they fit in with the overall form and layout of their surroundings.

**Biodiversity, Ecology, Landscaping and Trees:**

- 9.36. The submitted biodiversity checklist demonstrates that there are no indicators of (nesting) birds, owls, bats, reptiles, slow worms, stag beetles, badgers or Great Crested Newt, or that coastal vegetated shingle and much open rough grassland would be affected. Given the low base value, there is the potential for high biodiversity net gain values to deliver the minimum uplift of 10% that will be required by Part 6 of the Environment Act. A minimum 10% BNG will not be mandatory until November 2023 and whilst BHCC has declared a Biodiversity Emergency, Policy DM37 just requires a net gain in biodiversity on site. Measures to improve the ecology outcomes on the site in accordance with Policies CP10 and DM37 as well as SPD11 are proposed to include the chalk grassland green roof, native hedge and tree planting, inserting bee bricks and installing swift and bat boxes. An Ecological Design Strategy is recommended to be secured by condition to show the soft landscape species, the number and location of swift and bat boxes, and the species composition of the chalk grassland green roof. Separate conditions are recommended to secure 26 (twenty six) swift bricks and a bee brick for each block of development.
- 9.37. The site is considered to have low ecological value. The building proposed for demolition offers two roost features both of low potential, the emergence surveys found no evidence of roosting bats and there is little suitable foraging habitat on site. However, it is necessary to condition surveys of the two

potential roost features to be conducted immediately prior to demolition of the building, which would have to be between April and October. An informative would be added to advise that it is a criminal offence to disturb nesting wild birds, their nests and eggs. The proposed development would result in the loss of two lime trees, an area of scrub and the majority of the rough grassland. This loss is acceptable provided it is compensated through a landscape scheme.

9.38. The landscaping proposed includes at least 24 new trees of five different species, numerous hedges of three different mixes and five different varieties of shrubs. This is welcomed and has been accepted by the Council's Arboriculturalist and would sufficiently compensate the loss of the existing soft landscaping comprised of an area of scrub and the majority of the rough grassland. It is noted that the planting species are either on the RHS Perfect for Pollinators List or in SPD11 Table 7.2 (Native plants of local provenance and other plants suitable for landscaping schemes in Brighton & Hove), which is supported. Further details of the landscaping, such as the size of the trees and food growing, can be secured by condition prior to first occupation. The detailed landscape proposals must also demonstrate that SuDS have been fully considered. Any hard surfacing is recommended to be conditioned as permeable and / or porous.

9.39. There are three trees located off site within neighbouring properties. The proposed development would have the potential to impact on their Root Protection Areas (RPAs), although the tree protection plan would be sufficient to prevent this subject to the proposed fencing specified in Appendix 4 of the Arboricultural Impact Assessment, Method Statement and Tree Protection Plan being conditioned to be installed prior to commencement.

**Impact on Neighbouring Amenity:**

9.40. Paragraph 130 of the NPPF outlines that planning decisions should ensure that developments create places that promote health and well-being, with a high standard of amenity for existing and future users.

9.41. Policy DM20 of City Plan Part 2 states that planning permission for development including change of use will be granted where it would not cause unacceptable loss of amenity to the proposed, existing, adjacent or nearby users, residents, occupiers or where it is not liable to be detrimental to human health.

9.42. The main properties that would be affected by the proposed development would be 299, 301, 303 and 305 Portland Road to the south, 2 and 4 Olive Road to the east and Martello Lofts to the west.

9.43. The Portland Road properties are two storey with front and rear gardens. Being to the south of the proposed residential block prevents any adverse impact in respect of sunlight and overshadowing. In the case of nos. 299 and 301, there would be no noticeable reduction in daylight and sunlight, which also applies to 2 and 4 Olive Road.

- 9.44. Based on the original scheme, the living room of no. 303 would have experienced a noticeable reduction to the No Sky Line (NSL) of 27.27% given it should be no less than 0.8 times its former value. Since the room is greater than 5m deep, an adverse reduction in sky view is unavoidable even with a 'modest' development, but it is worth noting that proposed development has been reduced in scale and massing since. All but one of its three windows would be compliant with BRE recommended values for Vertical Sky Component (VSC) and it would have an acceptable Average Daylight Factor (ADF) of 2.24%, above the required figure of 1.5%. The overall impact is therefore considered acceptable.
- 9.45. The living / kitchen / dining room of 305 Portland Road is dual-aspect and served by five windows so a more noticeable reduction to window W2 in respect of VSC is considered acceptable as the room would still receive sufficient daylight with a NSL figure of 95% and an ADF of 2.34%. It is also noted that the massing of the proposed commercial building has been amended to be sited off the boundary at first and second floor levels.
- 9.46. Martello Lofts is a four storey (with incomplete fifth storey) residential block with the windows that would be affected facing north and east. Some of the living / kitchen / dining rooms have external overhanging balconies which already restrict views of the sky from the window of the room below. One of the northern-most ground floor units (marked as R8 to the northern end of the east-facing elevation) additionally has an existing canopy above three living / kitchen / dining room windows, which restrict daylight. Therefore, with it removed, all the windows would satisfy the BRE guidance and it is not the proposed development that causes a loss of daylight. Good levels of daylight and sunlight would be retained with the proposed development in place. It should be noted that the Daylight, Sunlight and Overshadowing Report was undertaken for a previous, larger version of the proposal and therefore the current amended version would cause less of an impact than assessed by the report.
- 9.47. The proposed development has been set back from the boundary with 299-305 Portland Road by 9.2m and from 2 and 4 Olive Road by 6.5m. This compares to 7m to the former as originally submitted, and additionally the proposal was for four storeys close to these properties without less of a stepped arrangement. In the views provided, it is considered not close enough to 299-305 Portland Road or 2 and 4 Olive Road to cause a significant reduction in outlook or create an excessive sense of enclosure. The stepped arrangement to the proposed building from two to three to four to five storeys, and a reduction from five storeys as originally submitted to two storeys towards the southern boundary is considered to alleviate any concerns about it being overbearing.
- 9.48. It is noted that existing land levels including spot heights as part of a topographical survey have been submitted to ensure that the land levels are taken into consideration in the design of the proposed buildings. These would be conditioned as part of the drawings to be approved.

- 9.49. Regarding overlooking, there are windows to all elevations and terraces to all but the north elevation, but those to the east and north would not provide any direct views into the windows of neighbouring buildings. Apart from a single inset terrace at first, second and third floors, all the other terraces have been removed from the south elevation and also moved further to the north on the eastern elevation. It should be noted that 54 windows / doors were initially proposed to the southern elevation and 40 to the eastern elevation compared with 34 and 27 respectively, but Officers sought amendments to address privacy concerns. Combined with privacy measures in the form of eight 5-6m tall evergreen bay trees planted on the southern and eastern boundaries (which the Council's Arboriculturalist is satisfied with), frosted glass to the lower half of the southern elevation windows (and three on the east elevation) and opaque powder coated mild steel panels behind fins to the south eastern-most terraces, it is considered that the overlooking to the nearby residential gardens would not warrant a reason to refuse this application.
- 9.50. In terms of the impact from the proposed commercial building, its design and massing has been revised as previously noted such that it would be the most sympathetic response in terms of direct visual impact to neighbouring dwellings given the gradual stepping at the rear. The first floor level would not significantly extend beyond the rear building line of 305 Portland Road such that it would cause loss of sunlight, overshadowing or be overbearing. A condition is recommended to be added preventing its use being a restaurant, gym or creche / day nursery, which could cause an adverse impact on residential amenity, particularly of no. 305.
- 9.51. As such, the overall impact on neighbouring amenity would be considered acceptable, subject to conditions on the trees, terrace treatment and frosted glass, and is therefore considered to comply with CPP2 Policies DM20 and DM40.

**Standard of Accommodation:**

- 9.52. 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. These space standards have been formally adopted into the Brighton and Hove City Plan Part 2 Policy DM1 and can now be given full weight.
- 9.53. Four studios, 8 x one bed two person, 9 x two bed four person, 4 x three bed 5 person and a three bed six person dwelling are proposed. The Gross Internal Areas (GIAs) for each residential unit are at least compliant with if not in excess of the figures in the NDSS. All the bedrooms would also be compliant with the NDSS. Internal floor to ceiling heights on the ground, first, second, third, fourth and fifth floors would be approximately 2.46m. As such, they are acceptable.
- 9.54. Six of the 26 flats (23%) would be single aspect, but none solely to the north. The rest would be at least dual aspect providing future occupiers with sufficient outlook, natural light and cross-ventilation. Subject to adequate ventilation being installed to the south-facing single aspect flats (details of which are

recommended to be conditioned), this is considered acceptable and unavoidable. Those flats would otherwise benefit from sufficient outlook, natural light and ventilation. The boundary treatment of 1.8m high 'hit and miss' fencing is considered to allow adequate outlook.

- 9.55. The provision of external amenity space in the form of patios for all the ground floor flats and terraces for the upper floor flats is supported, and whether it is a terrace or a garden they are considered of an adequate size to be useable. Concern was raised by the Council's Urban Designer about units U01, U05, U12 and U17 being well-lit. Given the orientation and the balconies being stacked on top of each other, it is not possible for these to be as well-lit as the other external amenity spaces that serve the larger, family-sized units. Given the orientation and constraints of the site, this is condoned and it is considered preferable to provide external amenity spaces than not to.
- 9.56. As such, the proposed development is considered to offer acceptable living conditions for future occupiers, compliant with CPP2 Policy DM1.

**Impact on Highways:**

- 9.57. The site is considered to be in a sustainable location given that the site is less than 10 mins walk, or three minutes cycling to Portslade train station, and 17 and 4 minutes respectively to Aldrington train station. There are also three bus stops served by seven routes within 1-2 minutes' walk of the site. However, it is within an 'Outer Area' of the city as set out in SPD14. In these areas, SPD14 permits a maximum of one car parking space per dwelling plus one space per two dwellings for visitors, totalling 39 spaces for this proposal. 22 residents' spaces are proposed at basement level and three visitor spaces behind the commercial building, which therefore gives a shortfall of 14 spaces. In these situations, it must be demonstrated that there are sufficient spaces on surrounding roads by way of a parking survey. This has been carried out and demonstrates that there is an average capacity of 71-75% (equivalent to 39-44 vehicles), which is sufficient to allow additional users to park on them even with the development in place. Added to on-street parking being prevented 11:00-12:00 and 18:00-19:00 by CPZ L, it is considered that there would not be an adverse impact from overspill parking on the highway network.
- 9.58. No parking spaces would be provided for future occupiers of the commercial building, which is considered acceptable given the average capacity of the surrounding roads and the proximity of public transport nodes. All of the spaces would be provided with an electric vehicle charging point, which is supported. Three of the car parking spaces would be for blue badge holders, which is considered an appropriate amount and compliant with SPD14.
- 9.59. It is noted that the development would result in the loss of six car parking spaces that it has been alleged pertain to some of the occupiers of flats within the Martello Lofts building. Evidence in the form of leases and the plans within demonstrate that none of these flats have a legal right to use these spaces. Whilst these parking spaces were secured by condition as part of the permission to change the use of the Martello Lofts building from office to residential, they existed prior to that application and appear not to have ever

been formally associated or used by those flats. As such, their loss is considered acceptable and would also not lead to an adverse impact on the highway network from overspill parking.

- 9.60. Following negotiations, spaces has been allocated for two motorcycles within the basement. This is also compliant with SPD14 and further details are recommended to be secured by condition.
- 9.61. In terms of cycle parking spaces, 40 are proposed at basement level and this is in excess of the long and short stay minimum requirement in SPD14 of 39 spaces. Five spaces (three long stay and two short stay) for the commercial development are also likely to be required, but details are recommended to be secured by condition since staff numbers is not yet known.
- 9.62. As regards trip generation, a total of 24 additional trips per day are expected to take place as a worst case scenario as a result of the proposed development, which is considered insufficient to have a material impact on the surrounding highway network. Equally, delivery and servicing associated with the residential and commercial uses on the site is predicted to generate seven trips throughout the day with Officers reaching the same conclusion.
- 9.63. Delivery and servicing would take place on Portland Road Trading Estate access road, which is considered acceptable given that the proposal would not generate a significant number of deliveries. Smaller delivery vehicles can turn and manoeuvre at basement level if required, but this would be exclusively for residents of the proposed dwellings with a traffic light system to manage entries and exits so this is considered unlikely to occur.
- 9.64. Refuse vehicles would collect bins Portland Road Trading Estate access road and which would be stored within 25m of it. This is considered acceptable. The installation of the refuse store prior to first occupation and retention is recommended to be secured by condition.
- 9.65. Portland Road Trading Estate access road itself is approximately 6.5m wide with a pedestrian footway on the western side measuring between 1.0-1.9m. Following amendments, the proposed pedestrian footways would be a minimum of 1.2m wide to allow for a wheelchair to pass along, which is welcomed. It has been clarified that the gradient of the ramp into the basement would be 1:10, which would allow it to be suitable for both vehicles and cyclists.
- 9.66. It is considered necessary to secure a Travel Plan and it is recommended that this be achieved by condition. Additionally, both a Construction Environmental Management Plan (CEMP) and Demolition Environmental Management Plan (DEMP) are recommended to be conditioned. These would address concerns about safety, amenity, noise and construction traffic.
- 9.67. As such, subject to the imposition of suitable conditions, the impact on highways would be acceptable.

**Air Quality:**



9.68. No objections are raised on this matter given energy provision is electric, there are no proposed gas or biomass boilers on site and the vehicle trip generations into the nearest Air Quality Management Areas (AQMAs) are not sufficient to justify a detailed air quality assessment. However, it is considered necessary that construction vehicles potentially servicing this site in the future avoid all AQMAs, and this must be factored into the CEMP as should emission standards for non-road mobile machinery and monitoring for particulate matter, dust and nitrogen dioxide before and during demolition and construction.

**Sustainability:**

9.69. City Plan Part One Policy CP8 requires new development to demonstrate a high level of efficiency in the use of water and energy and for it to achieve 19% above Part L for energy efficiency in addition to meeting the optional standard for water consumption. 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. Therefore, an informative is recommended to ensure the development meets that standard.

9.70. It is noted that the proposed reduction in carbon emissions is 44%, 42% of which would be from Air Source Heat Pumps (ASHPs). This is above the aforementioned requirement and is therefore supported. However, since it is such a large proportion, it is important to ensure the type is appropriate. The Exhaust ASHPs proposed are not considered an optimal solution as they may require additional heat sources (e.g. an immersion heater), are likely to have a high power demand and are expensive to run. Further details of the ASHP to provide heating and hot water for each unit is therefore recommended to be required by condition.

9.71. In terms of BREEAM, the non-residential element of this proposal qualifies as 'non-major' and is therefore required to meet the 'Very Good' rating. A score of 55.3% is targeted, which is just 0.3% above the threshold and to ensure the building still meets the 'Very Good' rating if some slippage occurs during construction, the additional credits identified by the BREEAM report to increase the score by approximately 5% should be applied. Compliance with the 'Very Good' rating is recommended to be secured by condition.

9.72. To comply with Policy SA6, it is recommended to add a condition to ensure the site can be connected to a district heating system in the future, including securing and safeguarding a route onto the site from the highway for a connection. This would help to deliver significant carbon savings during the plan period in line with the Council's Sustainable Community Strategy to reduce the city's carbon emissions by 80% by 2050.

9.73. Other sustainability measures include a timber frame for the building (from a sustainable source), improved building fabric, improved glazing u-values, providing a biodiversity net gain, 40 cycle parking spaces and EV charging to all 25 car parking spaces. However, it is recommended to secure a whole-life carbon assessment by condition to ensure that the proposal is committed to low embodied carbon and is wholly compliant with Policy CP8.

9.74. It is recommended that a Site Waste Management Plan (SWMP) condition be imposed to ensure that the demolition of the existing building would not be unsustainable development with materials being salvaged and reused where possible.

9.75. All the proposed dwellings would be at least single aspect with none solely to the north. 18 (69%) of the dwellings would be dual aspect. It is considered that generally the proposals have sufficiently incorporated the principles of passive design to minimise the need for artificial heating and lighting, which is welcomed.

**Archaeology:**

9.76. Whilst not being within an Archaeological Notification Area, the site contains ample evidence of past human activity from the prehistoric period onwards, including Palaeolithic hand axes and Neolithic and Early Bronze Age struck flint having been found in the wider vicinity, which also contains a few cemeteries and a known post-medieval farm complex. In addition, medieval and later settlement of Aldrington is located to the south.

9.77. Therefore, an Archaeological Desk-Based Assessment has been submitted. Officers are satisfied that archaeological remains of national significance are unlikely to exist within the site. However, remains of local or regional significance may be present and would unavoidably be impacted by the proposed development, particularly by the substantial basement parking area. As such, it is recommended that a pre-commencement condition be added to ensure that a programme of archaeological works commensurate with a written scheme of investigation is submitted and approved prior to any works commencing, including demolition.

## **10. CONCLUSIONS**

10.1. The proposal would provide 26 dwellings and new flexible commercial floorspace as part of a mixed use development on a brownfield site in Hove, provide sustainability and biodiversity improvements, and it would generate some economic activity during construction work and from the spending in the local economy of the future occupiers, which are relatively significant benefits of the proposal. The application would result in a high quality design of the building, which would not have a significantly adverse impact on neighbouring amenity or on highways safety whilst providing an acceptable standard of accommodation. The proposal is therefore recommended for approval, subject to conditions and a legal agreement.

## **11. COMMUNITY INFRASTRUCTURE LEVY**

11.1. Under the Regulations of the Community Infrastructure Levy (CIL) 2010 (as amended), Brighton & Hove City Council adopted its CIL on 23 July 2020 and began charging on all CIL liable planning applications on and from the 5 October 2020. It is estimated that the amount of CIL liability for this application

is £412,444.64. The exact amount will be confirmed in the CIL liability notice which will be issued as soon as it practicable after the issuing of planning permission.

## **12. EQUALITIES**

- 12.1. Access to the proposed buildings from Portland Road would be level and a minimum of 1.2m wide to allow for a wheelchair to pass along. Three of the parking spaces would be for disabled vehicle users, which is supported. A lift will be provided in the basement to provide step-free access from them to all floors meaning that any of the proposed residential units would be accessible for those with a mobility-related disability. The development would be subject to a condition ensuring that one of the residential units would be designed to meet M4(3) standards. All other dwellings would be conditioned as being designed to meet M4(2) (accessible and adaptable dwellings) standards. In terms of the commercial building, the entrance door would be power operated under manual or automatic control; the minimum effective clear width of doors would be 800mm; and stairlifts would be provided to the staircases. Amended plans are expected at the time of writing the report to include this. This would meet the aims of Strategic Objective SO20 in CPP1. The development does not meet the criteria to provide any children's place space.

## **13. CLIMATE CHANGE / BIODIVERSITY**

- 13.1. The site has good links to facilities including shops, is well served by public transport, and cycle parking is proposed, reducing reliance on cars. It also makes a more efficient use of brownfield land with the proposed building being well orientated thereby providing sufficient daylight and sunlight to the new dwellings. A detailing landscaping / planting plan, details of the chalk grassland green roof as well as bee bricks and swift bricks are recommended to be secured by condition.

## **14. S106 Agreement**

- 14.1. In the event that the draft S106 Agreement has not been signed by all parties by the date set out above, the application shall be refused for the following reasons:
1. The proposed development fails to provide an Employment and Training Strategy specifying how the developer or their main contractors will provide opportunities for local people to gain employment or training on the construction phase of the proposed development, contrary to Policy CP7 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.
  2. The proposed development fails to provide a financial contribution towards the City Council's Local Employment Scheme to support local people to

employment within the construction industry, contrary to Policy CP7 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.

3. The proposed development fails to provide a mechanism by which to secure affordable housing, or a financial contribution towards it in the city, in case of the viability situation improving, contrary to Policies CP7 and CP20 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.

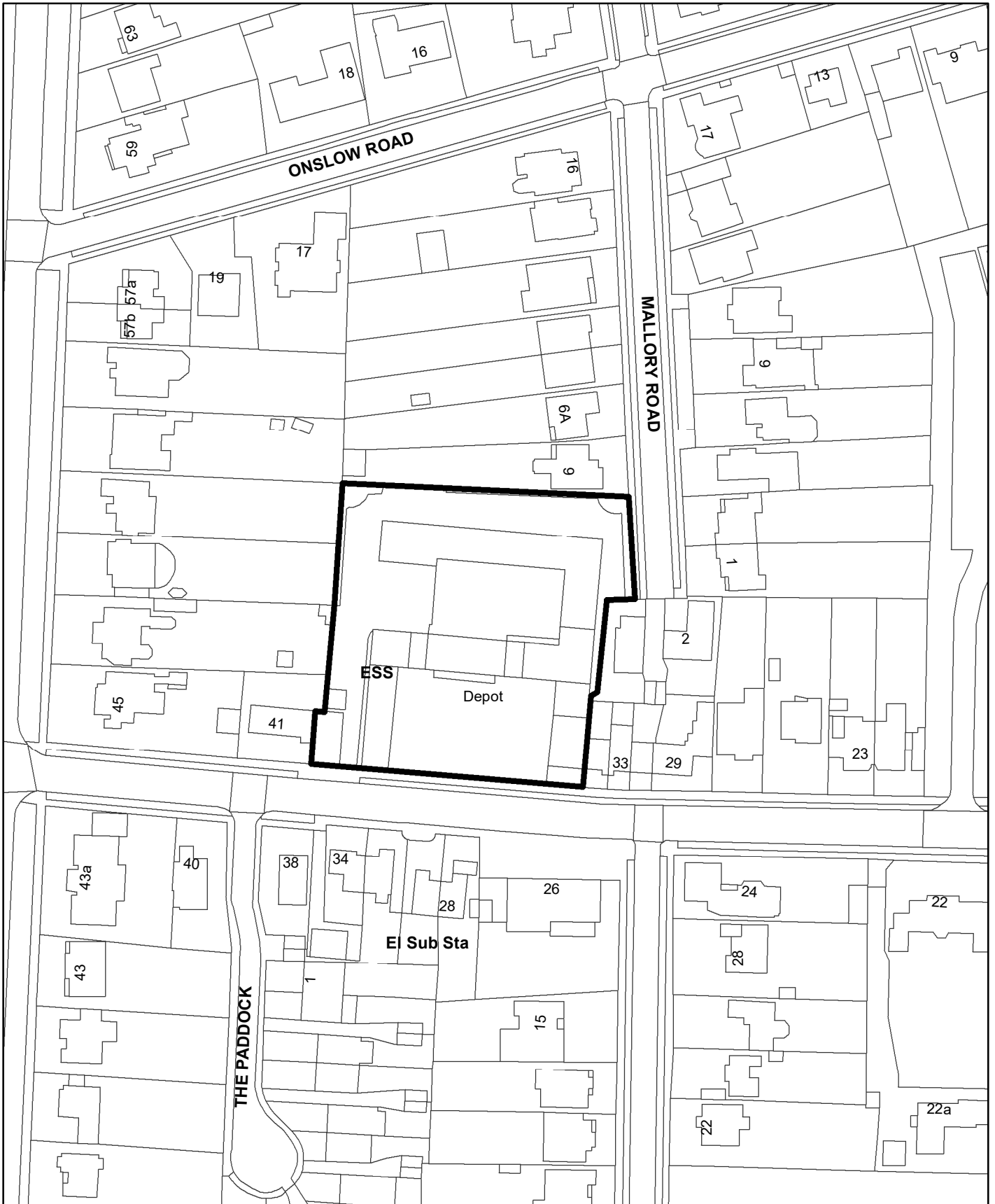
# **ITEM C**

**Former Dairy, 35-39 The Drove  
BH2022/00456  
Removal or Variation of Condition**

**DATE OF COMMITTEE: 8<sup>th</sup> March 2023**



# BH2022 00456 - Former Dairy, 35-39 The Droveaway



N



Scale: 1:1,250





<b><u>No:</u></b>	<b>BH2022/00456</b>	<b><u>Ward:</u></b>	<b>Hove Park Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Former Dairy 35 - 39 The Drove way Hove BN3 6LF</b>		
<b><u>Proposal:</u></b>	<b>Change of use from former dairy depot (B8) to mixed-use development comprising 19no. dwellings (Use Class C3) and commercial space (Use Class E), including erection of a new northern wing and a new central wing to courtyard; onsite car and cycle parking and associated works. (part-retrospective)</b>		
<b><u>Officer:</u></b>	Emily Stanbridge, 293311	tel: <b><u>Valid Date:</u></b>	18.02.2022
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	20.05.2022
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Mialex Work.Life Core Brown Street Manchester M2 1DH		
<b><u>Applicant:</u></b>	Superstone Homes Ltd Former Dairy 35-39 The Drove way Hove BN3 6LF		

This application was due to be presented to Planning Committee on the 1<sup>st</sup> February, however, it was withdrawn from the agenda as the western flint wall of Block B partially collapsed and was subsequently demolished which was not part of the submitted documentation. A revised demolition plan has now been received which reflects the removal of this wall and the intention to re-build it.

On the morning of February committee officers became aware that the historic flint wall to block B had been removed. A site visit was then undertaken by officers on the 7<sup>th</sup> of February to confirm exactly what demolition works had been undertaken on the site. Following this visit by officers, a revised demolition plan was submitted to confirm that the wall to block B is to be rebuilt using the original flints which have been retained on site.

## 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 on the Heads of Terms set out below and the following Conditions and Informatives as set out hereunder, **SAVE THAT** should the s106 Planning Obligation not be completed on or before 8th July 2023 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 13 of this report:

### **S106 Heads of terms:**

#### Affordable Housing:

- Secure on-site affordable housing of 3 units (2x affordable rent and 1x shared ownership)

- A Review Mechanism to reassess the viability of the scheme close to completion in order to, where possible, secure up to policy compliant level of affordable housing via an off-site financial contribution

#### Artistic Component

- Provision to the value of £19,470 towards an Artistic component to be provided on site

#### Employment and training

- Employment and Training Strategies for the provision of local employment opportunities with 20% of any new roles created from the demolition and construction phases of development, at least one month before the intended date of formal commencement of the development.
- £8,100 developer contribution toward the Council's Local Employment Scheme

#### Highway Works

The following highway works are required to be secured via a section 278/38 agreement:

- New vehicle crossover on Mallory Road
- Reinstatement of existing eastern crossover on The Drove way
- Reinstatement of existing crossover on western garage block as a grass verge
- Provision of two on-street loading bays.
- Making good of pavement and verge adjacent to new access on Mallory Road.

#### **Conditions:**

1. The development hereby permitted shall be carried out in accordance with the approved drawings and documents 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>
Report/Statement	Arb Assessment and method statement	Jan 2023	26 January 2023
Proposed Drawing	NJC2020_02_25012 3		26 January 2023
Proposed Drawing	NJC2020_01_25012 3		26 January 2023
Proposed Drawing	2048-P-122 REV K		27 January 2023
Report/Statement	Remediation strategy and verification plan V2	Dec 2022	21 December 2022
Proposed Drawing	2048-P-126	Rev D	2 December 2022
Report/Statement	Preliminary contamination risk assessment	October 2017	11 November 2022

Existing Drawing	043-02-P105		1 November 2022
Existing Drawing	043-02-P106		1 November 2022
Proposed Drawing	043-02-P108		1 November 2022
Proposed Drawing	043-02-P112		1 November 2022
Existing Drawing	043-02-P113		1 November 2022
Report/Statement	Asbestos certificate		1 November 2022
Report/Statement	Hazard waste notes		1 November 2022
Proposed Drawing	043-PD-01		1 November 2022
Proposed Drawing	2048-P-128	Rev B	3 October 2022
Proposed Drawing	2048-P-129	Rev B	3 October 2022
Proposed Drawing	043-02-P101	Rev 2	13 September 2022
Report/Statement	Historic uses	Rev B	17 August 2022
Proposed Drawing	19-230-50-C1		17 August 2022
Proposed Drawing	19-230-51-C1		17 August 2022
Report/Statement	Preliminary land contamination report		17 August 2022
Report/Statement	CEMP	Rev A	17 August 2022
Report/Statement	Contaminated land risk assessment Phase 2	May 2018	26 July 2022
Report/Statement	Ecological design strategy	July 2022	26 July 2022
Report/Statement	Materials schedule	Rev B	26 July 2022
Proposed Drawing	Landscape plan		26 July 2022
Existing Drawing	043-02-P104		26 July 2022
Proposed Drawing	21-077-52-B1		26 July 2022
Proposed Drawing	21-077-53-B1		26 July 2022
Proposed Drawing	2048-P-121	Rev G	8 July 2022
Proposed Drawing	2048-P-123	Rev F	8 July 2022
Proposed Drawing	2048-P-132	Rev C	8 July 2022
Proposed Drawing	2048-SK-120	Rev E	8 July 2022
Proposed Drawing	2048-SK-124	Rev C	8 July 2022
Proposed Drawing	2048-SK-127	Rev C	8 July 2022
Proposed Drawing	2048-SK-130	Rev C	8 July 2022
Proposed Drawing	2048-SK-125	Rev B	9 February 2022
Proposed Drawing	043-02-P110	Rev 02	15 February 2023

2. Not used
3. The non-residential commercial uses hereby approved shall be retained as Class E use and shall not be used for any other purpose.  
**Reason:** The Local Planning Authority would wish to retain control over any subsequent change of use of these premises in the interests of safeguarding the amenities of the area and to comply with policy DM20 of the Brighton & Hove City Plan Part 2.
4. No activities associated with the non-residential uses hereby approved, including servicing and deliveries, shall take place outside the hours of 07.00 to 23.00.

**Reason:** To safeguard the amenities of the locality and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.

5. The development shall be constructed and laid out in accordance with the disabled bays shown on drawing 043-02-P101 rev 01 received on the 26th of July 2022. 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 the development provides for the needs of disabled staff and visitors to the site and to comply with policy DM36 of Brighton & Hove City Plan Part 2, and SPD14: Parking Standards.

6. Noise associated with plant and machinery throughout the development shall be controlled such that the Rating Level, calculated at 1-metre from the façade of the nearest proposed residential unit, shall not exceed a level 5dB(A) below the existing LA90 background noise level. Rating Level and existing background noise levels to be determined as per the guidance provided in BS 4142:2014.

**Reason:** To safeguard the amenities of the occupiers of neighbouring properties and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.

7. Prior to first occupation of the development hereby approved, full details of a proposed external lighting scheme shall be submitted for approval by the Local Planning Authority. No external lighting other than that which forms part of the approved scheme shall be installed.

**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.

8. The construction of the development hereby approved shall be carried out in accordance with the approved CEMP 01 rev A received on the 17th August 2022.

**Reason:** As this matter is fundamental to the protection of amenity, highway safety and managing waste throughout development works and to comply with policies DM20, DM33 and DM40 of Brighton & Hove City Plan Part 2, policy CP8 of the Brighton & Hove City Plan Part One, and WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013 and Supplementary Planning Document 03 Construction and Demolition Waste.

9. Not used (incorporated into condition 11)

10. The development shall be constructed in accordance with the ordnance datum levels shown on drawings 043-02-P105, 043-02-P106, 043-02-P108, 043-02-P112 and 043-02-P113 received on the 1<sup>st</sup> of November 2022.

**Reason:** As this matter is fundamental to the acceptable delivery of the permission to safeguard the amenities of nearby properties and to safeguard the character and appearance of the area, in addition to comply with policy DM20 of the Brighton and Hove City Plan Part 2 and policy CP12 of the Brighton and Hove City Plan Part One.

11. 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 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. 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, to include food-bearing 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, height, design, dimensions and materials, including gated access.
- d. details of all proposed areas of defensible space as shown on the proposed level 0 plan. The defensible space to the front of units 13-19 should be no less than 0.6m in depth.
- e. details of the boundary treatment associated with unit 12 to reflect revised crossover access.

Any trees or 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 and to comply with policies DM22 of Brighton & Hove City Plan Part 2, and CP12 and CP13 of the Brighton & Hove City Plan Part One.

12. No further development shall take place until the protection measures identified in the submitted arboricultural assessment and method statement received on the 26.01.2023 are in place and retained throughout the construction process. The fences shall be erected in accordance with British Standard BS5837 (2012) Trees in relation to design, demolition and construction – Recommendations and shall be retained until the completion of the development and no vehicles, plant or materials shall be driven or placed within the areas enclosed by such fences.

**Reason:** As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to comply with policies DM22 of Brighton & Hove City Plan Part 2, and CP12 / CP13 of the Brighton & Hove City Plan Part One and SPD06:Trees and Development Sites.

13. All hard landscape 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.

**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 and Hove City Plan Part One.

14. The development hereby permitted shall be carried out in accordance with the material schedule 043-MS-01 Rev B received on the 26th July 2022.

**Reason:** To ensure a satisfactory appearance to the development and to comply with policies DM18, DM21, DM28 of Brighton & Hove City Plan Part 2 and CP12 and CP15 of the Brighton and Hove City Plan Part One.

15. No development above ground floor slab level of any part of the development hereby permitted shall take place until a sample panel of flintwork has been constructed on the site and approved in writing by the Local Planning Authority. The flintwork comprised within the development shall be carried out and completed to match the approved sample flint panel prior to the development hereby permitted being occupied.  
**Reason:** To ensure a satisfactory appearance to the development and to comply with policies DM18 and DM28 of the Brighton and Hove City Plan Part 2 and CP12 and CP15 of the Brighton and Hove City Plan Part One.
16. The rooflights hereby approved shall have steel or cast metal frames colour-finished black or dark grey, fitted flush with the adjoining roof surface and shall not project above the plane of the roof.  
**Reason:** To ensure a satisfactory appearance to the development and to comply with policies DM18 and DM28 of the Brighton and Hove City Plan Part 2 and CP12 and CP15 of the Brighton and Hove City Plan Part One.
17. The cycle parking within the development hereby permitted shall be carried out in accordance with drawing 043-02-P101 received on the 26th of July 2022. The approved cycle parking 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 DM33 of Brighton & Hove City Plan Part 2, and SPD14: Parking Standards.
18. The electric vehicle chargers within the development hereby permitted shall be carried out in accordance with drawing 043-02-P101 received on the 26th of July 2022. These charging facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times. Plus passive bays shall be bought into active service in accordance with the approved arrangements.  
**Reason:** To encourage travel by more sustainable means and seek measures which reduce fuel use and greenhouse gas emissions and to comply with policies SA6, CP7, CP9, CP12, CP13 and CP15 of the City Plan Part One and SPD14 Parking Standards.
19. The development shall be constructed in accordance with remediation strategy and verification plan received on 21ST December 2022 and plans 19-230-50-C1 and 19-230-51-C1 received 2nd December 2022.  
**Reason:** To ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with policies DM42 and DM43 of City Plan Part and CP11 of the Brighton & Hove City Plan Part One.
20. The layout and management/allocation of the vehicle parking areas within the development shall be carried out in accordance with drawing 043-02-P101 received on the 26th of July 2022. The approved layout and management arrangements shall be implemented prior to the occupation of the buildings and thereafter be retained and maintained.

**Reason:** To ensure that adequate parking provision is retained and to comply with policy CP9 of the Brighton & Hove City Plan Part One, policy DM33 of Brighton & Hove City Plan Part 2, and SPD14: Parking Standards.

21. Not used.
22. None of the new build 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 Brighton and Hove City Plan Part One.
23. Unless otherwise agreed in writing by the Local Planning Authority, within 3 months of first occupation of the non-residential development hereby permitted a BREEAM Building Research Establishment issued a Post Construction Review Certificate confirming that the non-residential development built has achieved a minimum BREEAM New Construction rating of 'Excellent' shall be submitted to, and approved in writing by, the Local Planning Authority.  
**Reason:** To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy CP8 of the Brighton & Hove City Plan Part One.
24. Notwithstanding the approved drawings, no development of unit 2 shall take place until a scheme has been submitted to and approved in writing by the local planning authority providing full details of this unit in compliance with Building Regulations Optional Requirement M4 (3) (2b) wheelchair user dwellings.  
This shall be completed in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings) prior to first occupation and shall be retained as such thereafter. All other 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 DM1 of Brighton & Hove City Plan Part 2.
25. The development hereby permitted shall not be first occupied until all ecological measures and/or works have been carried out in accordance with the details contained in Ecological Design Strategy (Bakerwell, August 2022). and all measures shall be thereafter maintained in accordance with the details of the Strategy.  
**Reason:** To increase the biodiversity of the site, to mitigate any impact from the development hereby approved and to comply with Policy DM37 of Brighton & Hove City Plan Part 2, Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

26. (i). The development shall be constructed in accordance with the Remediation Strategy and Verification Plan received on the 21<sup>st</sup> December 2022, Preliminary Contamination Risk Assessment October 2017 received 11<sup>th</sup> November 2022, Existing and Historic Land use Assessment Rev received 17<sup>th</sup> August 2022, Ground water letter received 11<sup>th</sup> November 2022, Preliminary information report by Geo Environmental received on the 17<sup>th</sup> of August 2022, and Phase 2 land contamination assessment dated May 2018, received on 26<sup>th</sup> July 2022.
- (ii) The development hereby permitted shall not be occupied or brought into use until there has been submitted to, and approved in writing by, the local planning authority a written Verification Report by a competent person to verify that any remediation scheme required and approved under the provisions of condition (i) above 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). Unless 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.
- Reason:** To safeguard the health of future residents or occupiers of the site and to comply with policy DM41 of City Plan Part 2, and SU11 of the Brighton & Hove Local Plan.
27. The development hereby permitted shall not be occupied until a scheme for the storage of refuse and recycling, for the residential and non-residential uses hereby approved, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out and provided in full in accordance with the approved details prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.
- Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and to comply with policy DM20 of the Brighton & Hove City Plan Part 2, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.
28. The development, including surface water drainage and means of foul water disposal, shall be constructed in accordance with remediation strategy and verification plan received on 21<sup>st</sup> December 2022, drawings 19-230-50-C1 and 19-230-51-C1 received 2<sup>nd</sup> December 2022 and drawings 21-077-52-B1 and 21-0777-53-B1 received 26<sup>th</sup> July 2022.
- Reason:** To ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with policies DM42 and DM43 of City Plan Part and CP11 of the Brighton & Hove City Plan Part One.
29. Not used (amalgamated with condition 28)
30. If during site investigation on construction any asbestos containing materials are found, which present significant risk/s to the end user/s then: a) A report shall be



submitted to the local planning authority in writing, containing evidence to show that all asbestos containing materials have been removed from the premises and taken to a suitably licensed waste deposit site.

**Reason:** To safeguard the health of future residents or occupiers of the site and to comply with policy DM41 of City Plan Part 2.

31. 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 DM41 of City Plan Part 2.
32. The level 1-bedroom windows in the northern elevation of unit 12 of the development hereby permitted shall not be glazed otherwise than with obscured glass up to 1.7m in height and thereafter permanently retained as such.  
**Reason:** To safeguard the privacy of the occupiers of the adjoining property and to comply with policies DM20 and DM21 of the Brighton and Hove City Plan Part 2.
33. At least nineteen bee bricks shall be incorporated within the external walls 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, DM37 of the Brighton and Hove City Plan Part 2, and Supplementary Planning Document SPD11 Nature Conservation and Development.
34. The development hereby permitted shall incorporate at least 27 (twenty seven) swift bricks/boxes within the external walls of the development 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, DM37 of Brighton and Hove City Plan Part 2, and Supplementary Planning Document SPD11 Nature Conservation and Development.
35. All pantiles and plain clay tiles must be retained and reused as per the submitted Schedule of Materials Rev B – 26/07/2022. If any new tiles are required details of the new tiles must be submitted to and approved in writing by the Local Planning Authority prior to commencement of the re-covering of the roofs. Development shall be carried out in accordance with the approved details.  
**Reason:** As this matter is fundamental to the acceptable delivery of the permission to ensure a satisfactory appearance to the development and to comply with policy CP15 of the Brighton & Hove City Plan Part One and DM28 of the Brighton and Hove City Plan Part 2.
36. Unless otherwise agreed, no further development of Block B shall take place until the west wall of Block B has been rebuilt to fully match its former height and

appearance (as shown in West Elevations 1 Ref. 2048-SK-128 Rev B received 3<sup>rd</sup> October 2022 and photograph submitted on 1<sup>st</sup> February 2023), reusing the salvaged flints and brick dressings, including matched coursing, spacing and strike of the flints and the colour of the mortar.

**Reason:** To ensure a satisfactory appearance to the development and to comply with policies DM18 and DM28 of the Brighton and Hove City Plan Part 2 and CP12 and CP15 of the Brighton and Hove City Plan Part One.

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. A formal application for connection to the public sewerage system is required in order to service this development. Please read the Southern Water New Connections Services Charging Arrangements documents which has now been published and is available to read on the website via the following link: [southernwater.co.uk/infrastructure-charges](https://southernwater.co.uk/infrastructure-charges).
3. A formal application for connection to the water supply is required in order to service this development. Please contact Southern Water for further information.
4. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.
5. 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 where appropriate.
6. 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.
7. The applicant is advised that Part O of Building Regulations 2022 has been introduced. This standard is aimed at designing out the need for mechanical air conditioning systems in dwellings that would otherwise be prone to overheating and limiting unwanted solar gains. There are optional methods to demonstrate compliance through the Building Regulations.

## 2. SITE LOCATION

- 2.1 The application relates to a vacant commercial site located to the north of The Droveaway, Hove. The wider area is predominantly residential, including mostly 2 storey buildings with traditional and modern design. There is a retail store on the south side of the street opposite.
- 2.2 This site is a locally listed heritage asset comprising single storey, early 19<sup>th</sup> century out-buildings associated with a larger dairy farm, and was used as a commercial dairy depot for many years until 2016. The site appears to have been used for dairy throughout its history, but historic mapping shows that the actual arrangement of buildings has altered over time. The Dairy Depot use of the site continued in some form until 2016 when the site was vacated and put up for sale. Some demolition and site clearance have recently taken place.

## 3. RELEVANT HISTORY

**BH2022/01506** Application for approval of details reserved by conditions 5(disabled parking),7(external lighting), 8(CEMP), 10(ground levels), 12(tree protection), 14(external surfaces), 17(cycle parking), 18(electric vehicle charging points), 19(drainage systems), 20(vehicle parking), 24(Building Regulations Optional Requirement M4(3)(2b)), 25(ecological design strategy), 26 (contaminated land), 27(refuse & recycling), 28(surface water drainage), 29(drainage strategy) and 30(asbestos) of application BH2020/00931. Withdrawn August 2022.

**PRE2021/00145** Pre-Application Enquiry proposing a series of minor amendments to the approved design and layout of the scheme approved in association with planning application Ref BH2020/00931. Written response issued November 2021. Summary: The proposals could be supported in principle however further amendments and justifications required.

**BH2020/00931** Change of use from former Dairy Crest depot (B8) to mixed-use development comprised of 19no. dwellings (Use Class C3) & commercial space (Use Class E), including partial demolition of the existing & erection of a new northern wing; erection of a new central wing to courtyard; onsite car & cycle parking; & associated works (Amended Plans). – Approved 22.06.2021

**BH2018/03798** Change of use from former Dairy Crest depot (B8) to a Mixed use flexible commercial development of 1435sqm (Flexible between use classes B1(a), A1, A2, A3, D1) incorporating alterations including removal of northern extension and erection of a new wing with 14no residential units (C3). Erection of a new central wing to court-yard, onsite car parking, cycle storage and areas for storage of waste and recycling – Approved 18/09/2020

**BH2017/04050** Change of use from former Dairy Crest depot (B8) to Mixed-use flexible commercial development of 1383sqm (Flexible between use classes B1(a), A1, A2, A3, D1) incorporating alterations including removal of northern extension and erection of a new wing with 14no residential units (C3). Erection of

a new central wing to court-yard, onsite car parking, cycle storage and areas for storage of waste and recycling – Appeal Allowed 25/10/2019

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

- 4.1 This application is a part-retrospective full planning application for the change of use of the former dairy depot to a mixed-use development comprising 19 dwellings and commercial space. The proposals include the erection of a new northern wing and a new central wing to the courtyard.
- 4.2 This application is a variation to the original planning permission BH2020/00931 and seeks permission for the development as a whole again.
- 4.3 The predominant differences between what is currently proposed and the approved scheme (BH2020/00931) relate to site and internal layouts, elevations, roof design, materials, fenestration, amenity space, landscaping, cycle and bin storage. The part-retrospective elements relate to some demolition and site clearance that has occurred recently.
- 4.4 Following the approval of application BH2020/00931, the applicant undertook a review of the site and approved scheme and identified a number of opportunities to improve the external design and enhance the layout of the scheme. The applicant submitted a pre-application enquiry engaging with heritage and design officers.
- 4.5 At pre-application stage it was advised that the reformatting of the site offered the potential to create better amenity spaces and improve the quality of living accommodation across the site. It was acknowledged however that careful consideration should be had to ensure any such changes referenced the character and history of the site.

#### **5. CONSULTATIONS**

##### **Internal:**

**Air Quality** No objection

##### **Arboriculture** Original Comment:

There is some doubt as to where it is possible to retain the existing street tree on Mallory Road given the proximity of the proposed new double vehicular access. If the tree requires removal this would only be accepted on the basis that two replacement trees within the public realm upon Mallory Road are planted. The location would be determined by the arboricultural department and financed by the developer and contributions secured towards maintenance.

Comment following revisions to retain the Mallory Road Street Tree and on-site protection measures 27.01.2023:

The proposed vehicle crossover is now proposed outside the root protection area of T2 and therefore any previous objection to the loss of this tree is withdrawn. Further the tree protection measures specified within the Method Statement are appropriate and with evidence of these in situ, no further information is required.

**Environmental Health: No Objection**

**Comments following the submission of additional information 17.11.2022**

The Remediation Strategy and Verification plan for the site is acceptable in addressing the soil contamination found on this site.

Regarding the groundwater found in the initial site investigation, the Environment Agency should be consulted to ensure they are satisfied that this has been addressed.

**Heritage Initial Comments 04.03.2022:** No objection is had to the design and layout changes proposed. However, it is unclear where all of the proposed external materials are intended to be used in the development. Annotated elevations and plans should be provided to clarify this. It is not clear how well the proposed plain clay tile product relates to the existing clay tiles on the main barn roof in terms of colour and finish.

**Further comments following submission of additional information 05.07.2022**

The new build central range should be finished in Ibstock Chailey Rustic (or similar). Drawing no. 2048-SK-126 B shows a brick soldier course to the flint facing on the south end of the new central range. There is no local tradition for such soldier courses on flintwork and it was not shown on the approved elevations. It should be omitted so that the south end matches that of the existing east and west ranges.

The paving to the courtyards is to be 'Marshalls Drivesett Deco block paving [colour: Cotswold]'. This colour has no local precedent in historic settings - instead either 'he 'Traditional' or 'Cinder' colour should be used.

**Further comments following the submission of a demolition plan 07.11.2022**

There is a slightly greater amount of demolition to building C than under the approved plans. This has been explained within the 'proposals for demolition document' and that the demolished sections of wall were brick not flint and have been partially lost due to the approved layout. Whilst the document does not address the loss of the wall that is parallel with the southern elevation of building, it appears to have only partially been masonry. No objection to the additional demolition shown is had.

There appears to be discrepancies on the plans in reference to materials across the site. Conditions relating to materials and pantiles should be sought. The indicative approach to landscaping is an improvement but again full details should be conditioned.

**Further comments following the submission of a revised demolition plan 15.02.2023**

The revised demolition plan is acceptable and is clear. A condition should be sought to ensure the west wall of Block B is rebuilt to fully match the original.

**Sustainability** No objection

**Sustainable drainage** Comments following the submission of further information 07.12.2022

Adequate information has been provided in relation to the wider surface water drainage strategy.

**Sustainable transport** Comment

Further information required in relation to electric vehicle and motorcycle parking. The Construction Environment Management Plan is considered to be acceptable.

**Urban Design Officer** Comment: Summary - The proposals are generally an improvement upon the approved scheme.

Units 1, 2 and 3: Agree that changes to internal layout are an improvement. The position of small trees will help to informally demarcate defensible space.

Units 4, 7 and 8: Generally agree that changes to internal layout are an improvement. Uni- 4 - two en-suite bedrooms would benefit from being flipped so bedroom windows face south and bathrooms face north.

Units 5, 6 and C1: Proposed revisions are generally supported, especially the legibility of the western archway and enlivened frontage to the east courtyard. A refuse storage has been relocated to the north of Commercial Unit C3. This generates improvements to the street frontage, and the refuse storage area appears more spacious. However, it is unclear how refuse collection will function. The general strategy to split residential and commercial activity between the two courtyards is supported.

New build central wing to front courtyard: Separating the new and existing roof forms is successful, respecting the form of the existing barn and appearing more like a farmyard cluster than a single extended building, and responding to the existing junctions between the main barn and the east and west ranges. The proposed roof form is now connected as an extension to the existing barn. This is also considered acceptable. Revised elevational detailing is an improvement, appearing contemporary in character whilst remaining sensitive to the heritage context. Larger apertures which align between ground and first floors generate the impression of continuous apertures from ground to eaves height as recommended. Eaves height appears to have been lowered to more closely match that of the existing east and west ranges. The horizontal band at 1st floor level has been retained, however this is less of a concern in light of revisions to apertures. As such, proposed revisions are supported.

Units 9, 10, 11 and 12: Generally, proposals are an improvement. Amended layouts improve amenity provision and quality, as well as internal daylight and outlook. The contemporary architectural character of this group of dwellings is also supported. Unit-12 - the glazed eastern gable presents a rather incongruous

form / appearance as viewed from Mallory Road. To achieve outlook and light for this room, perhaps a south facing dormer window (similar to those in units 10 and 11) would be more appropriate and a solid gable would more sensitively address Mallory Road. Trees need to be protected.

North Terrace of Houses: Revised internal layouts are supported and it is agreed that the terrace presents a stronger and more legible identity than approved proposals. The architecture appears more refined and cohesive with other elements of the scheme. The stepped building line has been retained but the stepped eaves line has been omitted, which is supported and refines the expression of this terrace enough that the stepped building line is considered acceptable. Revised proposals indicate communal amenity space to front gardens to the south of the terrace, including natural play, food growth, natural planting and lawn area. This is strongly supported. However, no defensible space to adjacent dwellings is proposed. Even a small strip e.g., 600mm of planting in front of these dwellings would be an improvement and is recommended.

Landscape design: This is considered successful in principle.

**External:**

**Environment Agency** Comments following the submission of further information 28.12.2022

Sufficient information has been provided within the remediation and verification plan submitted to negate the need for pre-commencement conditions relating to land contamination. Sufficient information has also been submitted to address previous drainage concerns.

**Ecology:** No objection subject to conditions.

**Southern Water** No objection The proposed method of foul disposal is satisfactory.

**Sussex Police** No objection

## 6. REPRESENTATIONS

**Fourteen (14)** letters of representation have been received objecting to the proposed development on the following grounds:

- The revised location of the new bin store causing issues of noise and odour
- Increased roof heights
- Additional overlooking
- Roof forms are not typical of the area
- Pedestrian or vehicle access to the site from Mallory Road
- Increase in traffic and other highways issues
- Overshadowing and loss of light
- Non-compliance with policy
- Disruption during the build

- The proximity of the terrace to No.6 Mallory Road
- The changes proposed are not minor in nature
- Light pollution
- Impact on trees
- Impacts on drainage
- Unit 12 is of a larger volume than previously approved
- No construction traffic should be allowed down Mallory Road
- The application proposes numerous changes
- Dust during construction
- Proximity of the dwellings to No.6 Mallory Road
- Concerns over lack of landscaping details
- Construction traffic
- Units 11 and 12 appear at odds with Mallory Road
- Roofing materials not in keeping with Mallory Road
- Air pollution

Following a re-consultation process with neighbours a further **five (5)** letters of representation have been received objecting to the proposed development on the following grounds:

- Unit 12 is significantly larger in mass and height than the approved application
- The design of unit 11 is poor
- Limited detail given for landscaping
- Confirmation of no construction traffic to Mallory Road
- Further information required on drainage
- The removal of the healthy street tree on Mallory Road
- Oppose any new pedestrian link on Mallory Road
- The terraces are nearer to neighbouring properties
- Unit 12 is located nearer neighbouring properties causing overshadowing and loss of privacy
- Additional glazing to unit 12

**Conservation Advisory Group (CAG): Support:**

Providing assurance is had that the new terrace at the rear is not visible from the south side of The Drove way and confirmation of materials.

## 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 City Plan Part 2 (adopted October 2022);



- 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 (adopted October 2019).

## 8. RELEVANT POLICIES

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development  
 SA6 Sustainable Neighbourhoods  
 CP1 Housing delivery  
 CP2 Sustainable economic development  
 CP3 Employment land  
 CP4 Retail provision  
 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  
 CP15 Heritage  
 CP16 Open space  
 CP17 Sports provision  
 CP18 Healthy city  
 CP19 Housing mix  
 CP20 Affordable housing

#### Brighton & Hove City Plan Part Two

DM1 Housing Quality, Choice and Mix  
 DM11 New Business Floorspace  
 DM18 High quality design and places  
 DM19 Maximising Development Potential  
 DM20 Protection of Amenity  
 DM22 Landscape Design and Trees  
 DM26 Conservation Areas  
 DM28 Local Heritage assets  
 DM33 Safe, Sustainable and Active Travel  
 DM36 Parking and Servicing  
 DM37 Green Infrastructure and Nature Conservation  
 DM40 Protection of the Environment and Health - Pollution and Nuisance  
 DM43 Sustainable Urban Drainage  
 DM44 Energy Efficiency and Renewables

#### Supplementary Planning Documents:

SPD03 Construction & Demolition Waste  
SPD06 Trees & Development Sites  
SPD11 Nature Conservation & Development  
SPD14 Parking Standards  
SPD17 Urban Design Framework

## **9. CONSIDERATIONS & ASSESSMENT**

- 9.1 The main considerations in the determination of this application relate to the principle of the development, affordable housing provision, housing mix, the impact of the proposed development upon the character and importance of the locally listed heritage asset and the wider area, impacts upon neighbouring amenity, sustainable drainage, sustainability, landscaping, ecology, trees and related traffic implications.

### **Principle of development**

- 9.2 The principle of redeveloping the site was accepted under a previous approval (BH2020/00931). This approved scheme was considered acceptable in all regards and secured various details and measures by planning conditions and via a S106 agreement. This included some demolition works.
- 9.3 In terms of planning policy, there are considered to be no significant changes in circumstances or new material considerations since the original permission was granted, except the adoption of City Plan Part Two. There is not considered to be any significant changes to the aims of the policies that the previous application was assessed against and as such application BH2020/00931 is a significant material consideration in the determination of this planning application.
- 9.4 The report below concentrates on the changes made under this application to the approved scheme. The principle of the development, the proposed land uses, transport impacts, affordable housing provision, housing mix and the impact on the development on the character and appearance of the locally listed heritage asset were previously considered acceptable, and this view remains.
- 9.5 Considering the changes proposed to the site layout, elevation and roof designs, fenestration and external amenity area changes, the main assessment set out below is primarily concerned with:
- the visual impact of the development on the character and appearance of the site and wider area, including heritage considerations
  - the standard of accommodation provided
  - any potential impacts on neighbouring amenity
- 9.6 These considerations are assessed against each respective part of the site for clarity, as set out below.
- 9.7 This application provides a revised scheme to the original approval which is led by design and layout changes. This follows on from pre-application advice

provided in 2021, which included discussions with both Heritage and Design officers, and revised proposals have been submitted.

- 9.8 As acknowledged, some demolition works have taken place on the site prior to discharge of all relevant conditions associated with the earlier permission and, as a consequence, the current application is part-retrospective. Regrettably during these works the historic flint wall to the west elevation of Block B was removed. The removal of the historic flint wall became apparent on the morning of committee in February. The applicant has since confirmed that this wall became unstable and subsequently collapsed. A revised demolition plan has been submitted confirming that the wall is to be reinstated using the original flints. The Heritage officer has confirmed that whilst the removal of this wall is regrettable, the intention to rebuild the wall is clear, and condition 36 is recommended to ensure that the west wall of Block B be rebuilt to fully match the original, reusing original material where possible.
- 9.9 It is acknowledged that a slightly greater amount of demolition has taken place, notably to the northern part of the eastern range (Building C) than that proposed under the previous 2020 approval. This has been explained in the 'Proposals for demolition' document submitted as part of this application. It is noted that these demolished sections of wall were brick rather than flint and would have been lost owing to the layout changes proposed. The updated demolition plan states that where existing flint walls have collapsed they will be reinstated using existing masonry. Overall, therefore, there is no objection from the Heritage team regarding the additional demolition.
- 9.10 The proposed scheme will deliver the same number of residential units and will largely comprise the same cumulative residential and commercial floor space as the approved scheme. The mix of housing units is largely the same as the approved application with the exception of unit 10 which as approved comprised a two-bedroom unit and as proposed comprises a three-bedroom unit. This new dwelling would still meet the national space standards for this housing type. This alteration is considered acceptable as a varied mix of units is still achieved across the site with 6 smaller two-bedroom properties proposed, in compliance with policy. It is important to note also, that each of the two-bedroom dwellings proposed on the site would exceed the minimum required space standard.
- 9.11 The previous application BH2020/00931, approved in November 2021, was accompanied by a Viability Assessment which concluded that the scheme was not capable of providing a full policy compliant scheme of 40% affordable housing but could be viable with 3 units (16%) consisting of 2no. affordable rent and 1no. shared ownership. This current application was submitted in February 2022 and given that this application proposes alterations to an almost identical scheme that had a viability assessment submitted with it, this assessment is still considered to be valid for the purposes of this application.
- 9.12 The proposals also include the same main vehicular access and number of car parking spaces overall (with the reduction to one space on Mallory Road) and cycle parking spaces as the approved scheme. A new access from Mallory Road to serve Unit 12 is now proposed.

### **Main changes compared to previously approved scheme**

- 9.13 The proposed changes from the original 2020 scheme are summarised below.

#### **Units 1, 2 and 3**

- 9.14 These units are located to the south eastern corner of the site.
- 9.15 The internal floor spaces of these units have been reduced from 101sqm to 82.3sqm (which would still exceed the respective national space standards) and provide internal living spaces that are more suitable for future occupants. At ground floor the layout has been altered to provide a larger shared open plan kitchen/dining/living area provide a more flexible space for occupants. In addition, the first floor ensuite bathrooms have been removed.
- 9.16 The height, scale and roof form of these dwellings will remain consistent with the approved application. However, improvements have been made to the external design of the buildings by incorporating additional glazing at ground floor and a strip of rooflights which replace the two individual roof lights previously proposed. The use of strip roof lights on the eastern range is welcomed by the Heritage team.
- 9.17 The proposed site plan indicates how external areas within the courtyard would appear to be in the ownership of individual dwellings through the use of metal studs. However, it is considered that the position of small trees will further help to informally demarcate defensible spaces and these details are sought within the overall landscaping condition.

#### **Units 4, 7 and 8**

- 9.18 These units are positioned centrally within the site and are located adjacent to the archway which provides pedestrian access between the front and rear parts of the site.
- 9.19 The internal layouts of these units have been amended to create a more efficient layout. The relocation of the staircase in these units has improved the layout at first floor, by creating bedrooms that are less narrow and therefore accommodate likely furniture items more suitably. The position of the en-suites and bedrooms at first floor in these units has also been amended so that now the bedrooms proposed are south facing, thereby providing better living accommodation.
- 9.20 As approved, the private amenity space to unit 4 was to the north of the property. This has been altered and as such the amenity space for this unit is now proposed to the south, resulting in improved sunlight and daylight. Owing to layout changes with the adjacent unit to the east (which will be discussed later in the report) it is not considered that any harmful impact would result from neighbouring occupiers to this external space. A planting buffer is also proposed to the north of the property to maintain privacy levels, further details of which will be required as part of the overall landscaping condition for the site.

- 9.21 The proposals incorporate the removal of the north facing ground floor external amenity spaces as a consequence of relocating vehicle parking on the site to the rear boundary of units 7. A subsequent amendment to the scheme is the incorporation of balconies to units 7 and 8 to the northern elevation. These balconies will be raised above ground level to provide further privacy and usability. Whilst the amenity space represents a reduction from the approved scheme, given that the communal amenity space to the north has been improved and expanded this is considered acceptable and in accordance with policy DM1 of the City Plan Part 2.
- 9.22 Externally the windows to the northern elevation all now benefit from brick dress detailing as requested by Heritage officers. The southern elevations remain as approved.

### **Eastern and Western Courtyards and the re-arrangement of units 5, 6 and C1**

- 9.23 The approved commercial unit C1 (located within the centre of the site) is proposed to be split and provide two commercial units (C1a and C1b), these two units will provide the same combined floorspace as that approved. The proposed Unit C1b will interchange positions with units 5 and 6. The result of this is that the western courtyard will as a whole become more commercial in nature. The removal of the grassed area from the historic western courtyard is welcomed by heritage officers and results in a more flexible courtyard area that will provide further opportunities for the commercial units. The proposals to split the residential and commercial activity between the two courtyards is supported.
- 9.24 It is considered that the relation of units 5 and 6 will allow for visual interest to be incorporated to the eastern elevation of the central wing and is also considered to result in a better outlook to the east and west for future occupiers.
- 9.25 As a result of these layout changes, the cycle stores will be relocated close to the frontage of the site which will improve accessibility. The refuse store has also been repositioned from the archway between units 4 and 8 to the west of the site, to the rear of unit C3. This generates improvements across the site and appears more spacious. Concerns have been raised however, by neighbouring residents with regards to issues of noise and odour. Further details have been provided by the applicant to advise that the refuse store will now be fully enclosed to mitigate these impacts. Full details of the refuse store are sought under condition 27. Discussions with city clean confirm that the location of the bin store is acceptable and is not considered to be at a distance that is too far for residents. The team did advise that were any future occupants in need of assistance in this regard then it would be for the managing agents of the site to assist with this. City Clean also confirm that the refuse teams would walk into the site and collect refuse and recycling.

### **New central wing**

- 9.26 The new central wing accommodates units 5 and 6 and commercial unit C1a.

- 9.27 The external design of this element of the scheme has been revised to ensure that the wing appears less domestic in appearance. As a result, the fenestration layout has been amended so that it adopts a less vertical emphasis. Larger apertures which align between the ground and first floors generates the impression of continuous apertures as recommended by design officers.
- 9.28 The plans show that the roof design has been maintained so that it joins the main barn in accordance with its original character and the overall height is reduced.
- 9.29 The amendments to the design of the new central wing and the retained barns satisfactorily reflect the pre-application advice that was given. It is noted that the scale of the central wing does not exceed that of the approved plans and indeed the ridge line is slightly lower due to a reduced roof pitch; this is considered to be acceptable as this is a clearly new element (albeit following a historic footprint) In accordance with policy CP15 of the City Plan Part One and DM28 of the City Plan Part 2.

### **Units 9, 10, 11 and 12**

- 9.30 These units are positioned along the eastern boundary of the site, extending to the northern boundary.
- 9.31 Previously a terrace was proposed here. The applicant has advised of a number of issues with these units specifically relating to internal layouts, outlook, lighting. As a result of the proposals unit 9 has been reduced in size and is now positioned to the south of unit 4 and accessed from within the eastern courtyard. As a result, this property now benefits from an improved outlook and light levels. The previously approved private courtyard was surrounded by high walls and offered limited outlook to future occupiers. The revised layout allows for a larger courtyard which does not limit outward views.
- 9.32 The size and layout of units 10 and 11 have also been revised so that both units now form courtyard dwellings. Alterations to the plan form of the development mean that the now proposed unit 11 is positioned further south within the site adjacent to No.10, facing both east and west. These dwellings would however still feature a set back from the northern courtyard by way of a planting buffer. The dwellings would benefit from suitable light and outlook levels and feature external amenity spaces with greater privacy.
- 9.33 Unit 10 features an additional bedroom; the overall floor space of the building would still comply with national minimum space standards. Whilst this would alter the mix of units, this is not considered likely to impact upon the viability assessment for affordable housing as submitted as part of the original application.
- 9.34 Amendments to the layout of the scheme result in the creation of a detached unit (12) in the north-eastern corner of the site. This property is positioned so that it provides a break from the rest of the terrace. As a result, this property now seeks to respond to Mallory Road in terms of its design. The visual break from the northern terrace is considered successful and avoids any awkward junctions

between these two elements. It is confirmed that no communal access will be had into the site from Mallory Road, the steps to the western side of unit 12 provide access to this property's private rear amenity space.

- 9.35 The revised form and massing of the now unit 12, on the north-eastern corner has addressed the concerns set out by the Urban Design officer as part of the 2020 application. The gable ended roof form and eaves level are more in keeping with the character of other buildings on Mallory Road. The lower volume on the east also softens the visual impact of the otherwise relatively tall building here.
- 9.36 The contemporary architecture of this group of dwellings (10, 11 and 12) is supported. The solid roof form proposed to No.12 is also supported. Amended plans have been received during the lifetime of this application to overcome concerns by the design officer with regard to the glazed eastern gable of this property. Amendments have been received which reduce the level of glazing on the gable end to a single pane of glass either side of the central brickwork. This is considered an improvement. In order to not impact on light levels into this room, as recommended by the design officer, a dormer similar to that proposed on units 10 and 11 is proposed on the southern elevation. It is considered that this unit more sensitively address Mallory Road than the approved scheme in accordance with CP12 of the City Plan Part 1.
- 9.37 In terms of impact to neighbours, Unit 12 is positioned closer to the northern boundary than the approved scheme by approximately 2.3m. A separation distance would be maintained of 7.6m between the rear elevation of this unit and the northern boundary. No.6 Mallory Road is located immediately north of the site. The height of unit 12 which fronts Mallory Road has been reduced in height when compared to earlier schemes. The highest ridge point of the dwelling also does not exceed the 2018 application. It is acknowledged that this new dwelling will have some impact on the light levels received by the side windows of No.6 Mallory Road. However, it is noted that these are secondary windows to a kitchen and living room which also benefit from windows to the front or rear. The impacted window at first floor serves a bathroom. As such it is not considered that the development would result in harm so significant as to warrant the refusal of this application.
- 9.38 It is noted that objections have been received in respect of a lack of privacy towards this property. The windows facing on to the side elevation of 6 Mallory Road serve a central staircase and two first floor bedrooms, which would be comparable to the ground floor of properties on Mallory Road.
- 9.39 This new dwelling proposes two windows at first floor which serve bedrooms and provide outlook over No.6 Mallory Road. In order to prevent any harmful levels of overlooking and loss of privacy towards this property, it is considered suitable to condition these windows to be obscurely glazed up to 1.7m in height. Whilst it is acknowledged that for the rear bedroom in this unit, there would be limited outlook, on balance this is considered acceptable given the standard of accommodation throughout the rest of the property. As a result this element of the scheme is considered to comply with policy DM20 of the CPP2.

- 9.40 The new built form of unit 12 would be in closer proximity to an existing street tree on Mallory Road than the previous scheme approved in 2020. Unit 12 includes a new vehicle crossover to serve this property. The crossover proposed is located south of the existing cherry tree.
- 9.41 A number of concerns have been expressed by local residents regarding the potential loss of a street tree on Mallory Road to accommodate the access to Unit 12. Officers also expressed concern in this regard. During the lifetime of this application amendments have therefore been received to reduce the width of the vehicle crossover to provide access for a single vehicle, rather than the double crossover originally proposed. This reduction is to ensure that the existing Cherry tree on Mallory Road can be retained which is considered important for amenity and biodiversity reasons. In addition to revised plans, an Arboricultural Assessment and Method Statement has been provided. The Arboriculture officer has confirmed that the single width crossover is now outside of the root protection area of this street tree and as such no objection is had to the proposals. Further, these documents provide appropriate protection measures for all the trees within the immediate vicinity of the application site. A condition is sought to ensure that these measures are in place prior to any further works on site.

#### **Northern Terrace (Units 13-19)**

- 9.42 The approved terrace group to the north of the site are dominated visually by the provision of the main car parking area to the front elevation. This application seeks to relocate the parking area adjacent to the rear elevation of the central barn. A benefit of this is that new south facing communal lawned gardens will be created for residents. Amendments have also been provided to ensure that each of the terrace dwellings features defensible space to the front, consisting of planting. The windows within units 7 and 8 which are located adjacent to the new parking area have been increased in height to ensure acceptable levels of outlook remain.
- 9.43 The north facing rear terraces include a level change leading to the rear gardens. The approved scheme provided single aspect living spaces. The reduction of the number of units in this terrace from 8 to 7 allows for alterations to the internal layouts of these units.
- 9.44 The terrace features amendments to its external appearance such as the central section stepping forward. Whilst this does not reflect the simple, consistent building lines of the historic buildings, which is regrettable, it is not considered that this would cause any significant harm to the setting of the historic barns.
- 9.45 The external design of the dwellings has been amended to provide a simplified roof design and elevations that are more consistent with the character of the rest of the development. A similar level of glazing is proposed to the proposed ground and first floor levels to the rear elevation with simplified roof lights within the roof slope.
- 9.46 The roof form to the front of this terrace group has been amended which now results in a consistent ridge line. This now appears more refined than the approved 2020 application and more cohesive with other elements of the scheme.



- 9.47 The terrace has been increased in height above the 2020 application by approximately 0.6m. It should be noted however that the eaves height of the terrace is the same as that approved under the 2020 scheme. Further the terrace remains 0.9m below the approved 2018 scheme. A contextual long section has been provided to demonstrate and confirm that the terrace would not be viewed above the main barn when viewed at eye level from The Drove way thereby complying with policy DM28 of the City Plan Part 2.
- 9.48 The footprint of the terrace has positioned further north so that consequently the separation distances between the terrace and No.6 Mallory Road have been reduced. It is noted that the eastern end of the terrace is more sensitive, being adjacent to the neighbouring building. The resultant terrace would be approximately 0.5m nearer than the approved 2020 scheme at this point. However, this distance isn't considered to result in a significant impact to the amenities of this neighbouring occupier in the context of the terrace as a whole which has been approved in principle. It is further noted that the central part of the terrace would also measure between 0.6 and 0.9m closer to the boundary however the relationship between the terrace and neighbouring occupier remains acceptable. The development is therefore considered to comply with policy DM20 of the CPP2.

#### **Other matters**

- 9.49 Given the part-retrospective nature of this application, information has been provided upfront in relation to ordnance datum levels, drainage and land contamination. Specialist consultee advice has been sought on these areas of the scheme.
- 9.50 The proposals include a surface water drainage strategy which incorporates infiltration via a soakaway and permeable paving. Furthermore, foul water is to be discharged to the existing foul sewer via existing connections. It has been confirmed by the drainage team and Southern Water that there is no objection to the drainage water strategy proposed.
- 9.51 With regard to land contamination on site, Environmental Health and the Environment Agency have been consulted on the information provided. During the lifetime of the application additional plans and documents have been provided in response to consultee comments. Following the submission of this further information, consultees are satisfied that issues surrounding land contamination have been addressed. The application secures a condition requesting the submission of a verification report demonstrating the completion of works set out in the remediation strategy submitted under this current application and the effectiveness of the remediation.
- 9.52 Other documentation such as the Construction Environmental Management Plan and details relating to disabled parking, cycle parking, charging points, vehicle parking, asbestos and accessible dwellings have also been provided upfront as part of this application.

9.53 External lighting can be controlled by condition to prevent pollution.

### **Conclusion**

9.54 Overall, the layout and design changes are considered an improvement to the 2020 approval on this site and are supported (provided revised access/parking to Unit 12 is secured).

9.55 It is acknowledged that there are some slight changes to the amenities of neighbouring properties, particularly as a result of the repositioning of the northern part of the site. However, on balance in the context of the approved application (BH2020/00931), the amendments proposed to the existing permission would not result in undue harm, and result in a more efficient use of the site and one which is sympathetic to heritage assets.

9.56 The proposal would make a positive contribution towards the city's housing supply, and is welcomed in accordance with policies CP12, CP14 and CP15 of the City Plan Part One, and Policies DM18, DM19, DM22 and DM28 of the City Plan Part Two.

## **10. BIODIVERSITY & CLIMATE CHANGE**

10.1 This application makes efficient use of the existing site and buildings in a sustainable location, which is welcomed. The current site has very limited biodiversity value. The previous permission holds weight, and conditions were attached (and again now) to ensure the proposal will provide improved biodiversity with additional landscaping including food growing opportunities and habitat creation with the inclusion of swift boxes. Street trees would be retained. The proposals are considered to comply with the aims of policy DM37. In addition, sustainable measures such as cycle parking is to be provided on site and electric vehicle charging points for all dwellings.

## **11. EQUALITIES**

11.1 Conditions are proposed which would ensure all new build dwellings are in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings). In addition, 5% of the new dwellings are to meet Wheelchair Accessible Standards.

## **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 23 July 2020 and began charging on all CIL liable planning applications on and from the 5 October 2020. It is estimated that the amount of CIL liability for this application is £425,721.56 (as previously). The exact amount will be confirmed in the CIL

liability notice which will be issued as soon as it practicable after the issuing of planning permission.

### **13. S106 AGREEMENT**

- 13.1 A S106 agreement is required for this application. Given the very similar nature of this application to that previously approved (BH2020/00931), the contributions and measures secured are no different to that previously agreed and are listed in the heads of terms.
- 13.2 In the event that the draft S106 agreement has not been signed by all parties by 8th July 2023, the application shall be refused for the following reasons:
1. The proposed development fails to provide affordable housing contrary to policy CP20 of the Brighton and Hove City Plan Part 1.
  2. The proposed development fails provide a financial contribution towards the City Council's Local Employment Scheme to support local people to employment within the construction industry contrary to policy CP7 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.
  3. The proposed development fails to provide an Employment and Training Strategy specifying how the developer or their main contractors will provide opportunities for local people to gain employment or training on the construction phase of the proposed development contrary to policy CP7 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.
  4. The proposed development fails to provide a financial contribution towards an onsite artistic component provision contrary to policies CP5, CP7 and CP13 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.
  5. The proposed development fails to provide required highway works on Mallory Road and The Droveway to comply with policies CP9 of the Brighton & Hove City Plan Part One and DM33 and DM36 of the Brighton and Hove City Plan Part Two.



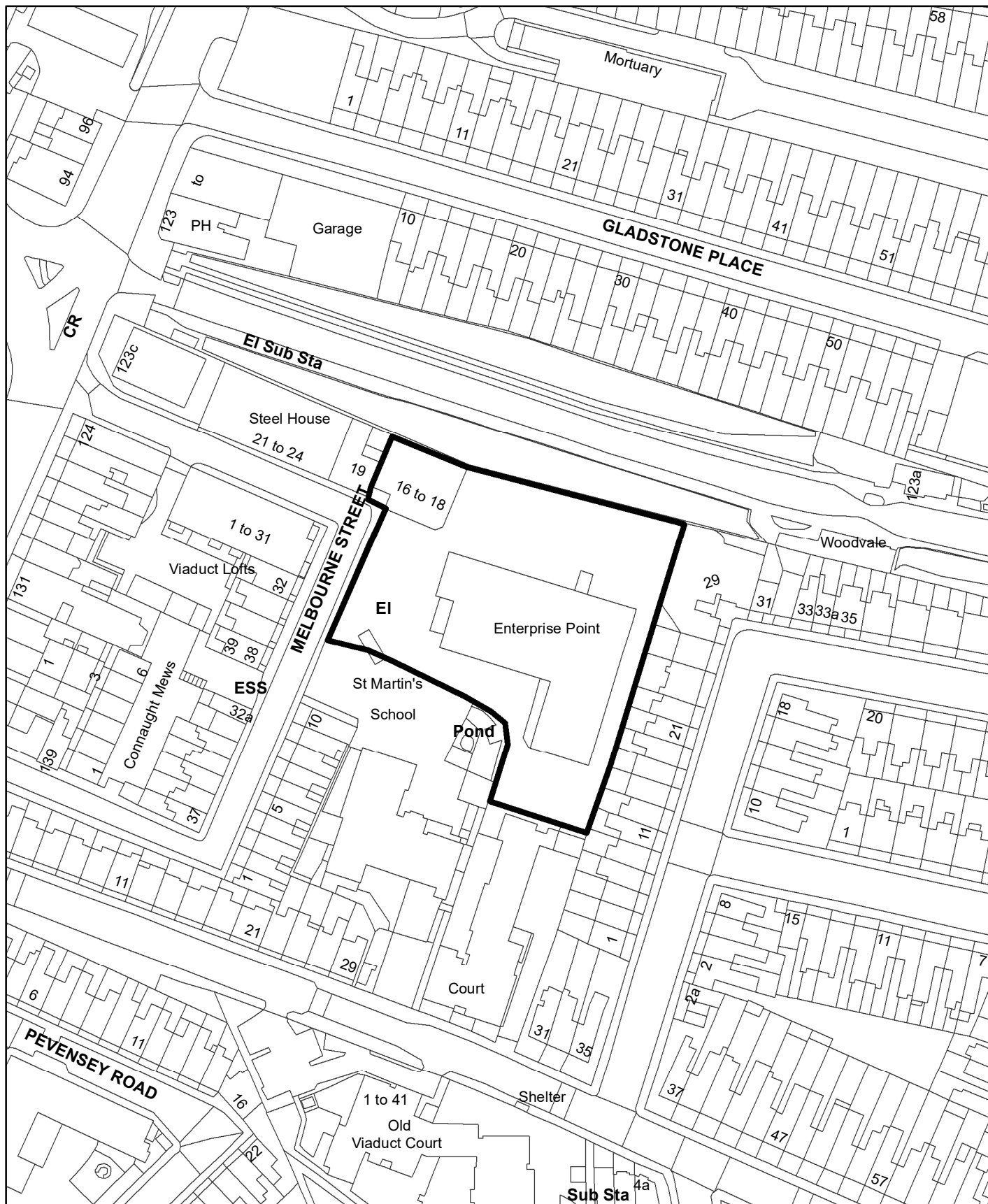
# **ITEM D**

**Enterprise Point  
And 16-18 Melbourne Street  
BH2022/01490  
Full Planning**

**DATE OF COMMITTEE: 8<sup>th</sup> March 2023**



# BH2022 01490 - Enterprise Point And 16-18 Melbourne Street



Scale: 1:1,250





<b><u>No:</u></b>	<b>BH2022/01490</b>	<b><u>Ward:</u></b>	<b>Hanover And Elm Grove Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Enterprise Point And 16-18 Melbourne Street Brighton BN2 3LH</b>		
<b><u>Proposal:</u></b>	<b>Demolition of the existing buildings and erection of a new development of 6 and 8 storeys, comprising co-working business floor space (use class E) and provision of co-living studio flats (Sui Generis) with communal internal spaces including kitchens, living rooms and gym and external landscaped amenity courtyard, gardens, roof terrace, access, cycle and car parking, plant, electricity sub-station, bin stores, laundry and associated landscaping and environmental improvement works to the public realm and Melbourne Street. (For information: proposal is for 269 co-living studio flats and 941 sqm co-working business floor space).</b>		
<b><u>Officer:</u></b>	<b>Wayne Nee, tel: 292132</b>	<b><u>Valid Date:</u></b>	<b>16.05.2022</b>
<b><u>Con Area:</u></b>	<b>N/A</b>	<b><u>Expiry Date:</u></b>	<b>15.08.2022</b>
<b><u>Listed Building Grade:</u></b>	<b>N/A</b>	<b><u>EOT:</u></b>	<b>02.11.2022</b>
<b><u>Agent:</u></b>	<b>Third Revolution Projects Build Studios 203 Westminster Bridge Road London SE1 7FR</b>		
<b><u>Applicant:</u></b>	<b>Kosy Co Living EP Limited And Cross Stone Securities Limited 86-90 Paul Street London EC2A 4NE</b>		

## 1. RECOMMENDATION

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 following Conditions and Informatives as set out hereunder, **SAVE THAT** should the s106 Planning Obligation not be completed on or before the **8th July 2023** the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 14.1 of this report:

### Section 106 Head of Terms:

#### Affordable Housing:

£2.5m commuted sum in lieu of homes on site.

#### Travel Plan:

A Travel Plan covering a minimum 5 year period. To promote safe, active and sustainable travel choices by its future occupiers and visitors.

#### BTN bikeshare docking station:

The cost of one BTN bikeshare docking station, with 10 bicycles.

Public Art:

The Developer covenants with the Council to commission and install on the Property an Artistic Component to the value of £51,170 including installation costs prior to first occupation of the development

Employment and Training

- Submission of developer contributions of £27,800 (TBC) to be submitted prior to site commencement.
- Employment and Training Strategies for the provision of local employment opportunities with 20% of any new roles created from the demolition and construction phases of development, at least one month before the intended date of formal commencement 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.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan	2203-P-100	A	16 November 2022
Proposed Drawing	2203-P-150	B	21 December 2022
Proposed Drawing	2203-P-221	E	8 February 2023
Proposed Drawing	2203-P-201	D	13 January 2023
Proposed Drawing	2203-P-211	E	8 February 2023
Proposed Drawing	2203-P-231	E	8 February 2023
Proposed Drawing	2203-P-241	E	8 February 2023
Proposed Drawing	2203-P-251	E	8 February 2023
Proposed Drawing	2203-P-261	E	8 February 2023
Proposed Drawing	2203-P-271	D	8 February 2023
Proposed Drawing	2203-P-281	B	21 December 2022
Proposed Drawing	2203-P-301	B	21 December 2022
Proposed Drawing	2203-P-302	B	21 December 2022
Proposed Drawing	2203-P-303	C	21 December 2022
Proposed Drawing	2203-P-304	C	13 January 2023
Proposed Drawing	2203-P-305	B	21 December 2022
Proposed Drawing	2203-P-306	B	21 December 2022
Proposed Drawing	2203-P-307	C	13 January 2023
Proposed Drawing	2203-P-308	B	21 December 2022
Proposed Drawing	2203-P-601	A	16 November 2022
Proposed Drawing	2203-P-602	A	16 November 2022
Proposed Drawing	2203-P-603	A	16 November 2022
Proposed Drawing	2203-P-604	A	16 November 2022
Proposed Drawing	2203-P-611	A	16 November 2022
Proposed Drawing	2203-P-612	A	16 November 2022
Proposed Drawing	2203-P-613	A	16 November 2022
Proposed Drawing	2203-P-651	A	16 November 2022
Proposed Drawing	2203-P-213	A	13 January 2023

Proposed Drawing	2203-P-171		13 January 2023
Proposed Drawing	2203-P-172		13 January 2023
Proposed Drawing	2203-P-173		13 January 2023
Proposed Drawing	2203-P-174		13 January 2023
Proposed Drawing	2203-P-321		21 December 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, including demolition and excavation, shall commence until a Site Waste Management Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details approved.  
Reason: To maximise the sustainable management of waste and to minimise the need for landfill capacity and to comply with policy WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.
  
4. No development, including demolition, shall take place until a Demolition Environmental Management Plan (DEMP) has been submitted to and approved in writing by the Local Planning Authority. The DEMP shall include:
  - (i) The phases of the Proposed Development including the forecasted completion date(s)
  - (ii) 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 joining the considerate constructors scheme)
  - (iii) A scheme of how the contractors will minimise disturbance to neighbours regarding issues such as noise and dust management vibration site traffic and deliveries to and from the site
  - (iv) Details of hours of construction including all associated vehicular movements
  - (v) Details of the construction compound
  - (vi) A plan showing construction traffic routes

The demolition shall be carried out in accordance with the approved DEMP.

Reason: As this matter is fundamental to the protection of amenity, highway safety and managing waste throughout development works and to comply with policies DM20, DM33 and DM40 of Brighton & Hove City Plan Part 2, policy CP8 of the Brighton & Hove City Plan Part One, and WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013 and Supplementary Planning Document 03 Construction and Demolition Waste.

5. 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:

- (vii) The phases of the Proposed Development including the forecasted completion date(s)
- (viii) 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 joining the considerate constructors scheme)
- (ix) A scheme of how the contractors will minimise disturbance to neighbours regarding issues such as noise and dust management vibration site traffic and deliveries to and from the site
- (x) Details of hours of construction including all associated vehicular movements
- (xi) Details of the construction compound
- (xii) A plan showing construction traffic routes

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 DM20, DM33 and DM40 of Brighton & Hove City Plan Part 2, policy CP8 of the Brighton & Hove City Plan Part One, and WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013 and Supplementary Planning Document 03 Construction and Demolition Waste.

6. Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme for the protection of the retained trees to the north of the rear site boundary, in accordance with BS 5837:2012, including a Tree Protection Plan(s) (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 policy DM22 of Brighton & Hove City Plan Part 2 and CP12/CP13 of the Brighton & Hove City Plan Part One and SPD06:Trees and Development Sites

7. No development shall take place (including any demolition, ground works, site clearance) until a Method Statement for protection of Woodvale, Extra-mural and Downs Cemeteries Local Wildlife Site has been submitted to and approved in writing by the Local Planning Authority. The content of the Method Statement shall include the following:

- 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 strict accordance with the approved details and shall be retained and maintained in that manner thereafter.

Reason: To protect habitats and species identified in the ecological surveys from adverse

impacts during construction in accordance with Policy CP10 of the City Plan Part One.

- 8. (i). No works pursuant to this permission shall commence 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 industry best practice guidance such as BS 10175:2011+A2:2017 - Investigation of Potentially Contaminated Sites - Code of Practice and BS 5930 Code of Practice for Ground Investigations;  
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+A2:2017;  
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 hereby permitted shall not be occupied or brought into use until there has been submitted to, and approved in writing by, the local planning authority a written verification report by a competent person approved under the provisions of condition (1)c that any remediation scheme required and approved under the provisions of condition (1)c 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). Unless 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

suitable for use.

Reason: To safeguard the health of future residents or occupiers of the site and to comply with policies DM40 and DM41 of City Plan Part 2.

9. The development hereby permitted shall not commence until a monitoring and maintenance plan in respect of contamination, including a timetable of monitoring and submission of reports to the Local Planning Authority, has been submitted to, and approved in writing by, the Local Planning Authority. Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to, and approved in writing by, the Local Planning Authority.

Reasons: This condition is requested due to the historical uses of the site and the nearby Source Protection Zone, that could be placed at risk by mobilised contamination, and to also ensure that the site does not pose any further risk to the water environment by managing any ongoing contamination issues and completing all necessary long-term remediation measures. This is in line with paragraph 174 of the NPPF.

10. The development hereby permitted shall not commence until full details of existing and proposed ground levels (referenced as Ordnance Datum) within the site and on land and buildings adjoining the site by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures, have been submitted to and approved by the Local Planning Authority. The development shall then be implemented in accordance with the approved level details.

Reason: As this matter is fundamental to the acceptable delivery of the permission to safeguard the amenities of nearby properties and to safeguard the character and appearance of the area, in addition to comply with policy QD27 of the Brighton and Hove Local Plan, policy DM20 of City Plan Part Two, and CP12 of the Brighton and Hove City Plan Part One.

11. No development above ground floor slab level of any part of the development hereby permitted shall take place until a drainage strategy detailing the proposed means of foul water disposal and an implementation timetable, has been submitted to and approved in writing by, the Local Planning Authority in consultation with the sewerage undertaker. The development shall be carried out in accordance with the approved scheme and timetable.

Reason: To ensure adequate foul sewage drainage/treatment is available prior to development commencing and to comply with policy DM42 of Brighton & Hove City Plan Part 2.

12. No development shall take place until an ecological design strategy (EDS) addressing enhancement of the site to provide biodiversity net gain, including provision of 4 bat boxes and landscape planting of high wildlife value 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 the measures considered necessary to compensate for the loss of habitats and enhance the site to provide a net gain for biodiversity as required by Section 40 of the Natural Environment and Rural Communities Act 2006, paragraphs 170 and 175 of the NPPF, and Policy CP10 and DM37 of Brighton & Hove City Council's City Plan Part One and Two, respectively

13. No development shall take place (including any demolition, ground works, site clearance) until a method statement for protected species (bats, breeding birds, dormice, badgers, reptiles and hedgehog), invasive species such as buddleia (where required) and protection of Woodvale, Extramural and Downs Cemeteries Local Wildlife Site 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 and shall be retained in that manner thereafter.

Reason: To protect habitats and species identified in the ecological surveys from adverse impacts during construction and to avoid an offence under the Wildlife and Countryside Act 1981, as amended and the Conservation of Habitats and Species Regulations 2017.

14. Prior to the commencement of development (excluding demolition) a Sustainable Drainage Plan including detailed design and associated management and

maintenance plan of surface water drainage for the site using sustainable drainage methods as per the recommendations of the Outline Drainage Strategy, dated May 2019 shall be submitted to and approved in writing by the Local Planning Authority. The Sustainable Drainage Plan shall include the following:

- (i) Details of the location of the existing drainage infrastructure.
- (ii) Details and location of the final drainage infrastructure as proposed in the Outline Drainage Strategy.
- (iii) Suitable assessment and management of flood risk from groundwater and surface water runoff given the proposed basement.
- (iv) Appropriate calculations to demonstrate that the final proposed drainage system will be able to cope with both winter and summer storms for a full range of events and storm durations
- (v) The applicant should demonstrate the surface water drainage system is designed so that flooding does not occur on any part of the site for a 1 in 30 year rainfall event, and so that flooding does not occur during a 1 in 100 (+40% allowance for climate change) year event in any part of a building or in any utility plant susceptible to water.
- (vi) A management and maintenance plan for the final drainage design for the proposed development, which includes the orifice plates. The approved Sustainable Drainage Plan shall be implemented and maintained in accordance with the approved detailed design.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal in accordance Policies DM42 and DM43 of City Plan Part and CP11 of the Brighton & Hove City Plan Part One.

15. Notwithstanding the plans hereby submitted, the development shall not commence until the Local Planning Authority, in consultation with the Local Highway Authority, have approved a full scheme of highway works for improvements to Melbourne Street that -

- Improve the northern footway to and in the vicinity of the development by -
- removing the redundant vehicle crossovers and reinstates these as raised footway;
- widening the adopted footway (if necessary, through dedication of additional land as adopted highway) so that its unobstructed clear width after street furniture and other potential obstructions is either: (A)  $\geq 1.8\text{m}$  wide; or (B)  $\geq 1.5\text{m}$  wide but with regular  $\geq 1.8\text{m}$  wide passing areas of a minimum 2m length including but not limited to in front of doors and entrances;
- Resurface and improve the footway; and
- To provide an on-street inset loading bay on Melbourne Street in front of the Phase 2 development site.

The occupation of the development shall not occur until those works have been completed in accordance with the Local Planning Authorities approval in consultation with the Local Highway Authority.

Reason: To ensure that suitable footway provision is provided to and from the development and to comply with policies DM33 of Brighton & Hove City Plan Part 2, and CP9 of the Brighton & Hove City Plan Part One.



16. Notwithstanding any details shown on the approved plans, no development above ground floor slab level of any part of the development hereby permitted shall take place until samples of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):
- a) Samples/details of all brick, render and tiling (including details of the colour of render/paintwork to be used)
  - b) samples of all cladding to be used, including details of their treatment to protect against weathering
  - c) samples/details of all hard surfacing materials
  - d) samples/details of the proposed window, door and balcony treatments
  - e) samples/details of all other materials to be used externally
- Development shall be carried out in accordance with the approved details.  
Reason: To ensure a satisfactory appearance to the development and to comply with policies DM18, DM26, and DM28 of Brighton & Hove City Plan Part 2 and CP12 and CP15 of the Brighton & Hove City Plan Part One.
17. No development above ground floor slab level of any part of the development hereby permitted shall take place until the following has been submitted to and approved in writing by the Local Planning Authority:
- An energy statement demonstrating how the development will meet the requirements of the Future Homes Standard and Future Buildings Standard, as appropriate for the different elements of the development;
  - Overheating risk assessment
- Development shall be carried out in strict accordance with the approved details.  
Reason: To ensure that the development is sustainable and makes efficient use of energy, water and materials and has an acceptable appearance and to comply with policies CP8 and CP12 of the Brighton & Hove City Plan Part One.
18. No development above ground floor slab level of any part of the development hereby permitted shall take place until details of the Air Source Heat Pumps (ASHP) have been submitted to and approved in writing by the Local Planning Authority. The details shall include details of the technology, distribution systems and location(s) of water storage. The development shall then be constructed in accordance with the approved details prior to first occupation and shall be retained as such thereafter.  
Reason: To ensure that the development contributes to sustainability enhancement on the site and in accordance with policy CP8 of the Brighton & Hove City Plan Part One.
19. No development above ground floor slab level of any part of the development hereby permitted shall take place until details of the of the green roof has 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 roof 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 the interests of sustainability, in accordance with policies CP8 and CP10 of the Brighton & Hove City Plan Part One.

20. No development (including demolition) shall take place until a survey report and a method statement has been submitted to and approved in writing by the Local Planning Authority, setting out how the existing flint boundary wall on the northern boundary of the site is to be protected, maintained, repaired and stabilised during and after demolition and construction works. The report shall include details of any temporary support and structural strengthening or underpinning works required. The demolition and construction works shall be carried out and completed fully in accordance with the approved method statement.  
Reason: To ensure a satisfactory appearance to the development and to comply with policy CP15 of the Brighton & Hove City Plan Part One.
21. (a) No development shall take place until the applicant has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.  
(b) No phase of the development hereby permitted shall be brought into use until the archaeological site investigation and post-investigation assessment (including provision for analysis, publication and dissemination of results and archive deposition) for that phase has been completed and written details submitted to and approved in writing by the Local Planning Authority. The archaeological site investigation and post-investigation assessment will be undertaken in accordance with the programme set out in the written scheme of investigation approved under (a).  
Reason: To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with policies DM31 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.
22. No development, including demolition and excavation, shall commence until a whole-life carbon assessment has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details approved.  
Reason: To ensure the development helps the city to achieve its ambition of becoming carbon neutral by 2030 and to comply with Policy CP8 of the Brighton & Hove City Plan Part One, as well as SPD17.
23. The development hereby permitted shall not be occupied until details have been submitted in writing to the Local Planning Authority for approval of identified designated outdoor smoking areas and associated external cigarette bins at entrances and exits of the building hereby approved.

Reason: In the interests of residential amenity and the visual amenity of the area and to comply with DM20 and DM40 of Brighton & Hove City Plan Part 2 and policy CP13 of the Brighton and Hove City Plan Part One.

24. The development hereby permitted shall not be used/occupied until a Delivery & Service Management Plan, which includes details of the types of vehicles, how deliveries will be scheduled, how move-in/move-out will be scheduled and management, where deliveries and move-in/move-out will take place and otherwise be managed, dwell times for deliveries and move-in/move-out activity, how deliveries servicing and refuse collection will take place, and the frequency of all those vehicle movements has been submitted to and approved in writing by the Local Planning Authority. All deliveries servicing and refuse collection shall thereafter be carried out in accordance with the approved plan.

Reason: In order to ensure that the safe operation of the development and to protection of the amenities of nearby residents, in accordance with polices DM20, DM33, and DM40 of Brighton & Hove City Plan Part 2.

25. Notwithstanding plans hereby submitted, and prior to occupation of the development, details of secure and inclusive 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.

This should include:

- a) A detail of the secure access provisions proposed;
- b) Proposed cycle parking stores which are accessible from the proposed pedestrian/cycle only courtyard space and do not encourage potential conflict with motor vehicles;
- c) The layout of SPD 14 policy compliant long-stay cycle parking provisions, including dimensions of the cycle parking store including aisle widths and vertical clearance (demonstrating 2.6m can be achieved where two-tier stands are proposed);
- d) Long-stay cycle parking types including 20% Sheffield stand provision and 5% enlarged Sheffield stand provision;
- e) A mobility hub/cycle parking store to provide long-stay cycle parking, and provisions for electric charging provision for scooters/e-bikes; and
- f) SPD 14 policy compliant short-stay cycle parking (i.e., Sheffield stands) should be provided in the public realm within the curtilage of the proposed development site; and
- g) the proposed location for the BTN Bikeshare hub and bikes (10 bikes) within the on-site courtyard area.

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 DM33 of Brighton & Hove City Plan Part 2, and SPD14: Parking Standards.

26. The development hereby permitted shall not be occupied until a plan detailing the positions, height, design, materials and type of all existing and proposed boundary treatments (including details all external doors and gates) has been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be provided in accordance with the approved details prior to occupation of the development and shall thereafter be retained at all times. Reason: To enhance the appearance of the development in the interest of the visual and residential amenities of the area and to comply with policies DM18, DM21, DM21, DM27 of Brighton & Hove City Plan Part 2, and CP12, CP15, CP13 of the Brighton & Hove City Plan Part One.
27. No part of the development hereby permitted shall be first occupied or brought into use until written evidence, such as Secure By Design certification, has been submitted to and approved in writing by the Local Planning Authority to demonstrate that the scheme has incorporated crime prevention measures. Reason: In the interests of crime prevention, to comply with policies CP12 and CP13 and SA6 of the Brighton & Hove City Plan Part One.
28. The development hereby permitted shall not be occupied until an Installation Plan detailing the type, number, location and timescale for implementation of the swift bricks has been submitted to and approved in writing by the Local Planning Authority. Advice from a Suitably Qualified Ecologist (SQE) should be sought when designing the Installation Plan and they should provide on-site supervision including 'Tool-Box-Talks' where appropriate, to ensure swift bricks are installed correctly. The SQE must submit evidence of the completed installation to the Local Planning Authority prior to first occupation of the development. Reason: To ensure appropriate integration of new nature conservation and enhancement features in accordance with Policy CP10 of the Brighton & Hove City Plan Part One, Supplementary Planning Document SPD11 Nature Conservation and Development and Special Guidance A: Swift Boxes and Bricks for New Developments
29. Prior to occupation, a "lighting design strategy for biodiversity" or shall be submitted to and approved in writing by the local planning authority. The strategy shall:
  - a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
  - b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and/or technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the planning authority.

Reason: Many species active at night (e.g. bats and badgers) are sensitive to light pollution. The introduction of artificial light might mean such species are disturbed and /or discouraged from using their breeding and resting places, established flyways or foraging areas. Such disturbance can constitute an offence under relevant wildlife legislation, and would be contrary to Policy DM37 of Brighton & Hove City Plan Part 2.

30. The development hereby approved shall not be first occupied until details of the photovoltaic array shown on the approved roof plan (drawing no. 2203-P-281 RevB) has been submitted to and approved in writing by the Local Planning Authority. The photovoltaic array shall then be installed in accordance with the approved details prior to first occupation and thereafter retained.

Reason: In the interests of visual amenity and to ensure that the development is sustainable and makes efficient use of energy, water and materials and has an acceptable appearance and to comply with policies CP8 and CP12 of the Brighton & Hove City Plan Part One

31. 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 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. The scheme shall include the following:

A) details of all hard and soft surfacing to include the 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 food-bearing plants, and 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 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 and to comply with policies DM22 of Brighton & Hove City Plan Part 2, and CP12 and CP13 of the Brighton & Hove City Plan Part One.

32. The development hereby permitted shall not be first occupied until
- i) details of external lighting, which shall include details of; levels of luminance, hours of use, predictions of both horizontal illuminance across the site and vertical illuminance affecting immediately adjacent receptors,

hours of operation and details of maintenance have been submitted to and approved in writing by the Local Planning Authority.

- ii) the predicted illuminance levels have been tested by a competent person to ensure that the illuminance levels agreed in part 1 are achieved. Where these levels have not been met, a report shall demonstrate what measures have been taken to reduce the levels to those agreed in part i).

The external lighting shall be installed, operated and maintained in accordance with the approved details and thereafter retained.

Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.

- 33. The development hereby permitted shall not be first occupied until full details of roof plant and machinery have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and shall thereafter be retained as such.

Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies DM18, DM26 and DM28 of Brighton & Hove City Plan Part 2 and CP12 and CP15 of the Brighton & Hove City Plan Part One.

- 34. The development hereby permitted shall not be first occupied until full details of privacy screens on the boundaries of the balconies hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The screens shall be installed prior to occupation of the development and thereafter be retained.

Reason: To protect the amenity of neighbouring occupiers, to comply with Policies DM20 and DM21 of the Brighton and Hove City Plan Part Two.

- 35. Prior to first occupation of the development hereby permitted, full details of electric vehicle charging points within the proposed car park hereby approved have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.

Reason: To encourage travel by more sustainable means and seek measures which reduce fuel use and greenhouse gas emissions and to comply with policies SA6, CP7, CP9, CP12, CP13 and CP15 of the City Plan Part One and SPD14 Parking Standards

- 36. The development hereby approved shall not first occupied until a Building Management Plan has been submitted to the Local Planning Authority for written approval. The Plan shall include details of:

- i) Details of the numbers and nature of staff to be on site including 24 hour security arrangements.

- ii) Location and permitted use by residents, business users and community users of outside amenity areas including building entrances and access, hours of use and management of outside amenity areas.

iii) Details of community liaison arrangements including contacts and complaints procedures.

iv) Details of arrangements for arrivals and departures of residents.

v) Details of management and access to indoor communal facilities including to community and gym facilities.

The agreed Building Management Plan shall be implemented in accordance with the approved details and retained as such thereafter.

Reason: To ensure the safety of occupants and the amenity of neighbouring residents and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2 and CP12 of the Brighton and Hove City Plan Part One.

37. Within 6 months of first occupation of the non-residential development hereby permitted a BREEAM Building Research Establishment issued Post Construction Review Certificate confirming that the non-residential development built has achieved a minimum BREEAM New Construction rating of 'Excellent' shall be submitted to, and approved in writing by, the Local Planning Authority.

Reason: To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy CP8 of the Brighton & Hove City Plan Part One.

38. 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 DM41 of City Plan Part 2.

39. Piling and investigation boreholes using penetrative methods shall not be carried out other than with the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reasons: Piling and investigation boreholes using penetrative methods can result in risks to potable supplies from, for example, pollution/turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways. To ensure that the proposed intrusive works does not harm groundwater resources in line with paragraph 174 of the NPPF and Position Statement A3 of the 'The Environment Agency's approach to groundwater protection'.

40. No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the Local Planning Authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.

Reasons: The previous use of the proposed development site as presents a medium risk of contamination that could be mobilised by surface water infiltration from the proposed sustainable drainage system (SuDS). This could pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is located upon a principal aquifer. Notwithstanding that infiltration SuDs are not recommended by the drainage strategy (Redevelopment of Enterprise Point, Brighton, Drainage Strategy, Waterman, April 2022 Doc No. WIE18565-100-R-1-8-3-DS), the condition is necessary in the event that priorities change within the development.

41. Noise associated with plant and machinery incorporated within the development shall be controlled such that the Rating Level measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed a level 5dB below the existing LA90 background noise level. The Rating Level and existing background noise levels are to be determined as per the guidance provided in BS 4142:2014 (or the relevant updated Standard). In addition, there should be no significant low frequency tones present.  
Reason: To safeguard the amenities of the occupiers of neighbouring properties and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.
42. Further supplementary ecological surveys for bats shall be undertaken to inform the preparation and implementation of corresponding phases of ecological measures required through the ecological design strategy under condition 9. The supplementary surveys shall be on an appropriate type for the above species and survey methods shall follow national good practice guidelines.  
Reason: As species are mobile, it is important that surveys reflect the situation at the time of any given impact occurring to ensure adequate mitigation and compensation can be put in place, and to ensure no offences are committed.
43. The floors/walls/stairs between the commercial/communal areas and the residential uses shall be designed to achieve a sound insulation value of at least 5dB better than Approved Document E performance standard.  
Reason: To safeguard the amenities of the occupiers on the site, the neighbourhood and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.
44. The development hereby permitted shall not be occupied until a scheme for the storage of refuse and recycling has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out and provided in full in accordance with the approved details prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.  
Reason: To ensure the provision of satisfactory facilities for the storage of refuse and to comply with Policies DM18 and DM21 of Brighton & Hove City Plan Part 2, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of



the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.

45. None of the residential units hereby approved shall be occupied until each residential unit built has achieved as a minimum, a water efficiency standard 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 water to comply with policy CP8 of the Brighton & Hove City Plan Part One.
  
46. The wheelchair 'accessible' studio rooms hereby permitted as detailed on approved drawings shall be completed in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings) prior to first occupation and shall be retained as such thereafter. All other 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 DM1 of Brighton & Hove City Plan Part 2.
  
47. No tree shown to be retained on the approved drawings shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner during the development phase, other than in accordance with the approved plans and particulars or as may be permitted by prior approval in writing from the Local Planning Authority. Any trees or 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 and to comply with policies QD15 and QD16 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.
  
48. At least one bee brick shall be incorporated within the external wall of each building of the development hereby approved and shall be retained thereafter.  
Reason: To enhance the biodiversity of the site and to comply with Policy DM37 of Brighton & Hove City Plan Part 2, Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

49. 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 DM18, DM26 and DM28 of Brighton & Hove City Plan Part 2 and CP12 and CP15 of the Brighton & Hove City Plan Part One.
50. The non-residential part of the premises hereby permitted as shown on the Proposed Ground Floor Plan 2203-P-201-D shall be used as an office (Use Class E(g) (i) and (ii)) only and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). Notwithstanding the provisions 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), no change of use shall occur without planning permission obtained from the Local Planning Authority.  
Reason: The Local Planning Authority would wish to retain control over any subsequent change of use of these premises in the interests of safeguarding the supply of office floorspace in the city given the identified shortage, to comply with policies CP2 and CP3 and DA3 of Brighton & Hove City Plan Part One.
51. The living accommodation hereby approved shall be occupied for sui generis residential purposes only as a main residence and shall not be permitted to be occupied by any other form of residential or short stay accommodation within Class C of the 1987 Use Classes Order (as amended) nor as sui generis class student accommodation by occupiers who are in any form of full time education or study.  
Reason: In order that the development complies with policy CP3.4 of the Brighton and Hove City Plan Part One which allocates the site for mixed employment and residential use and contributes towards the delivery of homes and employment space in the city.
52. The development hereby approved should achieve a minimum Energy Performance Certificate (EPC) rating 'B' for new build residential and non-residential development.  
Reason: To improve the energy cost efficiency of existing and new development and help reduce energy costs to comply with policy DM44 of the Brighton & Hove City Plan Part Two
53. The access to and use of the podium gardens hereby permitted shall be for co-living residents only.  
Reason: To ensure residents have sufficient access to external communal spaces to supplement the smaller private living arrangements, to ensure that the amenity

spaces do not become too highly pressured, and to comply with Policy DM20 of the Brighton & Hove City Plan Part Two.

54. Provision within the development hereby approved shall be made to ensure the site can be connected to a district heating system in the future, including securing and safeguarding a route onto the site from the highway for a connection.  
Reason: To ensure the development helps the city to achieve its ambition of becoming carbon neutral by 2030 and to comply with Policies SA6 and CP8 of the Brighton & Hove City Plan Part One and DM46 of the 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. National Highways recommend that the Construction Environmental Management Plan seeks to avoid construction traffic using the Strategic Road Network (SRN) during the network peak hours of 08:00-09:00 and 17:00-18:00 and ensures that any loose loads on vehicles using the SRN are adequately sheeted. Notwithstanding this, the Council Environmental Health Team will need to consider the potential noise and disturbance impact of early morning deliveries as part of the CEMP
3. The impact of any works within the highway/access road on public apparatus shall be assessed and approved, in consultation with Southern Water, under a NRSWA enquiry in order to protect public apparatus. Please send these enquiries to [Developer.Services@southernwater.co.uk](mailto:Developer.Services@southernwater.co.uk)
4. To make an application visit Southern Water's Get Connected service: [developerservices.southernwater.co.uk](http://developerservices.southernwater.co.uk) and please read our New Connections Charging Arrangements documents which are available on our website via the following link: [southernwater.co.uk/developing-building/connection-charging-arrangements](http://southernwater.co.uk/developing-building/connection-charging-arrangements)
5. Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.
6. Swift bricks/boxes can be placed on any elevation, but must avoid areas that are exposed to extended periods of direct sunlight or prevailing weather conditions, with shade casting eaves and gable ends being optimum locations. They should be installed in groups of at least three, approximately 1m apart, at a height no lower than 4m (ideally 5m or above), and preferably with a 5m clearance between the host building and other buildings, trees or obstructions. Where

possible avoid siting them above windows, doors and near to ledges/perches where predators could gain access. Always use models that are compatible with UK brick/block sizes and consider the potential for moisture incursion and cold spots in the building design. 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. If it is not possible to provide swift bricks due to the type of construction or other design constraints, the condition will be modified to require swift boxes.

7. Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on-site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.
8. Where asbestos is found/suspected on site, it will fall under the Control of Asbestos Regulations 2012, overseen by the Health and Safety Executive. Further information can be found here: <https://www.hse.gov.uk/asbestos/>
9. The applicant is advised that they must apply for a license for the proposed door(s) and/or gate(s) that open over the public highway under Section 153 of the Highways Act 1980. Please contact the Council's Highway Enforcement Team for further information ([street.licensing@brighton-hove.gov.uk](mailto:street.licensing@brighton-hove.gov.uk) 01273 292090).
10. In order to be in line with Policy DM33 of the Brighton & Hove City Plan Part Two cycle parking must be secure, convenient (including not being blocked in a garage for cars and not being at the far end of a rear garden), accessible, well lit, well signed, near the main entrance, by a footpath/hardstanding/driveway and wherever practical, sheltered. It should also be noted that the Highway Authority would not approve vertical hanging racks as they are difficult for many people to use and therefore not considered to be policy and Equality Act 2010 compliant. Also, the Highway Authority approves of the use of covered, illuminated, secure 'Sheffield' type stands spaced in line with the guidance contained within the Manual for Streets section 8.2.22. Or will also consider other proprietary forms of covered, illuminated, secure cycle storage including the 'slide cycle in' type cycle store seen in railway stations, the 'lift up door' type cycle store, the metal Police approved 'Secure-By-Design' types of cycle store, the cycle 'bunker' type store and the 'two-tier' type system again seen at railway stations where appropriate. Also, where appropriate provision should be made for tricycles, reclining cycles and 'cargo bikes'
11. You are advised that details of the development will be passed to B&HCC as Local Highway Authority administering the Controlled Parking Zone, of which the development forms part, so they can determine whether occupiers should be eligible for residents' parking permits.
12. The applicant is advised that the disabled car parking spaces should be designed in accordance with Department for Transport Traffic Advisory Leaflet 5/95 Parking for Disabled People and BS8300:2001.26. A combination of these two documents requires at least a 1.2m clear zone to both sides and roadway end of the bay.

13. The applicant is advised of the recent change in Part S of the Building Regulations, which came into effect on 15 June 2022, and requires, “Where one or more dwellings with associated parking result from a building, or a part of a building, undergoing a material change of use at least one associated parking space for the use of each such dwelling must have access to an electric vehicle charge point.” The applicant is advised that applications for a building notice or initial notice received before 15 June 2022, will still be considered under the previous Building Regulations, provided building work begins before 15 June 2023. If the applicant has obtained Building Regulations approval under the old regulations, the applicant must begin work on the development/application site by 15 June 2023, or the new regulations will apply.
14. The applicant is advised that the Melbourne Street works will require them to enter into a s278 agreement with the council as Highway Authority and to complete associated technical approval steps, which may include public consultation (amongst other things). They should contact [s278@brighton-hove.gov.uk](mailto:s278@brighton-hove.gov.uk) at their earliest convenience. The applicant is advised that for street design guidance they should at least refer to the Department for Transport’s Manual for Streets documents and the Department for Transport’s Inclusive Mobility document. Where changes occur, the design is to include footway, carriageway, landscaping, street lighting and surface water drainage designs, construction methods and materials, dimensions, gradients, levels, radiuses, alignment (horizontal and vertical), general arrangement and vehicle swept path analysis drawings for a standard size fire engine, large ambulance and standard size waste disposal vehicle. The construction shall be carried out in accordance with the approved Section 278 (of the Highways Act 1980) Agreement. The applicant must contact the Highway Authority by e-mail ([s278@brighton-hove.gov.uk](mailto:s278@brighton-hove.gov.uk)) at their earliest convenience to avoid any delay and prior to any works commencing on-site and on the adopted (public) highway. An assigned officer telephone number will be supplied in the e-mail response to provide a point of contact regarding the submission and Section 278 (of the Highways Act 1980) Agreement.
15. The applicant is advised that Part O of Building Regulations 2022 has been introduced. This standard is aimed at designing out the need for mechanical air conditioning systems in dwellings that would otherwise be prone to overheating and limiting unwanted solar gains. There are optional methods to demonstrate compliance through the Building Regulations.
16. 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.

17. The applicant is advised that details of the BREEAM assessment tools and a list of approved assessors can be obtained from the BREEAM websites ([www.breeam.org](http://www.breeam.org)).
18. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.

## **2. SITE LOCATION**

- 2.1 The site comprises the main building of Enterprise Point which is a part five-, part six-storey L-shaped 1950's style industrial building with roof plant above. Until this was built the site had been largely undeveloped, having been historically used as an earthworks in conjunction with the now-defunct railway viaduct.
- 2.2 The front of the building is set back 18.5 - 20m from Melbourne Street, with the five-storey southern wing beyond this. The site slopes downwards from rear to front (west) by over 7 metres and so due to the topography the two wings of the current building have a flat roof at the same height. The existing building has a gross internal floorspace of 5,459.2 sqm. The second building on the site was 16-18 Melbourne Street (now demolished), with a two-storey industrial unit in the north-west corner of the application site.
- 2.3 The site is flanked on the east boundary by the rear of a terrace of residential properties on Shanklin Road. To the south is a primary school and on the north boundary the access road to Woodvale Crematorium. The north boundary is heavily screened by a large belt of mature deciduous trees on the crematorium land owned by the city council. On the north-east boundary of the site is a 4-storey former industrial building converted to 20 flats which has its west elevation on the boundary of the application site with windows facing (west) directly onto the existing current car park of Enterprise Point.
- 2.4 The character of area is mixed, having historically been an area of generally small scale housing and employment uses as well as St Martin's Primary School, built around a narrow street. Opposite the site on Melbourne Street is a part seven-, part four-storey contemporary block of 31 flats known as Viaduct Lofts. To the south are small terraces of two storey houses also on Melbourne Street. To the west of the site on Melbourne Street are a row of low rise industrial buildings in use as workshops and vehicle repairs. This site has a planning permission (approved under application BH2019/01820) for a new development of 4 and 6 storeys (plus basement level) for co-working business floor space (B1) and 83no co-living residential units (Sui Generis), including gym/community space (80m<sup>2</sup>) and ancillary café.
- 2.5 The Round Hill Conservation Area is prominently located further to the west of the site on the western side of Upper Lewes Road. The Valley Gardens Conservation Area lies further to the south-west of the site, approximately 450m away. The adjoining Woodvale Crematorium to the northern boundary is Grade II listed on the Register of Parks and Gardens of Special Historic Interest in England, and

also contains listed buildings and structures. There are further listed buildings in the Locally Listed City Cemetery to the north of the site.

- 2.6 The adjoining Woodvale Crematorium is also designated as a Site of Nature Conservation Interest SNCI/Local Wildlife site.

### 3. RELEVANT HISTORY

**BH2021/03899** Demolition of existing single storey building - Prior Approval Not Required 25/11/2021

**BH2021/02825** Prior approval for change of use of part ground floor from office (B1) to residential (C3) to form 2no dwellings - Prior Approval Required Refused 23/09/2021

**BH2021/02826** Prior approval for change of use of second floor from office (B1) to residential (C3) to form 17no dwellings - Prior Approval Required Refused 24/09/2021

**BH2021/00726** Replacement of existing telecommunications installation to include 6no new panel antennas measuring 2.1m in length at 22.5m, removal and replacement of 6no panel antennas at 22.5m together with ancillary equipment - Prior Approval Required Approved 22/04/2021

**BH2018/02751** Demolition of all existing buildings and electrical substation and erection of building of between 5 to 8 storeys comprising office floor space (B1), student accommodation including 330no student bedrooms (Sui Generis), 24no residential flats (C3), ancillary residents' amenity space, associated plant and electrical substation, landscaping, access, cycle spaces, parking and associated works (Amended plans). - Refused 25 April 2019.

**BH2013/01575** Outline application for the demolition of 16-18 Melbourne Street and the construction of a new 5 storey building comprising 15 no. residential units (including 3 no. affordable). Demolition of the south wing of Enterprise Point, provision of an additional storey on the remaining block and 7 storey extension to the West (front) elevation to provide 1030 sq m of upgraded Class B1 offices on the lower ground and ground floors together with 58 no. residential units. Construction of a new 4 storey building in the South East corner of the site comprising 65 sq m. of community space on part ground floor and 15 no. affordable residential units - Granted - 15 August 2014 (Expired consent).

#### 19-24 Melbourne Street

**BH2019/01820** Demolition of existing auto servicing centre and joinery building and erection of a new development of 4 and 6 storeys, plus basement level, comprising 587 m<sup>2</sup> of co-working business floor space (B1) including gym/community space (80m<sup>2</sup>) and ancillary café. Provision of 83no co-living residential units (Sui Generis) with ancillary storage, landscaped residents roof terrace and access, together with cycle storage, associated plant and electrical

sub-stations and associated works. (Revisions to loading bay arrangements and cycle storage) - Approved 18/09/2020

Viaduct Lofts, Melbourne St

**BH2009/00655** Demolition of existing yard buildings and erection of 3 storey terrace along eastern boundary of site, and 4 and 7 storey apartment building along northern boundary of the site, providing a total of 39 residential units, cycle and car parking to rear - Refused 08/07/09 (Appeal allowed 18/08/10)

123C Lewes Road

Demolition of the existing building and erection of 5 storey building, comprising a cafe (E) at ground floor and provision of co-living studio flats (sui generis) with residents rooftop terrace, ancillary cycle parking, bin stores and associated works to the public realm. (For information: proposed building includes 51 co-living studio flats with communal living space on each floor) - Under Consideration

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

- 4.1 This application seeks permission for the demolition of the existing buildings and erection of a new development of 6 and 8 storeys, comprising co-working business floor space (use class E) and provision of co-living studio flats (Sui Generis) with communal internal spaces including kitchens, living rooms and gym and external landscaped amenity courtyard, gardens, roof terrace, access, cycle and car parking, plant, electricity sub-station, bin stores, laundry and associated landscaping and environmental improvement works to the public realm and Melbourne Street.

The details of the accommodation within the development are as follows:

- 269 co-living studio flats;
  - Coworking areas (410 co-working desks, reception, kitchenette, bathrooms, meeting rooms, cinema room, WCs and printers): 941 m<sup>2</sup> of individual rooms with a bathroom and kitchenette area;
  - larger shared living, cooking and dining spaces;
  - Ground and first floor level outdoor shared amenity spaces;
  - On-site gym, laundry room, and bicycle stores.
- 4.2 The proposal (indicated as 'Phase 2') would be integrated with the permitted scheme at 19-24 Melbourne Street ('Phase 1') and a proposal for the Machine Mart site to the west facing Lewes Road, which is subject to a separate application also currently under consideration (application BH2022/01489).
- 4.3 Outline permission BH2013/01575 was granted in 2014 for the comprehensive redevelopment of the application site for a development providing 73 residential units and 1030sqm B1 office floorspace. This consent has now expired.
- 4.4 A subsequent application for the development of the site for a predominantly purpose-built student housing scheme (BH2018/02751) was refused in April 2019.



4.5 Following receipt of consultation comments, the applicant submitted amendments to the scheme as follows:

- Part removal of 8th storey in the corner of Block A fronting Melbourne Street on both west and south wings.
- No. of units has been reduced from 278 to 269.
- Further set back of Block A building from Melbourne Street by 0.3m, and introduction of a mansard roofline
- Mansards also added with slight inset to blocks on east side of site facing Shanklin Road.
- Entrance into the courtyard has been moved slightly further north to align better with Melbourne Street
- Features from consented Phase I development added to elevations including extended arched motif, windows on rooftop level studios incorporate arched silhouettes, louvre panel infills at the top, vertically expressed inset brickwork features between windows and arches and at building corners, light brown multi stock brickwork, off-white brickwork used in soldier courses and inset areas, window panels with louvre vents, metal panels and rainscreen cladding, stone arches, and balusters of balconies.
- Increased distanced gap between southern buildings and site boundary to school.
- Balconies have been added to some units facing within the site onto the central amenity space.
- Obscured glazing to the lower portion of Block A windows fronting Melbourne Street and the upper stories of Blocks B, C and D overlooking Shanklin Road.
- Angled windows on the upper two floors facing Shanklin Road
- Visual interest added to east elevations
- Repositioned communal spaces to allow dual aspect spaces
- Amended ground floor with additional external cycle stands and windows overlooking the undercroft.

The following additional information was provided during the application:

- Sustainability and Energy Statement
- Bat Survey Report and Preliminary Tree Roost Assessment
- Additional daylight/sunlight analysis in response to BRE review
- Response documents following consultation comments to Local Highway Authority, Health and Safety Executive and Urban Design
- Affordability Statement
- Response to Community Comments

Pre-application Feedback December 2020:

- The principle of an integrated scheme with 19-24 Melbourne Street was supported as it may facilitate a better overall design and more effective use of the sites.

Pre-application Feedback September 2021:

- The loss of employment floorspace on the site requires further justification and an Economic Assessment should be produced to support any planning application.

Consideration should be given to the inclusion of some larger C3 units, preferably in the form of affordable housing.

- The overall scale of the proposals was generally considered to be acceptable and are not considered to be out of keeping with the surrounding area.
- Concerns were raised regarding potential detrimental impact on the residential amenities of properties on Shanklin Road to the east and Viaduct Lofts to the west.

Design Review Panel Response - February 2022

Conclusions included the following:

- Ensure the adaptability of new buildings
- Reconsider the ground floor and the relationship between the entrance, car movement and parking to relocate car movement to the northwest corner
- Produce a landscape strategy creating different types of places

## 5. REPRESENTATIONS

**Original Consultation:**

**Councillors David Gibson and Steph Powell** object to the application. A copy of their objection is attached to the report.

**Eighty-four (84)** individual letters of representation have been received objecting to the proposed development for the following reasons:

Principle:

- Unclear on demand for co-living
- Permanent housing for families needed- Inappropriate Height of Development
- 'Co-living' is nothing more than student halls of residence
- Will not be affordable
- Loss of existing uses including charities, artists and musicians
- Poor local consultation
- Not in keeping with the current needs of the community or local area

Overdevelopment:

- Local area can still not cope with this additional footfall
- Boxed sized studio flats with no self-contained cooking/living spaces
- Vast development being shoe-horned into a tiny area
- Needs to be some of green space in front
- This building is far too tall
- High rise buildings pose a significant fire risk
- Sole purpose is to maximise rental density
- Cynical idea of cramming as many people into tiny spaces as possible
- Too small and cramped for the area and would be unaffordable for those currently living there.
- Detrimental to the local wildlife and the trees already in the area

- The wildlife (including badgers, foxes and hedgehogs) and the range of birds will diminish

Poor design:

- Unimaginative square blocks
- Out of character with the area
- The green space created will not be easily visible or accessible to residents
- Takes up the entire plot of land by building right up to the legal boundary
- Significantly larger and closer to neighbouring properties than Enterprise Point.
- Building is far too close to the boundary of the property
- Will make the small narrow street dark
- Will create a wind tunnel
- Lack of creation of public space

Residential Amenity:

- Overshadowing, loss of light and loss of privacy to Shanklin road, Melbourne street and viaduct lofts
- Overlooking properties on Bembridge Street
- Loss of light and sunshine
- Block light and views and the sight of trees from many residents
- Would overlook the school and the cemetery
- No longer have any sunshine in flat or garden on Shanklin road
- Extra pollution
- No privacy for Viaduct Loft balconies
- Local services are already stretched
- Additional pressure on waste collection, local GPs and NHS dentists
- Possible implications to the foundations to the adjacent Shanklin Road properties

Noise:

- Hundreds of tenants will share a roof terrace social space
- Extra traffic and vast number of residents will be disruptive and noisy
- Loud events and parties with people coming and going all hours of the day and night
- New roof terrace at about the same height as the top flats of Shanklin Road and Bembridge Street.

Traffic or Highways:

- The density is too high for parking proposed
- Small one-way street
- Would result in parking on nearby roads
- The extra traffic may cause more accidents
- The amount of delivery drivers will increase
- Already stretched parking in the area will be challenged

- This is already an area with very poor air quality

**Twenty-seven (27)** individual letters of representation (15 of which are in identical format) have been received in support of the proposed development for the following reasons:

- Enterprise Point is a blight on the Brighton landscape
- There aren't going to be 800+ residents in the building overlooking others
- Not transient, as residents will have a 12 month tenancy, as do most renters in Brighton
- Melbourne Street will be a much nicer place to look at
- The developer has made commitment to working with community organisations in the area
- This is exactly the accommodation that I will be looking for when leave university and start my own business here
- Good for retaining graduates in the city

One (1) further letter of comment was received, commenting as follows:

- Recommending installation of the appropriate number of swift bricks/boxes

#### **Re-consultation:**

A further **eleven (11)** letters of **objection** (from different individuals than previously received) were received, for the following additional reasons:

- Building work and noise will require the closure of the playground during school terms throughout the project
- Health risks to the children, teachers and parents, especially those asthmatic, due to dust and other harmful substances
- Deliveries and machinery will disrupt traffic at the Melbourne Street Entrance to school
- Even with the amendments, this building will **STILL** be too large and overbearing
- Buildings remain too high with too many units to be appropriate

A further **two (2)** letters of support (from different individuals than previously received) were received with similar reasons stated under original consultation.

## **6. CONSULTATIONS**

### External

#### **County Archaeologist: No Objection**

The information provided is satisfactory and identifies that there is a risk that archaeological remains will be damaged. Nonetheless it is acceptable that the

risk of damage to archaeology is mitigated by the application of planning conditions.

**County Ecologist:** No Objection

Initial Comments

It is recommended that the proposed development is refused on the basis of insufficient information on bats and that a GLTRA is undertaken as soon as possible, especially as winter is the optimum time for this type of survey.

Notwithstanding any further surveys and/or mitigation identified following the GLTRA, the proposed development would have been recommended for approval in principle subject to the imposition of conditions. The development offers opportunities for enhancement that will help the Council meet its roles and responsibilities under the NERC Act, NPPF and City Plan policies, particularly if biosolar roofs with chalk grassland can be delivered.

Further Comments

It is recommended that the proposed development is approved in principle subject to the imposition of conditions, including a condition to undertake further bat surveys on T69 and T72 prior to any tree works.

**Environment Agency:** No Objection

No objection to the proposal provided that recommended conditions be attached to any planning permission granted.

**Health and Safety Executive:** No Objection

Initial Comments

Concerns raised regarding means of escape and fire service access & facilities.

Further Comments

Following a review of the information provided in the planning application, HSE is satisfied with the fire safety design to the extent that it affects land use planning.

**Indigo Pipelines:** Comment

If the applicant finds buried Gas Plant that are not marked or are incorrectly marked on record plans, then the applicant is required to contact us as soon as possible to give Indigo Pipelines the opportunity to amend records. There may be other privately owned buried Gas Plant in the area, which is outside the control of Indigo Pipelines Ltd. Attention is drawn to the need to take trial holes to determine the exact position and depth of buried Gas Plant to avoid the risk of injury to staff or damage to the existing Plant.

**National Highways:** No Objection

There are agreed A27 Trunk Road mitigation measures required to deliver the development in the City Plan Part 1 to be funded by the development in the City Plan. If this development is to be considered car-free and not contribute towards the A27 mitigation required by the City Plan, then the Council should prohibit the sale of parking permits to residents at this proposed development.

**Scottish Gas Networks: Comment**

In the event that gas pipes are present within the site, there should be no mechanical excavations taking place above or within 0.5m of a low/medium pressure system or above or within 3.0m of an intermediate pressure system. The applicant should, where required confirm the position using hand dug trial holes.

**Southern Water: No Objection**

The exact position of the existing combined sewer and water mains must be determined on site by the applicant in consultation with Southern Water before the layout of the proposed development is finalised. The 300 mm diameter gravity sewer requires a clearance of 3 metres on either side of the gravity sewer to protect it from construction works and to allow for future maintenance access.

It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

The applicant proposes to limit surface water flow to less than (50% betterment) the existing flows into the sewerage system. This discharge can be permitted, if proven to be connected and it is ensured that there is no overall increase in flows into the sewerage system. The applicant will be required to provide a topographical site survey and/or a CCTV survey showing the existing connection points, pipe sizes, gradients and calculations confirming the proposed flow will be no greater than the existing contributing flows.

**Sussex Police: No Objection**

Historically there are cases where homes of multiple occupancy have given rise to instances of anti-social behaviour (ASB). To reduce the risk of this occurring there will need to be stringent management control of tenancies. This could be implemented as a condition of planning. However, having contacted the applicant and having read the accompanying management plan, Sussex Police are reassured that due to the fact that reception will be staffed 24/7 and the development managed by an onsite accommodation team, any potential issues with tenants will be dealt with in a timely manner.

Whilst there are no concerns regarding the design and layout, security measures are recommended including details relating to design of front access doors, access control including to shared corridors and bedroom doors, postal arrangements, controlled lift access, CCTV, cycle security, low ground planting to maintain natural surveillance, advice from Sussex Police Counter Terrorist Security advisers, and lighting.

**UK Power Networks: Comment**

The proposed development is in close proximity to UK Power Networks substation. If the proposed works are located within 6m of the substation, then they are notifiable under the Party Wall etc. Act 1996. The Applicant should provide details of the proposed works and liaise with the Company to ensure that appropriate protective measures and mitigation solutions are agreed in accordance with the Act.

## Internal

### **Air Quality:** No Objection

The vehicle trip contribution including servicing and other will be less than 100 per weekday. It is recommended that there is an avoidance of combustion on site - including gas boilers with emissions to air.

### **Arboriculture:** Comment

The Arboricultural Impact Assessment states that pruning in some instances will exceed the maximum recommendation stated within BS 3998: Tree work - Recommendations, this will have a detrimental impact upon tree health, the expectation post development pressure and the requirement for repeated intervention pruning to maintain a minimum of 1 metre clearance from structure, leading to the loss of the majority of trees currently in proximity.

The proposed development is within the root protection area for the majority of trees located upon the bank, although we cannot assume there is rooting activity within current hard standing, proposed excavation to enable foundation construction will remove any that had an opportunity to establish.

It is worth noting that access for both inspection and intervention work to the north bank will be highly complex once construction has been completed, placing a considerable burden upon the cemeteries budget, post development pressure to maintain clearance from structure, complaints relating to shading, leaf drop and wildlife ingress are to be expected from future residents.

BHCC Arboriculture are of the opinion that should consideration be to grant consent to development, the majority of current vegetation will require removal pre and post development, we would also recommend Cemeteries arrange for an assessment of trees within their boundary to address safety issues raised within the tree survey.

### **City Clean:** No objection

### **Economic Development:** No objection

Economic Development regrets the significant loss of 2,721.5m<sup>2</sup> of B1(a) office floorspace within Brighton & Hove, however, this will be partly redressed by provision of co-workspaces of 941sqm at ground level on this site. Economic Development therefore welcomes the provision of this flexible and modern workspace to help address the challenges faced by Small and Medium-Sized Enterprises who are struggling to find suitable and affordable workspace in Brighton & Hove. We also note that the space could encourage entrepreneurship of graduates through the provision of the business start-up space which is envisaged within the flexible floorspace which we would welcome. Given the proposed floorspace, the team would like to see an increase in the proposed employment figure of 9.5 full time equivalent (FTE).

### **Employment and Skills:** Comment

Due to the size of this development, it would be categorised as a major development and as such would be subject to developer contributions in line with the council's Technical Guidance for Developer Contributions. Based on the information provided in the application, the contribution requested is £27,800 and will be included in a S106 Agreement.

In addition, as there will be demolition and construction phases involved in the development, separate Employment and Training strategies will be required in respect of both phases which should be submitted for approval 1 month before phase commencement.

**Environmental Health: No Objection**

Historical mapping shows that 15-18a Melbourne Street previously operated as Salvage merchants, Scrap Iron and metal merchants. A contaminated land desk top study has been carried out and a Land contamination consultant has determined that the Councils con land condition and asbestos condition are required. The report has identified that asbestos may be a concern. If asbestos is found during construction it should be disposed of responsibly and taken to a licenced site.

An acoustic report has been carried out by Ion Acoustics on 25 April 2022. The report states that the type of equipment to be installed has not yet been decided upon. Once this has been decided upon the applicant should ensure that equipment will meet the following criteria and that this should be conditioned.

**Heritage: Comment**

**Initial Comments**

In this case there is no objection in principle to the proposed development and broadly its scale, massing, design and materials are considered to be acceptable. However, due to its height and massing Block A1 is visually harmful to the settings of: the Roundhill Conservation area; the grade II listed buildings at 101-113 Roundhill Crescent; and the grade II registered park and garden of Woodvale Cemetery, particularly when considered cumulatively with the extant approval for 19-24 Melbourne Street. This harm to designated heritage assets is less than substantial under the terms of the NPPF in each case, but must nevertheless be given great weight in decision-making.

**Further Comments**

It is considered that the harm to the setting of the listed buildings has been overcome, but that some harm to the character and setting of the conservation area remains. It must be acknowledged that the greatest impact and also the greatest harm remains in the view from Round Hill Crescent (View 3). However, it is also acknowledged that this is part of a series of kinetic, unfolding views rather than a stand alone view and, taking the sequence of views as a whole, the harm would be minor. This harm should be given the appropriate weight in assessing the overall planning balance of the application.

**Housing Strategy : No Objection**

As a form of shared housing the homes are classed as sui generis in planning terms, meaning that technically they do not fall within the remit of our Affordable



Housing Policy CP20 which relates to (self-contained) residential dwellings - planning class C3. Co-living also has similarities with Build to Rent housing in that the homes are purpose built for renting not sale. However, Build to Rent housing is self-contained and has been included within the definition of affordable housing as Affordable Private Rent in the National Planning Policy Framework (NPPF) with special conditions attached ie at a reduced rent to people who meet agreed criteria such as key workers and/or specified salary levels.

The NPPF requires Affordable rented housing to be provided by a Registered Provider (other than Build to Rent schemes where the affordable private rented homes can be managed direct by the owner). Registered Providers are regulated by the Social Housing Regulator which ensures the council's duty of care to tenants allocated from the council's Housing Register is met.

It is accepted that the co-living concept, the tenure and the nature of the proposed housing do not lend themselves to nominations from the council's Housing Register. Furthermore, as outlined, the housing provided is sui generis class which does not have a liability to provide affordable housing. The provision of on-site affordable housing is not considered appropriate and a financial contribution towards off-site provision is considered a positive solution in this instance. The developer at this scheme has offered £2.5m commuted sum in lieu of homes on site. A financial contribution can be utilised by the council to provide affordable housing on other sites or by purchasing existing or newly built homes to be used as affordable rented housing.

**Land Contamination Consultant: Comment**

The development lies on former railway land and adjacent to a number of former industrial activities. The desk study is acceptable (though the applicant should note there is also historic information of a laundry/dry cleaners located at the eastern boundary of the site from 1910-1950).

A contaminated land condition for this development is recommended. Due to the demolition of the existing building the team would also recommend an asbestos informative - which falls under the Health and Safety Executive.

**Planning Policy: No Objection**

The application site is part of the strategic site allocation for mixed-use (residential and employment) 'Melbourne Street Industrial Area' included in City Plan Part One Policy CP3.4. Planning permission has already been granted for a co-living development on an adjacent site at 19-24 Melbourne Street and the principle of an integrated scheme is supported.

The redundancy of the existing Enterprise Point building has been previously accepted, and regeneration of the site welcomed. The proposed development of the site would contribute towards the target set out in CPP1 Policy CP1 as envisaged through the mixed-use allocation in Policy CP3 and there is therefore no objection in principle to some co-living accommodation on the site. The level of employment floorspace proposed is satisfactory as a response to the policy requirement in CP3 subject to their views.

It was established during the determination of BH2019/01820 that sui generis co-living accommodation can be counted towards the city's housing target. The proposed development of the site would therefore contribute towards the target set out in CPP1 Policy CP1 as envisaged through the mixed-use allocation in Policy CP3.

**Private Sector Housing:** No objection

**Public Art:** No objection

To make sure the requirements of local planning policy are met at implementation stage, it is recommended that an 'Artistic Component' schedule be included in the section 106 agreement.

**Sustainability :** Comment

Clarification is required over the heating and PV proposals and whether they relate to the development as a whole or to individual buildings. Further clarification is needed on whether the residential and the non-residential parts of the development are being developed to the appropriate residential / non-residential standards - the Energy Statement lacks clarity on which standards apply to which parts of the development. The developers should ensure that they meet not only BHCC's planning policies but also the 2020 Building Regulations which came into force in June 2022. Conditions are recommended.

**Sustainable Drainage:** No objection

In their 2013 response the Environment Agency disallowed any infiltration to the ground due to contamination risks to the ground water. The Lead Local Flood Authority (LLFA) has no objection to the current proposal. However, further information will be required at detailed design phase for full approval.

**Sustainable Transport:** Comment

Initial Comments

The application does not include any on-site car parking. The LHA is concerned that all parking demand will therefore arise as overspill onto surrounding streets. Whilst much of this can be prevented by permit-free and other conditions, not all of it can. Whilst it is appreciated that much of this can be prevented by permit-free and other conditions, including the implementation of a Travel Plan, not all of it can. Residual overspill will predominantly occur from visitors of the residential co-living development and employees/visitors of the co-working space. Residential visitors will be able to access visitor permits to use either permit-holder-only or shared-use bays (including by using visitor permits), whilst café customers/visitors will be able to use shared-use bays as pay-and-display users. Visitor parking demand must also be taken into consideration; estimates for residential units should be based on the value of 0.2 spaces per unit as recommended in the DCLG 2007 'Residential Car Parking Research' document. Based on 63 units this would equate to 13 (12.6) visitors per day, this level of vehicles traveling to and from the site will need to be taken into account. The LHA acknowledges the applicant's innovative approach to this co-living development, which will offer prospective residents all kinds of social and recreational on-site benefits. With this in mind, the impact of resident and visitor parking and traffic congestion is a

potential issue for all co-living-style developments, irrespective of the size of the development.

#### Further Comments

The LHA responded to this seeking further information and clarification on a number of transport and highways related matters in relation to the development proposal and potential impacts prior to determination. The applicant provided a response document in November 2022, which seeks to address any outstanding issues and provide clarification where requested.

The LHA finds this application acceptable, subject to the inclusion of the recommended conditions, informatives and the implementation and ongoing monitoring of a Travel Plan, secured through the Section 106 agreement.

#### **Urban Design Officer: Comment**

##### Initial Comments

Proposals present many positive design attributes including a general site layout and massing strategy which generates legible routes and frontages, and responds well to environmental conditions and the prevailing urban grain of the area; provision of communal amenity spaces at ground and rooftop levels; landscape design principles which generate varied and high quality external environments with large areas of ground planting; public realm improvements to Melbourne Street spanning between all three phases of proposed development; high quality co-working spaces at ground level; provision of living space which is proportionately distributed throughout proposals; intent for cohesion in visual character between all three phases of development to generate strong identity; an advanced and ambitious strategy for operational carbon neutrality.

However, there are some concerns and recommendations including primarily standoff distances to the east and west; proposed massing against Melbourne Street and in the north-west corner of the site which appears overbearing due to the width of tall frontages, though the location of increased height in the north-west corner is supported; a lack of setback/articulation of upper levels which generates an oppressive/overbearing character to the east and west and which presents a lack of cohesion with the approved Phase 1; zero provision of private external amenity space; the circular economy & embodied carbon strategy which is undeveloped.

##### Further Comments

In general, additional material addresses a number of the comments raised where clarity of information was requested such as around access and delineation of public and private space. There remain concerns in relation to some comments particularly around sunlight to external areas, north-facing single aspect rooms and internal daylight / sunlight.

## **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

The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016)
- Brighton & Hove City Plan Part Two (adopted October 2022);
- 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).

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
- SA6 Sustainable Neighbourhoods
- CP1 Housing delivery
- CP2 Sustainable economic development
- CP3 Employment land
- 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
- CP15 Heritage
- CP17 Sports provision
- CP18 Healthy city
- CP19 Housing mix
- CP20 Affordable housing
- CP21 Student housing and Housing in Multiple Occupation
- DA3 Lewes Road Area

#### Brighton & Hove City Plan Part Two

- DM1 Housing Quality, Choice and Mix
- DM6 Build To Rent Housing
- DM9 Community Facilities
- DM11 New Business Floorspace
- DM18 High quality design and places
- DM19 Maximising Development Potential
- DM20 Protection of Amenity

DM22 Landscape Design and Trees  
DM26 Conservation Areas  
DM29 The Setting of Heritage Assets  
DM33 Safe, Sustainable and Active Travel  
DM35 Travel Plans and Transport Assessments  
DM36 Parking and Servicing  
DM37 Green infrastructure and Nature conservation  
DM40 Protection of the Environment and Health - Pollution and Nuisance  
DM43 Sustainable Drainage  
DM44 Energy Efficiency and Renewables  
H1 Housing Sites and Mixed-Use Sites

Supplementary Planning Documents:

SPD03 Construction & Demolition Waste  
SPD06 Trees & Development Sites  
SPD11 Nature Conservation & Development  
SPD14 Parking Standards  
SPD17 Urban Design Framework

## **9. CONSIDERATIONS & ASSESSMENT**

- 9.1 The main considerations in the determination of this application relate to the principle of the proposed development, the impacts of the proposed development on the visual amenities of the site and surrounding area, the proposed access arrangements and related traffic implications, air quality, impacts upon amenity of neighbouring properties, standard of accommodation, ecology, biodiversity, and sustainability impacts must also be assessed.

### **Principle of the Development**

- 9.2 Planning Policy Background
- 9.3 The site is located within the DA3 Lewes Road Development Area. A key aim of this strategic allocation is to further develop and enhance the role of Lewes Road as the city's academic corridor by supporting proposals which:
- improve further and higher education provision in the Lewes Road area;
  - facilitate improved sustainable transport infrastructure that provides choice, including travel by bus, walking and cycling;
  - secure improvements to the townscape and public realm;
  - deliver inter-connected green infrastructure and biodiversity improvements, contributing to Biosphere objectives;
  - improve air quality in the Lewes Road area; and
  - deliver the amounts of development set out in allocations within Part B of the policy.
- 9.4 The Melbourne Street Industrial Area is located to the east of the Lewes Road District Shopping Centre and is identified as being in need of investment in the supporting text to policy DA3.

- 9.5 The application site is allocated in City Plan Part One Policy CP3 as part of the 'Melbourne Street Industrial Area' allocation for employment-led (residential and employment) mixed use development. The allocated site comprises the application site together with the smaller adjoining site to the west at 19-24 Melbourne Street (development approved under application BH2019/01820). Along with the development under consideration at 123C Lewes Road (Machine Mart) under a separate application, it is considered that developing the entire CP3.4 strategic allocation as one development, albeit phased, would have the potential for a more coherent development that overall makes better and more efficient use of the wider site in principle. This is subject to details of the development as assessed within this report.
- 9.6 Policy CP3 identifies the Melbourne St Industrial Area for employment led (residential and employment) mixed use development. This policy seeks to safeguard sufficient employment sites and premises to support job creation and the needs of modern business whilst allowing some mixed use. The existing Enterprise Point application site has been in a dilapidated state for many years and therefore its redevelopment would be welcomed in line with its inclusion as a strategic allocation in Policy CP3.

Employment:

- 9.7 City Plan Policy CP2 'Planning for Sustainable Economic Development' supports the bringing forward of a mix of employment floorspace including the provision of small and medium sized, flexible floorspace and start up business space to support the city's key employment sectors. The employment space could support small businesses in the fast growing creative, digital and technology sectors. The principle of flexible working is therefore supported.
- 9.8 The wider employment role of the area in bringing forward employment floorspace is acknowledged in Policy DA3 through a number of strategic allocations and through the protection of existing industrial estates within the area.
- 9.9 The existing Enterprise Point building has a current use of Class E and sui generis space with employment space of 3,962m<sup>2</sup>sqm. The proposed co-working space on the ground floor level within two buildings would total 1,101.2m<sup>2</sup>, resulting in a net loss of approximately 2,850sqm of employment space. Improvements have been made to the proposed employment space since pre-application stage, with an increase of over 200sqm in provision, and an improved layout in a more prominent from the lower ground to ground floor location. This is likely to make it more attractive to users and is welcomed.
- 9.10 Paragraph 4.36 in the supporting text to policy CP3.4 sets out the factors that would be considered for permitting a net loss of employment space. They include:
- Site constraints including opportunities for more effective use of the site.
  - The need for environmental and townscape improvements
  - Access arrangements
  - Safeguarding the amenity of surrounding users and occupiers

- The quality of employment offer in terms of type of employment and density
  - Viability
- 9.11 The Council Economic Development team note that the building in its current form is dated, in poor condition and not best suited for modern business requirements, that and most of the site has been vacant for several years so does not contribute to the local economy. Previous applications have accepted that the current buildings on site are unsuitable for ongoing commercial use, and that given the age and quality of the Enterprise Point building, refurbishment would not be viable. A similar net loss (2,919sqm) of employment space was considered acceptable under planning permission BH2018/02751, with the present scheme contributing to the wider redevelopment of the site allowed under that. The redundancy of this building and the proposed level of employment floorspace provision is therefore considered acceptable here, and the regeneration of the site is welcomed in principle.
- 9.12 The permitted scheme (BH2019/01820) on the adjacent site included 587m2 of co-working floorspace within a development containing 83 single-occupancy co-living units. This proposed scheme would provide 941m2 co-working space with 410 workplaces created in the two new ground floor employment spaces. These workspaces comprise a mixture of desks, chairs at communal tables, sofas, and stools within ground floor level rooms.
- 9.13 The applicant has submitted a report by Oakley Property - 'Employment Space Viability & Office Market Review' dated October 2021 to address the issue of the employment floorspace provision. This report sets out the issues of the office market in Brighton following the COVID-19 pandemic (such as larger office spaces being difficult to let), and that it is accepted generally that there is significant uncertainty of how changing working models will impact on demand in the longer term. The report indicates that the proposed development optimises the use of the employment space and is of an appropriate size in this location.
- 9.14 The Council Economic Development team has confirmed that they welcome the provision of this flexible and modern workspace to help address the challenges faced by Small and Medium-Sized Enterprises who may find it difficult to find suitable and affordable workspace, and that the space could encourage entrepreneurship of graduates through the provision of the business start-up space which is envisaged within the flexible floorspace. It is noted that demand for such space, particularly within a co-living development where residents have limited space to work within their own residential accommodation, could provide a flexible way of working as changes in working patterns and greater homeworking opportunities continue. Overall, it is considered that the level of employment floorspace proposed is satisfactory in relation to the requirements in Policy CP3.
- 9.15 The proposed employment space would fall under the broad Class E (Commercial, Business and Service uses) within the current Use Classes Order. Therefore, a condition is required to restrict activities to E(g) in accordance with Policy CP3

- 9.16 The location is well located for high density development, with good access to local facilities and services (including health, recreation, schools and utilities), and being well served by public transport.
- 9.17 To secure local benefits from the development coming forward, an Employment and Training Strategy would be secured by legal agreement for each phase to ensure at least 20% local labour is used in the construction of the development and requiring a contribution towards the Council's Local Employment Scheme.

Co-Living Housing:

- 9.18 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 24 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. 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). 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).
- 9.19 The Melbourne Street Industrial Area is identified in the Strategic Housing Land Availability Assessment (SHLAA 2019) for an indicative 80 residential units. It was established during the determination of application BH2019/01820 that sui generis co-living accommodation can be counted towards the city's housing target. The contribution towards the target is calculated at a ratio of 1.8 co-living units to one housing unit, as set out in the national Housing Delivery Test guidance. The proposed 269 units would therefore equate to a contribution of 151 housing units.
- 9.20 The proposed development of the site would therefore contribute towards the target set out in CPP1 Policy CP1 as envisaged through the mixed-use allocation in Policy CP3 and there is therefore no objection in principle to some co-living accommodation on the site.
- 9.21 Further, policy DM6 of City Plan Part 2 relates to Build-to-Rent developments of which co-living is a variety which would provide professional and on-site management, and the application is considered to comply with this policy.
- 9.22 The applicant has set out analysis indicating that the proportion of young professionals and graduates in Brighton & Hove is higher than the national average. The residential co-living units proposed are aimed at a market for whom buying property is not an option. The proposed co-living is set out as



aimed at this segment of the population, and together with the well-known housing pressures in the city, the Council Planning Policy Team acknowledge that there would be demand for this type of housing product.

- 9.23 The type of occupation would be flexible, with short tenures available as well as long-term leases, and management of rentals is expected to be in-house which would reduce fees for renters. There would also be no utility bills and the use of the gym and other facilities including break out space, laundry etc would be free. Residential occupants would also be able to use the workspaces on the ground floor at no extra cost. Kitchen utensils, bed linen and cleaning services would be included in the rent.
- 9.24 Policy CP19 requires that proposals have had regard to housing mix considerations and have been informed by local assessments of housing demand and need. The applicant has referred to the site constraints which they consider means that the site is unsuitable for providing family accommodation such as providing suitable outdoor amenity space and off-site car parking. The flexible nature of the co-living units would provide an alternative type of accommodation to shared houses or flats. This is a material consideration and is considered to alleviate the lack of variety of accommodation in this development. The double occupancy nature of the units is noted and would provide an element of flexibility for future occupants. The lack of a housing mix to ensure full compliance with Policy CP19 within the scheme does weigh somewhat against the application, however given the significant benefits of the scheme elsewhere as set out in this report, this is not considered to be so significant as to warrant refusal of the scheme in this instance.
- 9.25 A suitable condition would be required to ensure that no full-time students including post-graduates and full time PhD students could live in the development and that the residential accommodation could only be used for the purposes set out in the application.
- 9.26 On this basis the principle of the housing to be provided on the site is considered acceptable and beneficial to the housing need in the City, which must be given weight in determining the application.

Affordable Housing:

- 9.27 The Housing Strategy team have referred to the pressing need for affordable housing as identified in the Affordable Housing Brief. Affordable housing in the city is usually provided by the council or by a Registered Provider partner who develops a mix of housing for affordable rent and shared ownership. Affordable rented housing remains the priority for the council with affordable rent capped at a maximum level of local housing allowance (including any service charges).
- 9.28 Policy CP3 states that for employment-led mixed-use sites, an appropriate mix of housing and provision of affordable housing will be required to comply with CP19 Housing Mix and CP20 Affordable Housing. Offsite provision via a commuted sum payment is an accepted policy position in schemes with exceptional circumstances. Whilst sui generis housing models do not strictly

have a liability for affordable housing provision, CP20 notes that affordable housing will be sought for all residential developments and it has been agreed that the co-living model contributes towards the city's housing target. As accepted under the approved application BH2019/01820, the co-living concept, the tenure and the nature of the units at this development do not lend themselves to nominations from the council's Housing Register, and therefore the provision of on-site affordable housing is not appropriate and a financial contribution towards off-site provision is considered an acceptable solution.

- 9.29 The applicant has agreed a developer contribution towards affordable housing. The applicant has agreed to a contribution to affordable housing notwithstanding that this new form of accommodation would not fit the template for attracting an affordable contribution on or off site. A commuted payment of £2.5 million has been proposed towards affordable housing in the city. This would be in the form a one-off payment which will be used towards the provision of affordable housing elsewhere in line with policy CP20. The basis for this calculation has been agreed with the Council Housing Strategy team and is considered to be acceptable and would be secured through a s106 legal agreement.
- 9.30 Alongside Phase I approved under application BH2019/01820, the co-living/ co-working scheme creates a new template for the development of such schemes and the take up of this type of accommodation. Many of the costs associated with rented accommodation are included such as bills and included is the provision of items such as bed linen and kitchen utensils with cleaning services included. Shared space and socialising to combat loneliness are listed as potential benefits of this type of housing.
- 9.31 In this instance it is understood that the housing provided will be managed by the owner, or an agent acting for the owner. The information provided with the application states that the length of leases will be flexible, so that tenants have a choice to fit in with their needs rather than having to commit to traditional year-long rental contracts. Usual fees associated with private renting would also not be applicable.
- 9.32 Overall, it is considered that the proposal would make an acceptable contribution towards the provision of flexible rented accommodation in the city and that in this instance the affordable contribution secured would weigh in favour of the scheme. The proposal is supported by the Planning policy team and by the Housing Strategy team conditional on securing the affordable housing contribution by s106.

### **Standard of Accommodation:**

#### Internal Layout:

- 9.33 Generally, it is considered that the ground level internal spaces appear well proportioned and locations of secondary elements such as bin stores, cycle stores, and plant rooms etc. appear successful. The proposed development would provide co-working spaces conveniently located at ground floor level, which appear well proportioned and benefit from high levels of natural light. The

provision of living space is proportionately distributed throughout the floors of the buildings. The opportunity for dual aspect communal kitchen/living spaces has been increased. The upper floor corridors are long and double-banked, but have end windows for natural light. The ground floor entrance lobbies appear to be generous in size that could accommodate seating/gathering space. The proposed floor levels are designed to be level with the Phase I development so that the corridors of Block A1 would link with the neighbouring development.

- 9.34 By the nature of the proposed housing typology, all studio-room units would be single aspect - i.e. have windows facing only in one direction. Single aspect units can present an inhibited connection with the outdoors, poorer natural daylight levels and a reduction in natural ventilation. However, in this case these are not self-contained units, and future residents would benefit from shared kitchen/lounge amenity spaces on each floor. Only a very small number of the studio-room units (in Block A1) are north facing. The submission indicates that all studio and co-living rooms offer capacity for a sky view within the room and, with effective internal arrangements, may afford residents good outlook. As such, proposals are considered to optimise aspect/outlook for this type of housing.
- 9.35 The proposals would provide a co-living/co-working development, where the residential studios are sized below the Nationally Described Space Standards (of 37sqm for a studio unit) with floorspaces ranging 22.2-26.2sqm with larger accessible studio rooms ranging 27.5-35.2sqm. However, these are not self-contained units and so residents would not be expected to be solely live within the studio room, but would have access to common kitchen/lounges on each floor, as well as the co-working and other amenity spaces including gym. Each studio room is designed for dual occupancy potential and would contain an ensuite bathroom and a kitchenette. It should be considered a similar scheme to that allowed under BH2019/01820 which formed Phase 1 of the wider redevelopment of the site, with a similar layout and arrangement. The proposal includes accessible units which results in 10% of studio rooms being accessible for persons with disabilities.
- 9.36 There would be some level of mutual overlooking between the windows and balconies of the proposed buildings. The degree of overlooking in this scheme is inevitable in a development of this density and overall, the scheme is considered to be acceptable in this regard. It is noted that the amendments to the siting and orientation of the building have improved privacy levels and minimised overlooking, and a condition is required for details to be submitted for balcony screening.
- 9.37 With regard to access standards, lift access is provided alongside each building staircase. The applicant has confirmed that the first floor garden spaces would have level access at first floor level from within the buildings.
- 9.38 The applicant's Fire Statement Technical Note states that the fire safety measures include 'a sprinkler system, smoke vented corridors, a high level of compartmentation, and a dry riser in each block, with full firefighting shaft in Block A'. As originally submitted, the Health and Safety Executive (HSE) during consultation raised concern regarding means of escape and fire service access.

Following amendments to the under-croft height (providing a 4m height clearance by lowering the ground level) and internal layout of Block A to include an additional staircase to the 5th, 6th and 7th floors, HSE welcomed the design modifications and have no further objection to the design, which will be considered further under later regulatory stages outside of planning control.

Outdoor Amenity Space:

- 9.39 CPP2 Policy DM1: Housing Quality, Choice and Mix states that all new residential development will be required to provide useable private outdoor amenity space appropriate to the scale and character of the development. Schemes should aim to provide private amenity space through balconies and/or garden space, as a sense of ownership of external space is important to any home but especially important to high density residential schemes such as proposed here.
- 9.40 The central courtyard appears to be considered to be a successful design in this regard between the blocks and would provide future residents with legible access to all entrances, as well as emergency vehicular access. The proposed first floor level roof terrace to the north would provide amenity space away from the likely more travelled central courtyard. The proposed eastern podium spaces would also provide quieter shared amenity spaces for residents with more focused landscape uses including food growth and communal gardening.
- 9.41 It is understood that the building will be always staffed, and that passive surveillance will be present throughout the day due to the entrance lobby located within the undercroft. Sufficient lighting would also ensure a welcoming and safe entry sequence here, details of which are required by condition.
- 9.42 Some private amenity space is provided to almost a third of the studio rooms facing into the courtyard via private balconies (85 no. in total). This is positive, however many studio rooms do not benefit from balconies as they face neighbouring sites which would result in harmful overlooking and loss of privacy. It is also recognised that there needs to be a balance between number of balconies in relation to internal daylight compliance. The balance of provision on balance is therefore accepted in this instance. Private use of some of the gardens will be required by condition to ensure that the amenity spaces do not become too highly pressured. Overall, it is considered that private and shared amenity space is acceptable.

Daylight/Sunlight:

- 9.43 The ratio of north-facing studio rooms is low, however the majority of studios are single aspect which limits the amount of possible internal daylight and natural ventilation. The updated results of the Sunlight/Daylight Assessment, following amendments to the scheme and further information provided, suggest that 245 of the 299 rooms (82%) would meet at least the living room 1.5% average daylight factor and half of the rooms would be able to meet both the annual and winter probable sunlight hours recommendations set out in BRE guidance. Most

of the studio rooms below the recommendations are located at first and second floor, which can be expected of high density, tall developments.

- 9.44 The submitted sun path studies of the external areas of the proposal raise some concern that the proposed external amenity areas and balconies would be subject to some shading during mornings and afternoons in both summer and winter, with limited sunlight in winter. This would be expected given that the outdoors spaces east of the site are narrow and close to existing and proposed buildings. The BRE suggests that ground floor landscape amenity spaces results would meet BRE guidelines. Overall, daylight/sunlight to the outdoor areas are considered acceptable given the constraints of tall development surrounding.

Noise:

- 9.45 Planning policy seeks to ensure that all new developments minimise the impact of noise on the occupiers of proposed buildings, neighbouring properties, and the surrounding environment. A Noise Impact Assessment has been submitted to address potential disturbance from nearby sound sources. The Assessment concludes that noise would be a low risk factor in this instance as the site is set away from Lewes Road. Measures to ensure appropriate noise levels within units can be secured by condition.
- 9.46 Taking all of the above into account, it is considered that the proposed development would provide an acceptable level of accommodation for future residents.

**Design and Appearance:**

- 9.47 Policy CP12 of CPP1 relates to urban design and states that development should provide high quality design, create a sense of place, conserve and enhance the city's built archaeological heritage and settings and achieve excellence in sustainable building design and construction.
- 9.48 Policy CP15 of CPP1 specifically relates to protection and enhancement of heritage assets and the city's aim to conserve and enhance the historic environment will be in accordance with its identified significance, giving the greatest weight to designated heritage assets and their setting.

Site Setting

- 9.49 The site context is mixed in character. To the east is a neighbourhood characterised by small scale low rise late Victorian dwellings typical of development in the Hanover and Elm Grove ward extending up the side of the valley. The dwellings on Shanklin Road comprise part 2/3 storey terraced dwellings built into the slope facing directly onto the site with compact rear gardens. Opposite the north-east corner of the site is 29 Shanklin Road, a former dye works building was converted into 19 flats and studios in the late 1990's. The west flank of this building has its original windows facing directly onto the application site on the boundary itself. Some of these flats have a single aspect

onto the current open car park of the site whilst others face north onto the cemetery or front Shanklin Road. Some corner units have both west and south-west facing windows on the splay.

- 9.50 To the north, the main constraint is the historic Woodvale Cemetery gardens featuring a large mature tree belt which overhangs the site. Viaduct Lofts, opposite the site on Melbourne Street is part 3, 4 and 7 storeys. Some of the flats face east to the site and have balconies. Viaduct Lofts was built in 2012 on the site of a former builder's yard having been allowed on appeal. The remainder of the character of Melbourne Street south of the site features small scale two storey Victorian terraced dwellings.
- 9.51 The south boundary of the site adjoins the playground of St Martin's Primary School but the school buildings are set back further to the south, accessed from Hartington Road. One other adjoining building to the south is Gladstone Court, a 4 storey late 20th century residential block of flats which has an east-west outlook.

Site Layout:

- 9.52 The buildings on site are of no architectural or historic merit and the demolition of existing is considered acceptable in principle.
- 9.53 Historically the site was formed part of the railway viaduct on the line which served Kemp Town. The proposed development would increase the footprint of development significantly on site by developing close to the east and west site boundaries. The existing Enterprise Point building is set significantly back from Melbourne Street, whereas the proposed layout would provide a street frontage building in this section of the street. This, however, would enable well orientated buildings and external spaces, including the creation of a south facing external courtyard.
- 9.54 The proposed site layout has been shaped by pre-application advice to generate improvements to the legible routes and the frontages, and it is considered that the resulting layout responds well with the provision of communal amenity spaces, a legible frontage and public realm to Melbourne Street, and consideration of a coherent visual character between all the phases of development across the wider site. Car parking access and spaces provided are well located to north of the site, and therefore separated from the pedestrian routes and amenity spaces in order to generate a more pedestrian and cycle friendly environment, which is welcomed.
- 9.55 There would be a separation distance of 14.3m between the western frontage of Block A and Viaducts Lofts on the opposite side of Melbourne Street, an increase of 0.3m agreed as amendments to the scheme during the application process. The heights of the existing and proposed buildings here create a somewhat enclosed feel to the street environment, however it is considered the separation distance is comfortable enough and typical of the area's neighbouring tall buildings.

Form/Scale/Massing:

- 9.56 The scheme falls under the City Plan definition of 'tall buildings' in Policy CP12. Although the site does not lie within an area specifically identified as suitable for significantly taller buildings, there are a number of tall buildings within the vicinity of the site. On this basis, it is considered that taller developments would not be resisted on this site.
- 9.57 The current mid 20th century Enterprise Point building has a large footprint centred in the middle of the site but it does provide a larger open area around three sides of the site which mitigates its height and the resulting impact on the urban form and its neighbours. The exception is the eastern side of the site where the building line is much closer to the east boundary.
- 9.58 Following concerns regarding the proposed 6-8 storey height against Melbourne Street appearing overbearing, during the application process, amendments were made to reduce the lengthy 8 storey frontage of Block A with the part removal of 8th storey in the corner of Block A fronting Melbourne Street on both west and south wings. The amendments also included a slight set back of Block A building from Melbourne Street by a further 0.3m, and the introduction of a mansard roofline on the top storey placed slightly back from the front elevation (which is more of a perspective change than significant setback from elevation).
- 9.59 The proposed development would have a more substantial impact on the character of the generally small-scale Melbourne Street streetscene. Viaduct Lofts at 7 storeys maximum does step down in height along its north and east frontages to reflect the more domestic scale in the streetscene particularly on Melbourne Street and this also has the effect of reducing its bulk in townscape views. The proposed massing against Melbourne Street is considered successful and appropriately scaled. The Council Urban Design Officer has highlighted that the street-scene has now been well considered in the context of what exists, as well as appropriate context with the proposed phasing of the wider development site around Enterprise Point and along Melbourne Street (including against the approved 6 storey at 19-24 Melbourne Street).
- 9.60 Following pre-application advice, the massing and heights of buildings across the site has taken into account the neighbouring context and is considered to respond positively to the prevailing urban context. The increase of height of Block A has allowed for the blocks to the east to be all lowered to 6 storeys which is welcomed to reduce the impact on direct neighbours along Shanklin Road.
- 9.61 The six storey heights of Blocks B, C and D are sympathetic to heights of adjacent Shanklin Road properties, remaining below the roofline of these properties in elevation. This is a significant improvement over the previous application BH2018/02751, which had proposed 8-storeys in the north-east corner of the site, and which was refused partly on the grounds of its "overbearing nature" to Shanklin Road. The proposed heights of the buildings broadly align with that of the existing building, and the greater height of part 8 storey of Block A is considered appropriate in the north-west corner as this

minimises impact on neighbouring amenity. The character and nature of the site and area is such that the proposed blocks would sit appropriately in this context.

- 9.62 The proposed single storey connecting part across the northern site boundary is considered successful in generating a defined edge to the courtyard, but reducing the sense of enclosure and still enabling open views of the existing mature tree canopy from the courtyard.

Impact on nearby Heritage Assets:

- 9.63 CPP2 Policy DM29 states that 'Development within the setting of a heritage asset will be permitted where its impact would not harm the contribution that setting makes to the asset's significance, by virtue of the development's siting, footprint, density, scale, massing, design, materials, landscaping or use.'
- 9.64 To the immediate north-east of the site is the grade II registered park and garden of Woodvale Cemetery, with the conjoined Gothic chapels being grade II listed, as well as some of the monuments within the site and the North Lodge in the entrance driveway (a short distance from Enterprise Point) also grade II listed. The Extra-Mural Cemetery further to the north (which is a locally listed heritage asset). The proposed Block A1 would rise above the height of the tree canopy in between the development site and cemetery, and due to its scale and proximity would have some impact on the setting of the cemetery and North Lodge. The impact here is considered to be minor by the Council Heritage Team, and is further reduced by the amendments to the reduction in height of part of the Block A building at the western and southern ends. In addition, design and materials amendments have been made to the top floors, including Block A.
- 9.65 A significant constraint further to the west rising up the west side of the Lewes Road valley is the Round Hill Conservation Area which is a largely residential late-Victorian area notable for its long terraces of houses on rising ground. Two of the groups of formal mid-Victorian terraces in Round Hill Crescent are grade II listed, including numbers 101-113 at the north-east end. The scale, height and proposed materials of the proposed development have been required to take account of the setting of the conservation area from within the Round Hill area and in longer views across the valley from east of the site. Following amendments to the scheme, the heritage harm between the development and the conservation area (including the listed buildings at 101-113 Round Hill Crescent) is considered reduced. The Heritage Team have stated that the submitted viewpoints from the conservation area show that more of the tree canopy would now remain visible above the development and the 7th floor would better blend into the background. In the view towards the conservation area from Shanklin Road, the reduction in the footprint of the 7th floor at the southern end is considered to now fully overcome the previously identified harm to the settings of the heritage assets.
- 9.66 The Heritage Team highlight that despite improvement elsewhere, there remains a minor impact from the viewpoint from Round Hill Crescent (the view of visual gap of 'breathing space' between the development and the listed building at 113 Round Hill Crescent from this location). However, given the improvements



to the heritage harm overall, it is considered that the proposed development would not have a significantly detrimental heritage impact.

Appearance, Detailing and Materials:

- 9.67 There is clear intent to achieve visual cohesion with the approved Phase 1 on Melbourne Street and this approach is strongly supported. This includes the use of arched ground / first floor apertures (reference to the historic viaduct) which would be slightly narrower in proportions to that of the approved Phase I which would provide some diversity within the elevations.

The primary material would be brown brick (with secondary whiter shades) in keeping with more recent development along the Lewes Road corridor, as well as the Phase I development on the western adjoining site. The elevations feature strong architectural features and a depth to the elevation featuring concrete banding, brass coloured window/door frames, and white window panels, The metal clad top floors with a standing seam would contrast well with the brickwork on the floors below.

- 9.68 The proposed arched entrance to Block A fronting Melbourne Street is located strategically for long views and would generate a strong sense of arrival to the site. Additional windows have been introduced into the North façade of Block A at ground floor which is likely to improve passive surveillance over the undercroft.
- 9.69 Overall, the materiality proposed is considered acceptable and is seen to be complimentary to that which exists and the approved Phase I. Some of the visuals indicate public artwork to the entrance walls of Melbourne Street. A contribution will be secured towards public art, in accordance with policy.

Landscaping:

- 9.70 The character of Melbourne Street would be significantly improved by incorporating street trees and ground planting alongside more controlled parking arrangements, an overall improved pedestrian environment and improved surface materials. The landscape proposals within the main site area are considered to have developed successfully and include varied levels and locations which provide different character areas and potential functionality for future residents. The Council Urban Design Officer has highlighted that the indicative planting palette appears diverse and appropriate to environmental conditions in each area, with a drainage strategy includes some SUDS features including blue / green roofs and rain gardens in strategic locations which will both attenuate and filter pollutants from surface water runoff.

Impact on Trees:

- 9.71 Policy CP10 of Brighton & Hove City Council's City Plan Part One states that all development proposals should conserve biodiversity, protecting it from the negative indirect effects of development; provide net gains for biodiversity wherever possible, taking account of the wider ecological context of the

development and of local Biosphere objectives; and contribute positively to ecosystem services, by minimising any negative impacts and seeking to improve the delivery of ecosystem services by a development. Policy DM37 of the City Plan Part Two states that development proposals will be required to demonstrate that they safeguard and/or contribute positively to the existing multifunctional network of Green Infrastructure.

- 9.72 The site currently comprises buildings and hard standing with little in the way of vegetation, and is therefore of relatively low ecological value. The main ecological significance is the impact on the belt of trees on a step bank to the north which create a significant backdrop to the site and grow over the site from the cemetery land forming part of Woodvale, Extra-mural & Downs Cemeteries LWS with extensive evergreen spindle, consisting mostly of elm and sycamore mature trees. Some of these trees overhang the car park of the existing site.
- 9.73 The proposed development would require the removal and pruning of some trees along the northern boundary and within the LWS. The submitted Arboricultural Impact Assessment and accompanying Tree Constraints and Protection Plans set out the following detailed proposals:
- removal/partial removal of 13 tree/tree groups (G67, T72, T76, T77, T80, T81, T94, T95, T96, T97, T102, T103)
  - pruning of 6 tree/tree groups (T73, T82, T83, T87, T90, G93)
  - all tree works to be completed before the development begins
  - arboricultural supervision during construction for T70, T73, T82, T87, T90, G93
  - retention (with no pruning) of 18 tree/tree groups
  - planting of at least 8 replacement trees (separate from those in the planting scheme)
- 9.74 The proposals have identified the existing trees to be removed which are mostly rated Grade C, along with three Grade B, and three Grade U trees. No Grade A trees are to be removed. The trees are sited within the crematorium but are growing and leaning over the site boundary. The most important trees on the northern boundary would be retained. There are no objections to the removal of other more low-quality specimens on the site.
- 9.75 There are concerns about potential impacts of the development on the existing canopy and root system of the northern tree belt. The Arboricultural Team have raised concern about the level of pruning set out in the submitted Arboricultural Impact Assessment and the impact on tree health. This is a similar situation to the trees proposed to be removed and/or pruned as approved under the development at the adjoining site immediately to the west (BH2019/01820). As with the proposed tree works on this neighbouring site, this affects a tree belt that is visible from longer distances and trees form an important woodland landscaped avenue inside the historic setting of the crematorium entranceway, and so the amenity level here is high. However, retaining all of the trees and/or replacing them on site would result in significant impact on the site layout, design of development and quality of accommodation provided so a planning balance must be struck, retaining the most important trees and removing/pruning those of less benefit.

- 9.76 The impact on the individual trees would be harmful and replacement planting and maintenance would be required to mitigate the harm. Whilst the impact on the individually identified trees is regrettable it should be seen in the context of the whole tree belt, and which would be subject to a management scheme to the impacted parts. Any works to trees overhanging the site could be carefully managed under supervision and could be covered by a planning condition. A significant number of trees are proposed within the development including along Melbourne Street, and a condition will require an assessment of whether the northern tree belt can accommodate any replacement trees (as per the planning approval at 19-24 Melbourne Street). The harm caused to the tree belt would need to be weighed up against the mitigation within the scheme and the overall benefits of the scheme in reaching a recommendation.

Ecology/Biodiversity:

- 9.77 The existing site buildings (including the one now demolished) has been assessed for bat roost potential and considered to have low levels of activity. The submitted Bat Survey Report recommends a precautionary approach to the demolition of Enterprise Point, and bat mitigation would be required within a Protected Species Method Statement (Biodiversity Method Statement) secured by condition. Artificial light can negatively impact on bats by causing disturbance, affecting feeding and increasing chances of being preyed upon. The County Ecologist has highlighted that the north of the site is dark at night, and so a sensitive lighting strategy to avoid light spill onto the LWS is required by condition. Some of the mature elms on the north boundary have the potential to support roosting bats, and following comment from the County Ecologist, the applicant has submitted a Preliminary Tree Roost Assessment which identified two trees as having moderate roosting potential. A Preliminary Roost Feature Inspection/emergence/re-entry surveys are required by condition to determine presence or absence of bats. A precautionary approach to the removal of the other trees with low roosting potential and associated mitigation measures should be detailed in the Biodiversity Method Statement required by condition.
- 9.78 The County Ecologist has also highlighted that the site and adjacent woodland/LWS have potential to support breeding birds. To avoid disturbance to any nesting birds, demolition or removal of scrub/trees that could have nests should be carried out outside the breeding season or a nesting bird check should be carried out prior to any demolition/clearance works. All bird mitigation should be set out within the Protected Species Method Statement required by condition. This will also require mitigation for other species that may be supported in the adjacent woodland/LWS including dormice, badgers, hedgehog and slow worm.
- 9.79 Conditions are required to ensure protection of trees during construction and a sensitive lighting strategy to avoid light spill onto the LWS. A CEMP is also required by condition to provide mitigation in respect of noise, light and dust pollution during construction.
- 9.80 Policy DM37 states that development should seek to conserve and enhance biodiversity ensuring an additional measurable net gain in biodiversity is achieved, and should incorporate swift boxes and bee bricks where possible. The

submitted Preliminary Ecological Appraisal recommends the use of bird/bat boxes installed on trees or incorporated into building design and landscape planting. Given the loss of 13 tree/tree groups that provide both potential current and future roosting habitat, the County Ecologist recommends that at least 4 general purpose bat boxes are installed. Details of proposals are required by condition as part of an Ecological Design Strategy.

- 9.81 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 bees. A condition requiring bee bricks has been attached to improve ecology outcomes on the site in accordance with the Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
- 9.82 In terms of biodiversity net gain, the proposals includes new/replacement trees, various planting types, over 2000m<sup>2</sup> of external green landscape and gardens split in to 5 different zones, biosolar roofs between 5th-7th floors including green roofs providing chalk/flower rich grassland habitat. The aforementioned proposals for bird/bat boxes will also provide opportunities for further net gain. The landscape strategy proposed indicates that biodiversity net gains are likely to be achieved. Full confirmation for addressing enhancement of the site to provide biodiversity net gain is required as part of an Ecological Design Strategy required by condition.

**Impact on Amenity:**

- 9.83 Policy DM20 of City Plan Part 2 states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 9.84 The site is relatively constrained on most sides due to the proximity of neighbouring properties, and so it is expected that there would be some impact arising with a tall building development on this site. However, a tall building already exists on the site, and if the site was used to its optimum capacity as existing, there would likely be a greater impact on neighbours than the present proposal. Following mitigation in the design of the proposals, including amendments during the application process, the proposals are not considered to cause significantly more harm to neighbours than the existing. From the design development, it is evident that the proposals have carefully considered how the tall buildings respond to their neighbours and mitigation measures such as redistribution of height to more appropriate areas of the site, increasing window distances, consideration of location of balconies and orientation of buildings are all welcome.
- 9.85 The applicants have carried out a daylight/sunlight assessment of neighbouring developments which take account of the impact on neighbouring residents in Shanklin Road, Viaduct Lofts and dwellings in Melbourne Street as well as Gladstone Court, Gladstone Place, Hartington Road and St Martins Primary

School to the south. The assessment has been peer reviewed by the Building Research Establishment (BRE) for the Local Planning Authority.

Shanklin Road:

- 9.86 The existing Enterprise Point building is 6 storeys, and its upper floors currently dominate the outlook of most of the rear of dwellings in Shanklin Road opposite. Currently Nos 11, 13 and 15 do, however, enjoy an uninterrupted outlook from their rear windows between Enterprise Point and Gladstone Court whilst No.17 has a partially obscured outlook. West facing windows in No 29 Shanklin Road at the north end of the terrace currently have no obstructions affecting their outlook to the parking area whilst some units have south west facing windows on the south west splay of the building which face the current building.
- 9.87 No.27 faces onto the current building with a separating distance of 18.5 metres but currently benefits from an indirect outlook to the north west onto the car park aided by the splayed corner of No.29. As previously referred, the proposed six storey heights of Blocks B, C and D are sympathetic to heights of adjacent Shanklin Road properties, remaining below the roofline of these properties in elevation. The building line of block C would align with the building line of the existing building and its height would be set below the existing building. However, proposed block D is closer to Shanklin Road and Block B would sit further north than the existing building. Block C would be approximately 17m from the rear of Shanklin Road properties, and Block D has a separation distance of approximately 15m. As such, there will be a change experienced by residents of Shanklin Road properties as a result of proposed massing.
- 9.88 However, it should be highlighted that the proposed design would reduce the ratio of glazing on the eastern elevation compared with the existing, the height aligns with the existing 6 storeys (and shown to be set lower than existing overall), and no balconies are proposed along the eastern facade directly facing Shanklin Road. Following consultation comments from the Council Urban Design Officer, the applicant has sought to improve the relationship here further with obscured glazing and use of angled windows to reduce overlooking and privacy concerns, and the introduction of a mansard roof to setback and angle the top storey away from the site boundary in order to further reduce any sense of overbearing development.
- 9.89 The flats at no. 29 Shanklin Road are located directly north-east of the site and have been converted from commercial use so the windows appear large which would help rooms within retain daylight. Loss of sunlight would not be an issue here as the majority of the windows on the relevant façade face north of due west, and the southerly windows would not be significantly affected. The results of the submitted sunlight/daylight analysis indicate five ground floor windows (of the 43 analysed) would be below the vertical sky component (VSC). The applicant has highlighted that no. 29 Shanklin Road has windows directly on the site boundary and so a loss of light could be expected. Two rooms (one on the ground floor and one on the third floor) would be below the daylight distribution guideline, and the BRE consider this as a minor impact.

- 9.90 The most impacted properties on Shanklin Road in terms of sunlight/daylight would be nos. 11, 13 and 15 due to the proximity of Block D built between the current gap between the existing Enterprise Point building and Gladstone Court to the south. The BRE review indicates a minor impact to daylight these properties, and loss of sunlight to gardens at 7-27 Shanklin Road would be assessed as negligible.

Viaduct Lofts and Melbourne Street:

- 9.91 Viaduct Lofts is to the west of the development site on the opposite side of Melbourne Street and includes a three storey element to the south and a seven storey block of flats to the north. East facing windows in Viaduct Lofts would be affected by the proposed development due to the proposed development being opposite the 7-storey element of the building. The proposed Block A would be set slightly higher than the existing Enterprise Point building, and more significantly, would be set further forward so that there would be a 14.3m gap between buildings either side of Melbourne Street. During the application, amendments to Block A included removal of 8th storey in the corner of Block A fronting Melbourne Street on both west and south wings, and a further set back of Block A building from Melbourne Street by 0.3m, as well as the introduction of a mansard roofline which provides some relief to the top storey. Residents of facing units of Viaduct Lofts would suffer from some loss of privacy and overbearing impact due to the proximity of the development, however given the prevailing tall building street frontage, including that of the approved development at 19-24 Melbourne Street and Viaduct Lofts itself, it is considered that some impact here would be expected from redevelopment of this allocated site.
- 9.92 The applicant daylight/sunlight assessment on the revised scheme suggests 30 windows of Viaduct Lofts would be below the VSC guidelines and 15 rooms below the daylight distribution guideline. The BRE consider the impact to be slightly improved compared with the application as originally submitted, but the impact on the eastern façade of Viaduct Lofts would still be substantial. However, this has to be viewed within the context of the constraints of the site and its context. Viaduct Lofts is a tall development itself, with windows located right up against the pavement, and although this is different to the situation with 29 Shanklin Road (as there is a road in between sites), the nature of the height and proximity of Viaduct Lofts to the street frontage, along with rooms with in some cases deep single aspect rooms and provision of balconies, means that frontage development of any reasonable height would have some significant impact on the sunlight/daylight of Viaduct Lofts. It should also be acknowledged that the development site is allocated for redevelopment, and if the site was to not include a Melbourne Street frontage building, then this would not make an efficient use of the site, would have a detrimental impact on the quality of accommodation, the viability of the redevelopment, or move the impact elsewhere, onto other neighbours.
- 9.93 The site is located on a narrow street and it is recognised that in a historic street within a higher density urban grain, privacy expectations are lowered and achieving greater separating distances is not practical. In terms of privacy and overlooking, the relationship of facing dwellings will not be dissimilar to those on the same street around the corner to the south where the terraced houses in

Melbourne Street face each other. It is considered that the separation distances are not dissimilar to the surrounding area given the sites urban context, and in some case better than the distance between Viaduct Lofts and the approved Phase I development. Overall, given the constraints of the site, and the benefits of the scheme in terms of making beneficial use of the site and the wider development area, it is considered the sunlight/daylight impact on Viaduct Lofts would not sufficiently justify a reason for refusal in the planning balance.

- 9.94 No 10 Melbourne Street to the south is separated from the development site by the school playground with its side elevation facing north with no windows. The sunlight/daylight assessment suggests there would be a minor impact to daylight at 10 Melbourne Street to the south of the site (with one window below the VSC), and at other properties on the street the guidelines would be met.

St Martins Primary School and Gladstone Court:

- 9.95 The existing Enterprise Point building as a commercial building, with large windows which overlook the school at present resulting in a perceived and actual loss of privacy. The proposals have been designed with consideration of placement of buildings, windows and balconies to minimise harmful views towards the school, and given the existing arrangement, the proposed impact here is not considered significant. The school buildings are set well back from its north boundary and given the current height of buildings on the application site and relationship to the boundary, daylight issues would be very limited by the site's redevelopment, and the impact is assessed by the BRE as minor. Concerns have been raised during public consultation by residents regarding construction works and the impact of dust, noise and traffic on the use of the school and the playground in particular. The applicant has submitted an outline document of consideration of these issues with a review of construction and demolition with the school playground. A CEMP (Construction Environmental Management Plan) is required by condition to ensure disruption is minimised as much as possible during construction of the development.
- 9.96 Gladstone Court is directly to the south of the eastern portion of the development site. It is orientated east-west with only minor windows on its north end thus it was anticipated that significant daylight issues would not arise from the redevelopment of this site. The BRE consider the impact to be minor to one bedroom window and a moderate impact to 2 no. kitchen windows, which is not considered so significant an impact as to warrant refusal of the application.

Gladstone Place and Hartington Road:

- 9.97 The sunlight/daylight assessment indicates that properties analysed at Hartington Road further to the south would meet the BRE guidelines. Gladstone Place is located to the north further away from the development site than other impacted neighbouring properties, with nos. 10 to 26 (evens) analysed suggesting a minor daylight impact is deemed likely.

Noise Impact:

9.98 The co-living rented units would be managed on site so that amenity issues could be addressed immediately under a management plan with sanctions for anti-social behaviour. Thus, more noise control would be possible in the proposed development than from any other buildings nearby, and in a similar situation to that of the approved Phase I development. Concerns about potential noise issues have been raised, and it is considered that the management of amenity areas would be controlled by condition. The provision of formal loading facilities would also improve the congestion and unauthorised parking in the street which can sometimes be a catalyst for noise and disturbance. During construction, a CEMP provided by condition can ensure there is no undue noise or disturbance, or traffic disruption.

#### **Sustainable Transport:**

9.99 National and local planning policies seek to promote use of sustainable modes above use of the private car. Policy CP9 directs significant development into sustainable corridors such the DA3 Lewes Road strategic location. In accordance with paragraph 109 of the National Planning Policy Framework, development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. The NPPF states that the use of sustainable modes of transport should be pursued (paragraph 102).

9.100 Melbourne Street is characterised by being a narrow one-way street in a horseshoe shape with an entrance and exit onto the A270 Lewes Road which forms part of the local strategic road network. Melbourne Street provides direct access to the existing Enterprise Point site and other residential and commercial uses and St Martin's Church of England School. The road is in a Controlled Parking Zone with a mix of double yellow lines, resident permit and short stay pay and display parking. The site is located near to Lewes Road which is a key transport route into the city and benefits from ample bus services with a bus stop at the end of Melbourne Street, and direct access into the city centre, and train services. The site falls within an area where parking restrictions are in place. The existing site includes a car park, and suffers from poor pedestrian environment particularly around the northern section of Melbourne Street.

9.101 A Construction Environmental Management Plan (CEMP)/Demolition Environmental Management Plan (DEMP) is recommended to be conditioned. This would seek to address concerns about safety, amenity, noise and traffic during construction.

#### Site Access:

9.102 The proposed development has a pedestrian- and cycle-only access road (with the exception of emergency vehicles) which connects Melbourne Street with the site's internal pedestrian/cycle-only internal courtyard space. The proposal includes the widening of the eastern footway on Melbourne Street to provide space for an inset loading bay. The development proposes an undercroft car park with a new access into the car park provided from Melbourne Street. The LHA has accepted the additional swept path analysis provided by the applicant in response to consultation comments.



### Servicing/Deliveries:

- 9.103 The applicant proposes to widen the footway on Melbourne Street and provide an inset loading bay which would accommodate delivery trips generated by the proposed development and refuse/recycling collections. Access management measures including communal post rooms provided at the entrance lobbies are in proposed to consolidate delivery trips where possible. A Delivery and Servicing Management Plan (to manage and monitor deliveries generated by the co-living and co-working uses effectively and efficiently) and details of inset loading bay, as well as proposed Melbourne Street improvements, are required by condition/s106.

### Vehicle Parking

- 9.104 The applicant proposes that residents shall not be permitted to apply for permits or visitor permits, and the terms of the tenancy will prohibit this, with residents to advise visitors of the car-free nature of the site and encourage alternative modes of travel. However, the terms of the tenancy cannot be controlled under the planning application, and so the site still has the potential to result in overspill parking onto surrounding residential roads. The site is located in a Controlled Parking Zone (Zone V) which will mean demand for parking is already managed, and double yellow lines restricting parking on surrounding streets. The site is also in a sustainable location and as such occupiers would not be solely reliant on car travel to meet their day-to-day needs. If necessary, parking permits for residents of this development could be restricted through processes separate to planning. The comments from National Highways are noted, which requested a condition restricting parking permits to occupiers. As the issuing of permits is beyond the remit of the Local Planning Authority, the informative advising the applicant that the Local Highway Authority may restrict permits to residents is attached.
- 9.105 Further, measures in the Travel Plan including the use of the car club cars and bays to be secured by condition would also further increase travel by sustainable modes. The BTN Bikeshare hub with 10 bicycles would be secured through S106 agreement.
- 9.106 The site is located within a Controlled Parking Zone and this proposed development is intended to be car-free. However, there would still be the potential for visitors to the development to create demand for nearby on-street parking and residential parking bays. The submitted parking surveys show there is limited but enough spare capacity locally to accommodate the demand from the residential visitors, and identifies that 40 to 41 unrestricted parking spaces are available during daytime periods within 500m distance from site. In addition to this, between 36 and 37 pay and display (maximum of 4 hours) parking spaces are also available during daytime hours.
- 9.107 The very nature of the co-living and co-working concept reduces the need to travel and is more sustainable than a typical flatted development. Amenities proposed within the scheme such as gym, and laundry areas (as well as the café approved

within Phase I of the wider site scheme) would further reduce the need to travel outside of the development which would assist in creating and maintaining a sustainable neighbourhood in accordance with Policy SA6 'Sustainable Neighbourhoods' of the City Plan Part One. More so, the site is also located within a very short walking distance from a range of established local facilities and services on the Lewes Road. It is therefore considered that in this instance, any potential harm would be outweighed by the public benefits that would be generated through the delivery of this development.

- 9.108 A total of 15 parking spaces are proposed at ground floor level comprising 8 no. disabled parking bays, 4 no. electric car club bays and 3 no. allocated parking bays (which are subject to legal covenant and retained for existing use). The parking provision and layout is considered acceptable.
- 9.109 SPD14 advises that at least 10% of the car parking provision should have electric charging facilities, whilst at least a further 10% should have 'passive provision' allowing for their easy future conversion. Four car club bays (with electric cars) and active electric vehicle charging provision (EVCP) for all four are proposed for the proposed development. Provisions for electric charging provision for scooters/e-bikes are required by condition.

#### Cycle Parking:

- 9.110 The proposals do not incorporate a segregated cycle lane within the site, however the site layout provides an improved pedestrian and cyclist friendly environment to that of earlier applications and pre-application versions. The proposed cycle storage would be at ground level and easily accessed via the central courtyard, which would prioritise and promote active travel.
- 9.111 There are two cycle stores proposed at ground level within the application site: one at the south-eastern corner of the site, accessed from the courtyard and one at the north-eastern corner of the site access from the car park. The applicant proposes a total of 280 cycle parking spaces, mostly of which are proposed to be provided within the onsite communal cycle parking store. As part of design amendments to the scheme, the applicant also proposed an additional 24 additional short-term spaces within the ground floor external area for visitors and co-workers, using Sheffield Stands. Whilst the proposal exceeds the policy compliant cycle parking quantum, the quality of cycle parking type is not considered fully accessible for all (over reliance on two-tier stands), and therefore further details of design are required by condition to ensure appropriate level of provision of Sheffield stands for larger bicycles (recumbent bicycles and cargo bikes).
- 9.112 Further to pre-application advice by the Local Highway Authority, it was agreed that a provision (10 spaces/bikes) short-stay cycle parking provision could be provided in the form of the BTN Bike Share docking station and the remaining could be delivered in the form of Sheffield stands (i.e. 5 in the on-site public realm). Further details are required by condition and secured within the s106. Electric charging and parking provision for bicycles (of different sizes), scooters and electric bikes is also required by condition.

### Trip Generation:

- 9.113 The applicant provided multimodal trip generation information within the submitted Transport Statement. The existing trip generation sets out that the existing site when operational the site generated 109 trips, 85 trips and 884 trips in the morning, evening and across the day respectively. Further to additional information provided, the net change trip generation suggests the proposed development would result in 50 and 31 additional trips in the AM and PM peak hours respectively, with the majority of these trips expected to be on foot, train or bus. The Local Highway Authority expects that some of these trips would be by car (given the Blue Badge and Car Club spaces proposed), however as the on-site parking provision is low, the number of trips is expected to be negligible. The forecast increase in trips during the AM and PM peak hours is expected to have a non-material impact. Furthermore, the applicant has clarified that the trip generation is expected to be less for the proposed development, given that there is expected to be internalised trips between the proposed co-living/coworking uses.
- 9.114 Overall, it is considered that the proposed development would not have a material impact on the surrounding highway network. The impact on air quality is addressed separately within this report.

### **Sustainability:**

- 9.115 City Plan policy CP8 requires that all developments incorporate sustainable design features to avoid expansion of the City's ecological footprint, radical reductions in greenhouse gas emissions and mitigate against and adapt to climate change. The applicant has submitted a Sustainability and Energy report and other related information.
- 9.116 The submitted Design & Access Statement sets out a site-wide renewable heat and energy strategy including a considerable solar PV array on the roofs of all proposed blocks, and air-sourced heat pumps for heating and hot water. The Design and Access Statement refers to Building Management Systems to be incorporated to monitor energy and water usage, and information and that facilities will be in place to encourage residents and workers to reduce their energy and water consumption. The Council Urban Design Officer considers the compact and simple form of the proposed buildings would generate a low heat-loss form factor, reducing potential CO<sub>2</sub> emissions by improving heat retention. It is noted that there is a low ratio of north-facing studio rooms, and as such the overall reliance on mechanical environmental systems is likely to be significantly reduced. The Urban Design Officer has highlighted that the buildings would be insulated with optimised glazing/wall ratio (balancing between daylight and heat loss), and that insulation is proposed on the outside of structural elements, which is supported.
- 9.117 Water standards shall be secured by condition to addresses policy CP8 requirements. A further condition is proposed to secure a BREEAM rating for the non-residential element of the scheme.

## **Other Considerations:**

### Air Quality:

9.118 The site is not located in an Air Quality Management Area (AQMA), however the AQMA is located nearby to the west on Melbourne Street and along Lewes Road. Section 3.4 of the submitted Air Quality Assessment states that a detailed assessment on operational impacts is not required on the basis vehicle trips generated by the proposed development will be low, and the proposal will result in a reduction of vehicle trips on the network (when compared with the existing office site), as set out in the trip generation of the submitted Transport Assessment. The proposed development is proposed to be 'car-free', with the exception of Blue Badge parking and car club cars, so it is expected that vehicular traffic trips generated by this development is to be relatively low. The proposed development is therefore considered not to add sufficient traffic to warrant a detailed air quality assessment. On the grounds of air quality there is no objection to the proposals.

### Archaeology:

9.119 The applicant has submitted a desk-base archaeological assessment that indicates that given the historical construction on the site, the potential of the site to contain in-situ below ground archaeological is low. The County Archaeologist broadly agrees with the assessment, however, has highlighted that the assessment also identifies some potential for deposits of at least local significance to be exposed/disturbed. Therefore, it is recommended that the proposed construction works be subject to a programme of archaeological works which would be secured by condition.

### Sustainable Drainage/Flood risk:

9.120 The submission sets out an outline SUDs strategy that has the potential to be well integrated with the landscape proposals, including green and blue roofs and rain gardens. The intention to integrate the drainage strategy with the landscape proposals are a welcome part of a landscape-led approach. Full details of the surface water drainage strategy are required to ensure SUDS features are key components.

9.121 The site is understood to be situated immediately adjacent to surface water flow paths along Melbourne Street, and parts of the site itself are at low risk of surface water flooding. The Council Flood Risk Officer has stated that the site is not considered at significant risk from any other sources of flooding. Recommended conditions can adequately deal with any future flood risks in accordance with development plan policies. The applicant should obtain approval from Southern Water for connection and discharge to the foul water network.

### Land Contamination:

- 9.122 The previous use of the site, as former railway land and adjacent to a number of former industrial activities, is deemed by the Environment Agency to present a medium risk of contamination that could be mobilised by surface water infiltration from the proposed sustainable drainage system.

The applicant has submitted a desk study detailing the historic uses and a preliminary site conceptual model regarding the risk from contamination at the site. The desk study recommends a detailed geoenvironmental site investigation. The Council Environmental Health Team recommend a condition for site investigation, a method statement for risk/remediation and unforeseen contamination and a verification report. Asbestos Containing Materials (ACM) within the building are considered to be a contaminant of concern, and a condition is required to ensure all asbestos containing materials have been removed from the premises and taken to a suitably licensed waste deposit site.

- 9.123 The Environment Agency have recommended conditions for a remediation strategy, verification report and further monitoring to be submitted to ensure the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution. A condition restricting piling and investigation boreholes using penetrative methods only with consent is also recommended.

#### Waste Management:

- 9.124 Policy WMP3e of the WMP requires proposals for new development to identify the location and provision of facilities intended to allow for the efficient management of waste, e.g. location of bin stores and recycling facilities. The location and provision of facilities intended to allow for the efficient management of bin stores and recycling facilities has been outlined, and full details are required by condition.

## **10. CONCLUSION**

- 10.1 Paragraph 11 of the NPPF makes it clear that planning application decisions should apply a presumption in favour of sustainable development. Furthermore, it sets out that where relevant development policies are out-of-date planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits
- 10.2 In principle of the redevelopment of the site is welcomed and the integration of the site with that approved at 16-24 Melbourne Street would provide a comprehensive redevelopment of this allocation site. Planning permission has already been granted for a co-living development on an adjacent site at 19-24 Melbourne Street and the principle of an integrated scheme is supported.
- 10.3 The redundancy of the existing Enterprise Point building has been previously accepted, and regeneration of the site welcomed. The level of employment floorspace proposed is satisfactory as a response to the policy requirement in CP3 subject to their views. The proposed development of the site would

contribute towards the target set out in CPP1 Policy CP1 as envisaged through the mixed-use allocation in Policy CP3 and there is therefore no objection in principle to some co-living accommodation on the site. The studio rooms would be smaller than floorspace of an acceptable standard for self-contained studio unit. However these rooms are not intended to be self-contained, and as well as private studio rooms future residents would have access to communal cooking and lounge facilities, coworking space, gym, outdoor amenity spaces, and other facilities including those within the wider development under other phases. The proposed co-living scheme would provide a different form of housing for the city and the proposed scheme would increase the variety of accommodation available citywide.

- 10.4 It was established during the determination of BH2019/01820 that sui generis co-living accommodation can be counted towards the city's housing target. The proposed development of the site would therefore contribute towards the target set out in CPP1 Policy CP1 as envisaged through the mixed-use allocation in Policy CP3. A commuted payment of £2.5 million has been proposed towards affordable housing in the city. Whilst a one-off affordable housing provision is not the expected outcome for sites allocated for mixed use development, it is considered acceptable in this instance given the nature of this development.
- 10.5 Following amendments to the scheme, it is considered that the harm to the setting of the listed buildings has been overcome, and only a minor impact remains to a stand-alone viewpoint from within the Round Hill Conservation Area. It is considered that the contemporary design and appearance of the proposed development is of a good quality and would help lift the architectural quality of this Melbourne Street location. In this respect the proposals would comply with policy CP12 of CPP1.
- 10.6 The proposed development would result in some impact to neighbouring residents in terms of proximity of development to the site boundaries which would result in heightened overlooking and overshadowing. Amendments to the scheme have been sought to relieve impact towards Shanklin Road in terms of further restricting outlook to reduce loss of privacy. Despite amendments to the scheme, some units to Viaduct Lofts would suffer from significant loss of sunlight/daylight, however given the constraints of the site, and the considered overall beneficial use of the site within the development, it is considered this would not sufficiently justify a reason for refusal in the planning balance.
- 10.7 The site is well-located near to day-to-day amenities and regular public transport into Brighton city centre. The proposals for a low-car scheme is supported by its site location. The proposed development would provide a Travel Plan which will offer a number of measures to reduce reliance on the private car. From a sustainability perspective, a car free development has been welcomed.
- 10.8 The impact on some trees is regrettable but in the context of the wider tree belt would be less than substantial and would be mitigated by replacement tree planting.

- 10.9 Other factors including impacts relating to ecology, sustainability, landscaping, flood risk, land contamination, and air quality have been assessed and have been considered acceptable.
- 10.10 It is considered therefore that, on balance, the benefits of the regeneration of this allocated site would outweigh those elements which are considered to be harmful to greater or lesser degrees and thus the proposal is recommended for approval.
- 10.11 Approval of planning permission is therefore recommended subject to the completion of a s106 planning legal agreement and to the conditions within the report.

## **11. EQUALITIES**

- 11.1 The proposal includes accessible units which results in 10% of studio rooms being accessible for persons with disabilities. The co-working space is all located at ground floor level. A total of 8 no. disabled parking spaces are proposed at ground floor level. The applicant proposes a pedestrian and cycle only access road (with the exception of emergency vehicles) which connects Melbourne Street with the site's internal pedestrian/cycle-only internal courtyard space.

## **12. CLIMATE CHANGE/BIODIVERSITY**

- 12.1 The proposed development would result in new development being constructed to modern standards with a requirement to meet sustainability standards for water and energy efficiency. The design and site layout enables a low ratio of north-facing studio rooms, and as such the overall reliance on mechanical environmental systems is likely to be significantly reduced. Co-location of living and working accommodation would be a benefit from a sustainable perspective. The proposed development would include green roofs, bee bricks and bird boxes secured by condition, and a condition to enhance the nature conservation interest of the site will all benefit biodiversity in the city.

## **13. COMMUNITY INFRASTRUCTURE LEVY**

- 13.1 Under the Regulations of the Community Infrastructure Levy (CIL) 2010 (as amended), Brighton & Hove City Council adopted its CIL on 23 July 2020 and began charging on all CIL liable planning applications on and from the 5 October 2020. The exact amount will be confirmed in the CIL liability notice which will be issued as soon as it practicable after the issuing of planning permission.

## **14. S106 AGREEMENT**

- 14.1 In the event that the draft S106 agreement has not been signed by all parties by the date set out above, the application shall be refused for the following reasons:

1. The proposed development fails to provide affordable housing contrary to policy CP20 of the Brighton and Hove City Plan Part 1.
2. The proposed development fails provide a financial contribution towards the City Council's Local Employment Scheme to support local people to employment within the construction industry contrary to policy CP7 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.
3. The proposed development fails to provide an Employment and Training Strategy specifying how the developer or their main contractors will provide opportunities for local people to gain employment or training on the construction phase of the proposed development contrary to policy CP7 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.
4. The proposed development fails to provide a Travel Plan which is fundamental to ensure the promotion of safe, active and sustainable forms of travel and comply with policies TR4 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One.
5. The proposed development fails to provide a financial contribution towards an onsite artistic component provision contrary to policies CP5, CP17 and CP3 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.



BH2022/01490

Enterprise Point And 16-18 Melbourne Street Brighton BN2 3LH

Cllr David Gibson  
Hanover & Elm Grove

Please can you register and upload my objection to the above major planning application with the following wording:

“I object to the planning application to develop the Enterprise point site for co living. I have spoken with the applicant, with local residents from Shanklin Rd and met with property guardians and audio active projects currently using enterprise point. There is no doubt that enterprise point is in need of development. However other than the welcome payment contribution to affordable housing the proposal does little to alleviate the affordable housing crisis. The development provides no affordable housing on site and worse it will entail the loss of the truly affordable a living spaces of 40 + property guardians currently living in Enterprise point. It will also involve closing down audio active music projects that currently offer significant support including social value supporting disadvantaged and alienated youngsters. In addition the proposed development seems too dense and will significantly encroach on the light for nearby residents in Shanklin Rd as well as crowding in on the flats in Melbourne St.

Furthermore the co living concept is not tried and tested, and given there are already planning approvals for this kind of development nearby I'd rather see how this turns out before rushing ahead and committing a large prime site to this usage 2 Previous planning approval included the provision of affordable housing on the site and I would like the planning committee only supporting proposals that as a very minimum replace the low rent affordable 40+ guardianship living spaces with at least the same number of permanent affordable rented units in a way that doesn't encroach so much on the neighbouring residential buildings. These are some of the concerns that have led me to object and I would welcome the opportunity to address the planning committee in more depth when the application is considered”



Objection from Cllr Steph POWELL to Planning Application BH2022/01490: Enterprise Point site redevelopment

I wish to place on record my strong objection to the current planning application to develop the Enterprise point site for co-living.

Along with my ward colleagues, we have met with local residents from Shanklin Rd and with various property guardians of Enterprise Point, who are mostly self-employed, creative types, who are renting the space at a lower than-market (affordable) rate. I have also listened to resident concerns of nearby Viaduct Lofts. This proposed type of property arrangement is aimed at young, very wealthy professionals, rather than local residents who need affordable homes. As such this co-living will contribute to a transient local population, thereby eroding the local community feeling.

On our visit, my ward colleagues and I also visited Audio Active; a music project based within the building, which provides young people from all backgrounds, but especially disadvantaged or challenging backgrounds, the opportunity to put their energy into creating music. Supporting this development as it stands would mean evictions for the property guardians, as well as Audio Active who will quickly need to secure alternative premises.

Without question, the site needs redevelopment. We can all agree that. However, the design and the type of living arrangement which is being proposed here is totally out-of-keeping with the area. The density of the development is of great concern to me. The current building is 5 stories high. In this small plot the towering, proposed build of 8 stories will undoubtedly impact light for many nearby properties on Melbourne Street, as well as a number of houses on Shanklin Road. I also have huge concerns for the safety and impact on the children of St Martin's C of E nursery and primary school, whose main entrance and play area is nestled right next to the proposed build.

The proposed height is inappropriate for the area. I'm certain that a number of properties will be overlooked, and residents are very concerned about a loss of privacy. There is also a notably marked increase in the number of units from the original plans, and this will put a huge pressure on local amenities, will increase noise, traffic and pollution.

These concerns are heartfelt by myself a number of residents. I would welcome the opportunity to address the Planning Committee in person when the application is being considered.

Thanks and best wishes,  
Cllr Steph Powell Green Party Councillor  
Hanover & Elm Grove



# **ITEM E**

**54 Waterloo Street  
BH2022/03823  
Full Planning**

**DATE OF COMMITTEE: 8<sup>th</sup> March 2023**



# BH2022 03823 - 54 Waterloo Street



N



Scale: 1:1,250





<b><u>No:</u></b>	<b>BH2022/03823</b>	<b><u>Ward:</u></b>	<b>Brunswick And Adelaide Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>54 Waterloo Street Hove BN3 1AH</b>		
<b><u>Proposal:</u></b>	<b>Erection of two storey rear extension with roof terrace above, alterations to existing roof terrace including addition of glazed staircase enclosure and replacement balustrading &amp; decking, reinstatement of balustrading to first floor front elevation.</b>		
<b><u>Officer:</u></b>	Charlotte Tovey, 202138	tel: <b><u>Valid Date:</u></b>	20.12.2022
<b><u>Con Area:</u></b>	Brunswick Town	<b><u>Expiry Date:</u></b>	14.02.2023
<b><u>Listed Building Grade:</u></b>	Grade II	<b><u>EOT:</u></b>	13.03.2023
<b><u>Agent:</u></b>	Clive Voller Associates Burgess Hill RH15 9RR	Clive Voller Associates	2 Woolven Close
<b><u>Applicant:</u></b>	Pay & Sherwood 54 Waterloo Street Hove BN3 1AH		

## 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>
Location and block plan	4046-LOC		13 December 2022
Proposed Drawing	4046-03	F	7 February 2023
Proposed Drawing	4046-04	F	7 February 2023
Proposed Drawing	4046-05	D	13 February 2023
Proposed Drawing	4046-06	D	13 February 2023
Proposed Drawing	4046-07	C	7 February 2023
Proposed Drawing	4046-08	C	7 February 2023
Proposed Drawing	4046-09	C	7 February 2023
Proposed Drawing	4046-10	C	7 February 2023
Report/Statement	REV D	Planning Statement	13 February 2023

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. The external finishes of the works hereby permitted shall match in material, colour, style, bonding and texture those of the existing building.  
Reason: To ensure the satisfactory preservation of this listed building and to comply with policies DM21, DM26, DM27 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.
4. All new render finishes shall be smooth, lime-based, wet render without external beads, stops, bell drips or expansion joints and existing incised lines (blockwork) shall be matched.  
Reason: To ensure the satisfactory preservation of this listed building to comply with policies DM21, DM26, DM27 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part one.
5. The new windows hereby approved shall be single glazed white painted timber double hung vertical sliding sashes with no trickle vents and shall match exactly the original sash windows to the building, including their architrave, frame and glazing bar dimensions and mouldings, and subcill, masonry cill and reveal details, and shall have concealed sash boxes recessed within the reveals and set back from the outer face of the building to match exactly the original sash boxes to the building.  
Reason: To ensure the satisfactory preservation of this listed building and to comply with policies DM21, DM26, DM27 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.
6. No cables, wires, aerials, pipework meter boxes, ventilation grilles or flues shall be fixed to or penetrate any external elevation, other than those shown on the approved drawings, without the prior consent in writing of the Local Planning Authority.  
Reason: To ensure the satisfactory preservation of this listed building and to comply with policies DM21, DM26, DM27 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.
7. The balustrade fitted to the front balcony on the approved plans shall match the adjacent building in terms of its materials, colour and appearance.  
Reason: To ensure the satisfactory preservation of this listed building and to comply with policies DM21, DM26, DM27 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.
8. All new and replacement rainwater goods, soil and other waste pipes shall be in cast iron and shall be painted black and retained as such thereafter.  
Reason: To ensure a satisfactory appearance to the development and to comply with policies DM21, DM26, DM27 of Brighton & Hove City Plan Part 2 and CP15 of the Brighton & Hove City Plan Part One.
9. The hereby approved powder coated aluminium frames fitted to the existing roof terrace shall be black.  
Reason: To ensure the satisfactory preservation of this listed building and to comply with policies DM21, DM26, DM27 of Brighton & Hove City Plan Part 2 and CP15 of the Brighton & Hove City Plan Part One.

10. Prior to the first use of the first floor rear roof terrace hereby approved the privacy screens as shown on drawings 4046-07 C and 4046-04 F shall be fully installed and thereafter permanently retained.  
Reason: To protect the amenity of the neighbour and to comply with policies DM20 and DM21 of Brighton & Hove City Plan Part 2.
11. At least one bee brick 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 DM37 of Brighton & Hove City Plan Part 2, Policy CP10 of the Brighton & 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. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.

## **2. SITE LOCATION**

- 2.1 The application site relates to a four storey over basement, terraced Grade II Listed Building in the Brunswick Town Conservation Area. Waterloo Street is within the original extent of Busby's Brunswick Town, as the first phase of development between 1824 and 1834 and no. 54 is part of a harmonious but architecturally varied terrace of houses, now largely converted to flats. The terrace retains many historic external architectural details which are important to the significance of these buildings.
- 2.2 The building is fronted with curved bay windows at ground, first and second floor and has a painted render finish with detailing. No. 54 is one of a group of three with matching details including full-height bows with tripartite sashes (retaining the original multi-pane glazing pattern) and giant Corinthian pilasters, however No.54 has an added storey that disrupts the descending parapet lines of the terrace as it steps down the hill and protrudes above the parapet level of the buildings to the north. The property has lost its original pitched roof form.
- 2.3 Rear elevations in the terrace are generally more varied due to incremental alterations and extensions that have taken place in the past.

## **3. RELEVANT HISTORY**

**BH2022/03824** Erection of two storey rear extension with roof terrace above, alterations to existing roof terrace including addition of glazed staircase enclosure and replacement balustrading & decking, reinstatement of

balustrading to first floor front elevation and internal alterations to layout. under consideration

**BH2004/03181/FP** Alterations to front and rear including rear extension, mansard roof and front lightwell. Approved 21.12.2004

**BH2004/03169/LB** Internal alterations & external alterations to front & rear including rear extension, mansard roof & front lightwell. Approved 20.12.2004

The building has been previously subject to a number of alterations both internal and external. Some of the alterations carried out by previous owners do not benefit from Listed Building Consent. There is planning enforcement history which relates to this property with regards to a number of the external alterations carried out although a formal notice has not been served. Most notably a number of unauthorised alterations have been removed from the principle roof of the property, however, a number of unauthorised alterations remain internally and this application seeks to rationalise and remedy many of these matters. It is noted from previous investigations and research that the property did incorporate a roof terrace on it's principle roof at the time of listing.

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

- 4.1 Planning permission is sought for the erection of two storey rear extension with roof terrace above, alterations to an existing roof terrace on the principle roof, including addition of glazed staircase enclosure and replacement balustrading & decking, reinstatement of balustrading to first floor front elevation and internal alterations to layout of the building.

#### **5. REPRESENTATIONS**

**Six (6)** representations have been received from (5) individuals from (3) households objecting to the proposal on the following grounds:

- Adversely affect Highways during construction from builders vehicles
- Cause structural damage to buildings within the vicinity of the site
- Inappropriate use of materials on the roof terrace
- Adversely affect the Conservation Area
- The proposal would be an inappropriate height of development
- Detrimental impact from noise
- Detrimentally impact the neighbours amenity
- Built too close to the boundary
- Loss of privacy
- Overlooking
- Overdevelopment
- Poor design
- Dust and noise of construction
- Will not be able to paint their property whilst works are carried out

- Damage to trees in neighbours garden
- Restriction of view
- Overshadowing

**One (1)** representation has been received, making the following comments on the proposal:

- New drainage needs to be installed to the lower ground floor kitchen as the existing is causing a damp problem in the adjoining property
- Tanking should be avoided and any render finished in lime plaster to avoid causing further damp issues at the adjoining property
- Drainage should be considered to the rear
- Original features should be retained including the paving slabs in the yard and the Sussex flint walls and any fixings to the walls should be made where there are bricks as to not deteriorate the wall
- Repairs need to take place to the chimney stack in the corner of the yard
- The coving to the first floor in the front room should be restored by removing the layers of paint with a mix of wall paper paste and sand
- The balcony railings need to be constructed of wrought iron (not steel) and match those on 55.
- Before removing the studwork wall between the two rooms being expanded a structural engineer needs to assess whether the wall is load bearing
- The current flat roof is leaking and creating damp in the adjoining property. The new roof needs to be water tight.
- Cracks in the render on the chimney stacks are letting in water which needs to be repaired on all sides

**Three (3)** representations have been received, supporting the proposal on the following grounds:

- Good design
- Sympathetic to the conservation area and Listed Building

## 6. CONSULTATIONS

### **Arboriculture:**

Verbal consultation received 15.02.2023

From reviewing the site photos there appears to be an ornamental fruit tree and shrub in the adjacent garden to the east. I do not consider there to be any harm caused to the adjacent neighbours trees or to the trees north of the tall boundary wall from the proposed extension.

### **Heritage:**

Amendments have been received during the course of the application to satisfy the initial comments from the Heritage team.

Final consultation received 14.02.2023/:

During the course of the application satisfactory amendments have been received to the proposed internal and external alterations including satisfactory damp proofing methods, joinery details, amendments to the internal decorative

detailing, amendments to the new and existing ventilation and drainage, to the proportions of the new glazing on the rear extension as well as the installation of a rooflight to the rear extension and for the new roof terrace to be set back by 1.5m from the rear boundary wall.

All requested amendments have now been made and the Heritage Team are now able to support the application.

## **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

The development plan is:

- Brighton & Hove City Plan Part Two (adopted October 2022);
- Brighton & Hove City Plan Part One (adopted 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. RELEVANT POLICIES**

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One (CPP1)

SS1 Presumption in Favour of Sustainable Development  
CP10 Biodiversity  
CP12 Urban design  
CP15 Heritage

#### Brighton and Hove City Plan Part Two

DM1 Housing Quality, Choice and Mix  
DM18 High quality design and places  
DM20 Protection of Amenity  
DM21 Extensions and alterations  
DM26 Conservation Areas  
DM27 Listed Buildings  
DM37 Green Infrastructure and Nature Conservation

#### Supplementary Planning Documents

SPD09 Architectural Features  
SPD11 Nature Conservation & Development  
SPD12 Design Guide for Extensions and Alterations

## **9. CONSIDERATIONS & ASSESSMENT**

- 9.1 The main considerations in the determination of this application relate to the impacts of the works proposed on the historic character and appearance of the Grade II Listed Building, the wider Conservation Area and the impact upon neighbouring amenity.
- 9.2 A site visit has been undertaken in this instance and the impacts of the proposal can be clearly assessed from the plans and the site visit and from recently taken aerial imagery of the site.
- 9.3 In considering whether to grant planning permission for development which affects a listed building or its setting, the Council has a statutory duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Moreover, when considering whether to grant planning permission for development in a conservation area the Council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
- 9.4 Case law has held that the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses, and the desirability of preserving or enhancing the character or appearance of a conservation area should be given "considerable importance and weight".

### **Design and Impact on Heritage Assets**

- 9.5 The application proposes internal and external alterations across all floors of the building. The internal works will be dealt with separately under the Listed Building consent.

#### External Works

##### Roof Terrace, Balustrade and Front Balcony

- 9.6 The past alteration of the original pitched roof form carried out by previous owners including the creation of a roof terrace is contrary to current policy and guidance and has caused some harm to this Listed Building, however it has been accepted that it has been in place for many years (length of time unknown) and a roof terrace was present at the time of listing and as such is therefore considered lawful in terms of the planning application. Minimizing the visual impact of the terrace, means of access to the area and barriers for the safety of users is proposed within this submission.
- 9.7 The proposed front balustrade position for the roof terrace has been amended to reduce its visibility from Waterloo Street which is a welcome improvement. The simple black balustrade design proposed as shown on the plans is

considered acceptable and a significant improvement on the previously unauthorised timber installation.

- 9.8 A new stair enclosure is proposed which replaces a previously unauthorised roof access. The proposed height of the enclosure is similar to the terrace balustrade and is considered to have the appearance of a modern lantern, and as such is considered acceptable. The application states that it is to be powder coated aluminium and the agent has confirmed it would be black to match the colour of the balustrade. It is considered that these are acceptable changes to the non-original roof structure which would not be likely appropriate in many other circumstances, and are balanced by other heritage benefits such as the reinstated elements of planform and the reinstatement of first floor balustrade.

### Rear Extension

- 9.9 A two storey rear extension is proposed to be erected at the northern end of the rear yard adjacent to a flank wall. The rear extension would have detailing to match the existing property and would incorporate a raised roof terrace facing to the east.
- 9.10 The rear extension of this property at basement and ground floor level follows the traditional lines of an outrigger and is considered acceptable. The scale of the extension would be 4.4m deep x 2.2m wide and 5.5m in height and fitted with a terrace that would be 2.1m wide x 2.9m deep upon the flat roof. The terrace would be fitted with 0.7m handrail and 1.8m privacy screening at the eastern end.
- 9.11 The courtyard where the extension would be positioned has tall surrounding walls. The extension would be set back at first floor level by 0.1m from the rear eastern boundary wall with Golden Lane and 1.65m of the extension would be visible above this wall. The extension and terrace would sit below the north boundary wall with no. 53 Waterloo Street. The extension would be finished in white render to complement the host building. It is noted that the neighbour at no. 55 Waterloo Street has a two storey outrigger with a roof terrace of a similar scale and therefore the proposal would not appear incongruous within its setting. It is considered that the extension would be a sympathetic extension at the rear, in keeping with the Listed Building that would not cause harm to its appearance or to the wider conservation area.
- 9.12 The proposed new glazing to the rear extension is white painted timber framed units and the details received are acceptable for the listed building. There is no objection to the rooflight that is proposed for the rear extension which would help to maximise the ingress of sunlight and daylight, reducing reliance on mechanical means.
- 9.13 The revised rear elevation also shows new external drainage and ventilation, along with existing pipework that is to be removed, and it is considered that there would be an overall reduction in servicing pipes which is welcomed as an improvement for the listed building.



- 9.14 Concerns were raised during neighbour consultation that the proposed alterations would adversely affect the conservation area. Consultation with heritage colleagues has concluded that the works to the front elevation to reinstate the first floor balustrade would be a welcome addition to the appearance of the building and would cause no harm subject to conditions. The ground floor and first floor two storey extension at the rear is largely concealed from view with only 1.6m of the extension visible above the east boundary wall with the dwellings of Golden Lane and it is not considered to be a development causing harm to the character and appearance of the area.
- 9.15 The amendments to the roof terrace would reduce its overall appearance from Waterloo Street and it is therefore not considered that the proposed external alterations would cause harm to the Conservation Area or the Listed Building.
- 9.16 Overall, subject to compliance with the recommended conditions, it is considered that the proposed works would not harm the historic character or appearance of the Grade II Listed Building or wider conservation in accordance with Policies CP12 and CP15 of the Brighton & Hove City Plan Part One and DM26 and DM27 of the Brighton & Hove City Plan Part Two.

#### **Standard of Accommodation**

- 9.17 Planning permission is sought for internal and external alterations that would improve the overall floorspace and layout of the building. It would return some of the rooms to their original planform which would be a welcome change to the Listed Building. The bedrooms would accord with the Nationally described space standards of meeting the minimum floor space of 11.5msq for the double bedroom on the second floor and 7.5msq for the two single bedrooms on the third floor. The internal alterations would improve the standard of accommodation in accordance with policy DM1 of City Plan Part Two.

#### **Impact on Amenities**

- 9.18 Policy DM20 of City Plan Part 2 states that planning permission for any development or change of use will not be granted where it would cause unacceptable loss of amenity to the proposed, existing, adjacent or nearby users, residents, occupiers or where it is liable to be detrimental to human health.
- 9.19 The impact on the adjacent properties has been fully considered in terms of daylight, sunlight, overshadowing, outlook, noise and privacy following an investigation. The main consideration to the development would be the impact upon the neighbours amenity to the north at no. 53 Waterloo Street, to the south at no. 55 Waterloo Street, to the dwellings east on Golden Lane and to the west on Waterloo Street.
- 9.20 The proposed alterations reduces the size of the roof terrace to the front elevation of the building and therefore the residents on the western side of Waterloo Street would benefit from this increased separation over the existing situation. As discussed earlier in the report, a roof terrace was in situ at the time

of the building's listing and is therefore considered acceptable in principle. The improvements would increase separation from the neighbouring properties and reduce direct views into the front elevations which is an overall improvement.

- 9.21 Concerns were raised during neighbour consultation that the use of glazed materials on the roof terrace would cause light to reflect off the glazing in a negative way that would impact the amenity of the residents within the vicinity of the site. Due to the positioning of the roof terrace appropriately set back from the end of the flat roof and separated by approx. 13m from its closest habitable windows is unlikely to cause harm to the residents in this regard.
- 9.22 Concerns were raised that the two storey rear extension would be an inappropriate height, sited too close to the boundary and that the site would appear overdeveloped. The site visit demonstrated that the proposed two storey extension would sit below the northern boundary wall which is approx. 7m in height. 1.6m of the extension would be visible above the eastern boundary wall that is 4m in high. The first floor of the extension would be set back from the eastern boundary wall by 0.1m and the site would retain sufficient courtyard space and separation from its southern neighbour by 1.9m. The scale of the rear extension would match its neighbours outrigger and others on the eastern side of Waterloo Street. It is therefore considered that due to the high boundary walls and orientation of the site the proposed two storey extension would be acceptable in a densely populated urban area without appearing overdeveloped or overbearing.
- 9.23 The proposed alterations on the roof terrace to the stair enclosure would retain the same height as the existing timber structure and the terrace would be set back by 1m with suitable balustrade's. The alterations to the roof terrace are not considered to be overdeveloped or of an inappropriate height.
- 9.24 Concerns were raised that the alterations to the existing roof terrace and creation of a new terrace upon of the two storey rear extension would create excessive noise and cause harm to the neighbours amenity. It is noted that the previous owner used the dwelling as an Airbnb and that the neighbours were likely subjected to noise disruptions from a dwelling of this size being used as such. The applicants have recently purchased the property to be used as their main residence and look to utilise the existing outside space.
- 9.25 During the course of the application, satisfactory amendments have been made to reduce the depth of the roof terrace on the rear extension by 1.5m to the eastern boundary wall and includes privacy screening 1.8m in height. This privacy screening would improve and remove any loss of privacy to the residents east on Golden Lane and a condition is attached requiring the privacy screening to be in place prior to the first use of the terrace. The site visit demonstrated that the proposed extension would not overlook the neighbours amenity north at no. 53 due to the tall northern wall and the same views to the rear elevation of no. 55 could currently be achieved on site. It is further noted that there is already mutual overlooking from no. 55's rear elevation terrace to no. 54 that the impact is considered acceptable. The extension is positioned to

the north of the courtyard and would be sufficiently separated from no. 55 to not be considered unneighbourly or overbearing.

- 9.26 No additional noise would be created from the use of the rear roof terrace on top of the extension than would be created from the use of the courtyard by the residents and it is not considered to detrimentally impact the neighbours amenity to warrant refusal.
- 9.27 Concerns were raised that the proposed alterations would overshadow neighbouring amenity. Due to the orientation of the site any overshadowing from the proposed extension or roof terrace would be north towards no. 53 but due to the tall boundary wall it is not considered to cause any harm in this regard.
- 9.28 Overall the proposed external alterations would not cause harm to the amenity of neighbouring occupiers sufficient to warrant refusal and is therefore in accordance with Brighton & Hove City Plan Part Two policies DM20, DM26 and SPD12 guidance.

### **Others Matters**

- 9.29 Concerns were raised during neighbour consultation that the proposed rear extension would cause structure damage during its construction to buildings within the vicinity of the site and that the building works would create excessive dust and noise. The construction of the works are not a material planning consideration and would be dealt with by Building Control or Environmental Health.
- 9.30 Concerns were raised that a local resident would not be able to paint their outside of the property whilst the works were being undertaken due to the building dust created from the works. This is not a material planning construction and cannot be regarded as such.
- 9.31 Concerns were raised that the proposed extension would cause damage to the neighbours trees. Verbal consultation with our Arboriculture officer concluded that no harm is likely to be caused to the trees located beyond the boundary walls of the site.
- 9.32 Concerns were raised during neighbour consultation that the building works at the site would adversely affect the traffic and highways access on Waterloo Street. There is on street parking available and any illegal parking would be controlled by the CPZ.

## **10. BIODIVERSITY/CLIMATE CHANGE**

- 10.1 A condition requiring a bee brick has been attached to improve ecology outcomes on the site in accordance with the Policy CP10 of the Brighton & Hove City Plan Part One, Policy DM37 of the Brighton & Hove City Plan Part Two and Supplementary Planning Document SPD11 Nature Conservation and Development.

## 11. EQUALITIES

11.1 None identified

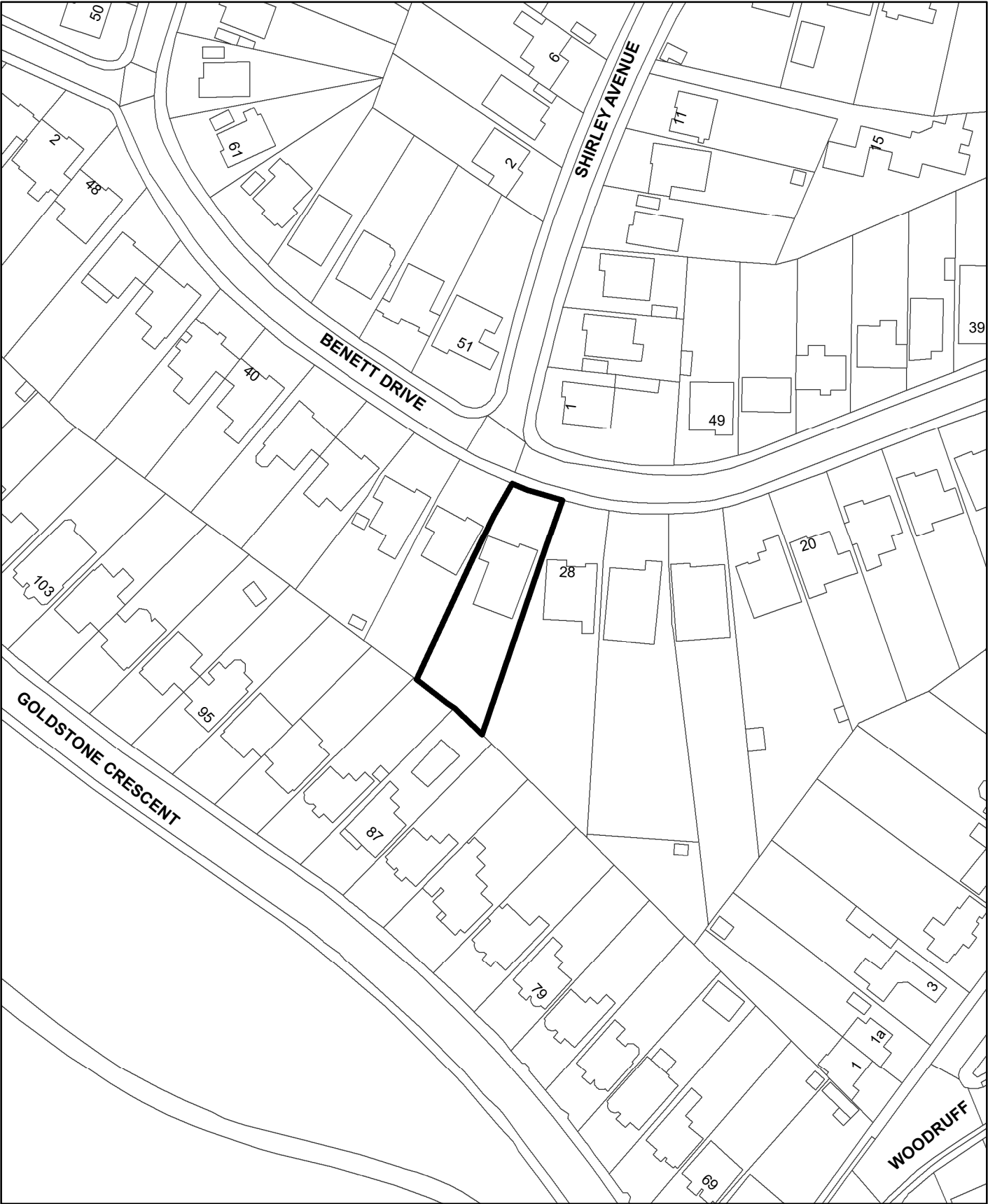
# **ITEM F**

**30 Benett Drive  
BH2022/03139  
Householder Planning Consent**

**DATE OF COMMITTEE: 8<sup>th</sup> March 2023**



BH2022 03139 -30 Bennett Drive



N



Scale: 1:1,250





<b><u>No:</u></b>	<b>BH2022/03139</b>	<b><u>Ward:</u></b>	<b>Hove Park Ward</b>
<b><u>App Type:</u></b>	<b>Householder Planning Consent</b>		
<b><u>Address:</u></b>	<b>30 Benett Drive Hove BN3 6UT</b>		
<b><u>Proposal:</u></b>	<b>Demolition of existing garage and rear conservatory and erection of a single storey side extension, and single storey rear extension with balcony above. Roof alterations incorporating extensions, side rooflights and 2no. front dormers.</b>		
<b><u>Officer:</u></b>	Charlotte Tovey, 202138	tel: <b><u>Valid Date:</u></b>	06.10.2022
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	01.12.2022
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	15.03.2023
<b><u>Agent:</u></b>	Turner Associates 2D St Johns Road Hove Hove BN3 2FB		
<b><u>Applicant:</u></b>	Mr Greg Lester 30 Benett Drive Hove BN3 6UT		

## 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	10		6 October 2022
Proposed Drawing	11		6 October 2022
Proposed Drawing	12		6 October 2022
Proposed Drawing	13		6 October 2022
Location and block plan	14		6 October 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. At least one bee brick 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 DM37 of Brighton & Hove City Plan Part 2, Policy CP10 of the Brighton & 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. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.

## **2. SITE LOCATION**

- 2.1 The application site comprises of a detached bungalow on the south side of Benett Drive at no. 30. The building is of brick and render construction with a pitched tiled roof. It has a projecting ground floor bay to the western side of the front elevation with a gable pitched roof. The building is fitted with white UPVC glazing. The site has been altered with a ground floor single storey rear extension which has a felt flat roof and sits above the eaves of the original dwellinghouse. The site incorporates a long front and rear garden and has off road parking located at the front on a driveway and attached to the dwellinghouse is a side garage. The street scene is residential and many of the bungalows within the vicinity of the site have been altered with loft conversions.
- 2.2 The site is not within a conservation area.

## **3. RELEVANT HISTORY**

**BH2015/02483** Demolition of existing garage and erection of a single storey side extension with roof alterations incorporating extensions, rooflights, front dormers and a balcony to the rear elevation. Approved 26.10.2015 (not implemented)

## **4. RELEVANT HISTORY AT OTHER SITES**

**BH2009/02891** - 26 Benett Drive - Erection of front and rear extensions, extensions and alterations to roof pitch incorporating dormer, rooflights and balcony and associated works. Approved 21.01.2010

**BH2009/01874** - 24 Benett Drive - Replacement of garage/carport with erection of side and rear extension with raised patio. Roof conversion to form first floor accommodation including 2 no. dormers to front elevation, balcony to rear and rooflights. Approved 12.01.2010

**BH2008/03583** 28 Benett Drive - Single storey side infill extension, roof extension including raising height of roof, front dormers and rear velux roof terrace with inset balcony. Approved 19.01.2009

**BH2007/03909** - 34 Benett Drive - Loft conversion including rear dormer and balcony, and front and side rooflights. Approved 13.12.2007

## 5. APPLICATION DESCRIPTION

- 5.1 Planning permission is sought for the demolition of existing side garage and rear conservatory and the erection of a single storey side extension, and single storey rear extension with balcony above. Roof alterations incorporating extensions, side rooflights and 2no. front dormers.

## 6. REPRESENTATIONS

**One (1)** representations have been received, objecting to the proposal on the following grounds:

- Inappropriate Height of Development
- Overshadowing and loss of light
- Restrict the neighbour view
- Overlooking and loss of privacy
- Detrimental impact to solar panels

**One (1)** representations have been received, supporting the proposal on the following grounds:

- Good design

**One (1)** representation have been received, from **Councillor Bagaeen** objecting to the proposal. A copy of the email is attached to the report.

## 7. CONSULTATIONS

### Transport:

Verbal consultation received 27.10.2022 found the proposal acceptable. The proposed extensions and conversion of the garage into ancillary residential space is expected to result in an increase in trips, however this level of increase will be negligible and will not impact the surrounding local highway network.

The removal of the garage to create ancillary accommodation will result in the loss of an on-site parking space, however there is hardstanding/driveway in front of the garage, and so on-site parking amenity is retained despite the loss of the garage. No amendments to vehicular access are proposed.

SPD 14 policy compliant cycle parking provisions have been omitted from this application, and it is recommended details of cycle parking should be secured by condition.

## 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

The development plan is:

- Brighton & Hove City Plan Part Two (adopted October 2022);
- Brighton & Hove City Plan Part One (adopted 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.

## 9. RELEVANT POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One (CPP1)

SS1 Presumption in Favour of Sustainable Development

CP10 Biodiversity

CP12 Urban design

CP13 Public streets and spaces

Brighton and Hove City Plan Part Two

DM1 Housing Quality, Choice and Mix

DM18 High quality design and places

DM20 Protection of Amenity

DM21 Extensions and alterations

DM33 Safe, Sustainable and Active Travel

DM37 Green Infrastructure and Nature Conservation

Supplementary Planning Documents

SPD11 Nature Conservation & Development

SPD12 Design Guide for Extensions and Alterations

## 10. CONSIDERATIONS & ASSESSMENT

10.1 The main considerations in the determination of this application relate to the design and appearance of the proposal, the impact on the highways and the impact on neighbouring amenity and solar panels.

10.2 A site visit has been undertaken in this instance, and the impacts of the proposal can be clearly assessed from the plans, site visit, sunlight assessment and from recently taken aerial imagery of the site.

### **Design and Appearance**

- 10.3 Permission for the proposed extension and alterations was granted in 2015 under BH2015/02483 however the scheme was not implemented within the three year time condition. Planning permission is now sought for the same proposed alterations.
- 10.4 Planning permission is sought to alter the appearance of the front elevation of the building that would include the replacement of the garage door with a new window, to extend, raise and alter the roof and to change the material palette of the bungalow from a brick finish to white painted render with a new slate roof. A site visit was conducted on the 02/11/2022 which demonstrated that the proposed alterations to the dwelling would not appear incongruous in the street scene. No. 28, No. 26 and No. 24 Bennett Drive to the east of the application site have been granted planning permission for similar alterations and the new proposed materials would match its neighbours appearance at no. 32 Bennett Drive to the west. It is therefore considered that the alterations to the front elevation would be in keeping with its neighbours and would not cause harm to the appearance of the building or wider area.
- 10.5 The enlargement of the roof space with extensions to the side and at the rear would not detrimentally change the appearance of the building. Whilst it is noted that the bungalow is located within close proximity to its neighbour at no. 32 Bennett Drive the proposed hipped pitch of the new roof would be retained, albeit at a slightly increased angle, retaining visual separation from its neighbour. The alterations to the roof would increase the overall height of the roof ridge by approx. 0.3m and will extend the ridge length at this height from approx. 3.5m to 8.5m. The alterations slightly increase the pitch of the roof facing the neighbours property at no. 32 from 35 degrees to 42 degrees. Due to the modest increase in height and marginal increase in roof angle the proposed alterations are considered visually acceptable.
- 10.6 The proposed 2no. front dormer windows are suitably scaled and well designed with gable pitched roofs that are sympathetic to the feature gable above the ground floor projecting bay. A number of properties in the immediate streetscene have front dormers so this aspect of the proposal would not be out of keeping with the character of the area.
- 10.7 The proposal would retain the existing chimney and includes the insertion of 4no. new rooflights to the west roof slope, 3no. to the east roofslope and 1no. to the concealed flat roof. The new rooflights would be suitably scaled and positioned on the elevations and provide natural light into the new rooms in the loft space. They would not be out of keeping with the street scene as it is noted both neighbours have rooflights to their side elevations. The enlargement of the roof to the rear above the existing single storey rear extension would improve the appearance of the rear elevation where the existing flat roof of the extension sits above the eaves of the dwellinghouse. The size of the recessed balcony is positioned centrally to the rear roof space and the new glazing would accord with the ground floor rear fenestration. The alterations to the building would relatively match the appearance of its neighbours at no. 28, no. 26 and no. 24 Bennett Drive.

- 10.8 Overall it is considered that the alterations to the roof and conversion of the garage to a habitable space are suitably scaled, designed in materials that would complement the street scene and would not cause harm to the character of wider area in accordance with SPD12.
- 10.9 Permission is also sought for a single storey side extension at the rear of the existing garage. The side extension would not be wider than the existing side elevation of the garage but would project approx. 2.7m further into the rear garden. It would be finished in white render to match the host building and no glazing is proposed to the side elevation. A sliding door would be fitted to the rear elevation for access to the garden, that would replace the existing window and door. The side extension would sit under the new pitched roof of the dwellinghouse and give the appearance of a suitable addition whilst maintaining the same level of separation from its neighbour at no. 32 Benett Drive.
- 10.10 Permission is also sought to alter the existing fenestration including the replacement of the ground floor bi-folding doors on the rear elevation of the existing rear extension and to insert two new windows (replacing the existing kitchen window) on the east elevation of the building. The new glazing would be white aluminium. The new units are suitably scaled, designed to match the appearance of the existing and would therefore be an acceptable change to the appearance of the building.
- 10.11 Overall, the proposed extension and alterations to the dwellinghouse would represent a sympathetic additions to the host property, in accordance with Brighton & Hove City Plan Part Two policies DM18, DM21, and City Plan Part One policies CP10 & CP12.

### **Impact on Amenities**

- 10.12 Policy DM20 of City Plan Part 2 states that planning permission for any development or change of use will not be granted where it would cause unacceptable loss of amenity to the proposed, existing, adjacent or nearby users, residents, occupiers or where it is liable to be detrimental to human health.
- 10.13 The impact on the adjacent properties has been fully considered in terms of daylight, sunlight, overshadowing, outlook, noise and privacy following an investigation. The main consideration to the development would be the impact upon the neighbours amenity at no. 32 Benett Drive to the west and no. 28 Benett Drive to the east and the neighbours south on Goldstone Crescent.
- 10.14 Concerns were raised during neighbour consultation that the proposed height of the development would be inappropriate. That the enlargement of the loft space would result in the proposal detrimentally overshadowing the neighbours amenity, resulting in loss of light, restriction of their view, loss of privacy and have a detrimental impact on the adjacent solar panels.

- 10.15 Since the 2015 permission was granted, the adjacent neighbour at no. 32 Benett Drive has had 14 solar panels fitted to their eastern roof slope and as recent case law has demonstrated, the local planning authority should take into consideration the effects of the development and its impact to neighbouring solar panels.
- 10.16 A sunlight/ daylight assessment was received on the 01/02/2023 that concludes the impact on the light available to the neighbouring solar panels would be negligible. The assessment concludes in paragraph 3.5 that the solar panels tested would retain more than 96% of the former APSH (annual probably sunlight hours) value. Whilst the overall effect of the solar panels is likely negligible as the report demonstrates, the BRE guidance also recognises that solar panel development that is constructed close to a site boundary and at a low level should be installed with the reasonable expectation that neighbouring development may occur. It is also noted that the solar array is largely installed on an east facing roofslope. The assessment is robust and has been undertaken in accordance with BRE guidance issued in 2022. It is therefore considered that the proposal would not detrimentally result in a loss of light nor restrict the use of the solar panels to such an extent that would warrant refusal.
- 10.17 Recently taken aerial imagery and the daylight assessment demonstrates that the proposed roof alterations would not detrimentally overshadow no. 32's amenity to warrant refusal. There would be a marginal increase in the pitch of the roof from 35 degrees to 42 but as the same separation would be maintained between the two dwellings it is not considered that the proposed roof alterations would overshadow any of the neighbours habitable rooms.
- 10.18 The location of the front dormer windows central upon the front elevation of the roof and modest in scale, suitably set in from the side eaves and set back from the road frontage would not detrimentally impact neighbours amenity.
- 10.19 The proposed rear loft extension would be suitably scaled and appropriately constructed with a hipped pitched roof that it is not considered to detrimentally impact its neighbours. It would be part visible from Benett Drive but due to the separation and scale is acceptable in terms of amenity. The new fenestration and proposed recessed balcony is not considered to cause a harmful loss of privacy as it would be fitted with a flush glass balustrade, central within the roof space and would not therefore harmfully overlook no. 28 Benett Drive's rear garden.
- 10.20 The proposed insertion of 4no. rooflights to the western roof slope and 3no to the eastern slope would be discretely positioned within the roof space and positioned and not cause a degree of overlooking sufficient to warrant refusal given views would be towards the principal side roofslopes of the neighbouring properties.
- 10.21 The new glazing fitted to the ground floor would replace existing and reduce the amount of fenestration to the ground floor west side elevation.

- 10.22 Due to the separation of the proposed development from the neighbours south on Goldstone Crescent by approx. 22m there is likely to be no harm as a result of the development. Whilst Benett Drive sits higher in land levels above Goldstone Crescent the southern boundary of the garden is tree lined which would help soften its appearance.
- 10.23 Overall the proposal would not cause harm to the amenity of neighbouring occupiers in accordance with Brighton & Hove City Plan Part Two policies DM20 and SPD12 guidance.

### **Impact on Highways**

- 10.24 Verbal consultation with Transport concluded that the increase in the number of trips generated from the increased residential occupancy of the dwellinghouse as 3 bedroom to a 5 bedroom would be acceptable. Whilst it is noted that the proposal includes the loss of the garage as such, it is not considered to impact the Highways as sufficient off road parking facilities would be retained on site by the long driveway would could fit two cars. The site is located within CPZ P which has an average residential permit uptake of 22%, indicating that there is residual capacity to absorb the loss of one the garage as such, without impacting residual capacity for existing residents.
- 10.25 As this proposal is for the extension and alteration of the property, it is not considered reasonable to secure cycle parking by condition.
- 10.26 It is therefore considered that the proposal would be acceptable, in accordance with DM33 of City Plan Part Two and CP13 of City Plan Part One.

### **Standard of Accommodation**

- 10.27 Planning permission is sought for roof alterations and a ground floor side extension that would internally create two new double bedrooms, one with ensuite washing facilities and an additional bathroom in the loft space. The Master Bedroom would be 29.8m<sup>2</sup> and the Bedroom 2 would be 30m<sup>2</sup>. The ground floor side extension would enlarge Bedroom 5 to 15m<sup>2</sup> and the proposal would also reconfigure the rear of the ground floor to an open plan kitchen/ living space. The proposed alterations would meet the minimum floor space standards and provide 4 double bedrooms (min of 11.5msq) and 1 single bedroom (min 7.5msq). It would meet the minimum gross internal floor area of 128m<sup>2</sup>. The proposed new layout would improve the overall standard of accommodation which would accord with Policy DM1 of City Plan Part Two.

## **11. BIODIVERSITY/CLIMATE CHANGE**

- 11.1 A condition requiring a bee brick has been attached to improve ecology outcomes on the site in accordance with the Policy CP10 of the Brighton & Hove City Plan Part One, Policy DM37 of the Brighton & Hove City Plan Part Two and Supplementary Planning Document SPD11 Nature Conservation and Development.



11.2 The works would modernise and refurbish the existing building and makes better use of land. The larger glazing and rooflights would help to maximise the ingress of sunlight and daylight, reducing reliance on mechanical means.

## **12. EQUALITIES**

12.1 Access to the site is via a sloped pathway, and as part of this proposal the external alterations would internally create an open plan living/ kitchen space and create one ground floor bathroom. This is supported insofar as it improves access for those with a mobility-related disability. The dwelling would continue to provide sufficient day-to-day living facilities on the ground floor for persons unable to use stairs, which is welcomed.



BH2022/03139  
30 Benett Drive Hove BN3 6UT

Councillor Samer Bagaeen  
Hove Park

Stance: Customer made comments neither objecting to or supporting the  
Planning Application

Comment Reasons:

- Overshadowing
- Residential Amenity

Comment: Having been approached by concerned neighbours and the potential impact on amenities on neighbouring properties, I would be grateful if this is referred to committee if the recommendation is minded to approve. Would also suggest an honest conversation with neighbours if this has not happened.

I have gone back to the neighbour at no who still wants to speak at committee about this. She feels that she has not been listened to and certainly not spoken to by no or their agents.

While it is not my job, or yours, to mediate in neighbour disputes, I would still like this referred to committee so that the neighbour can address councillors directly. She's been left with no other option.

On my own position, as the ward councillor, I support my resident's insistence that she speaks to the committee given she has objected. I support her position given that the two properties are close to each other, much more at the front than the back, and that the designs of the extension for house 30 did not take this proximity into account and therefore would have a detrimental impact on the light and amenity on the rooms adjacent to the development site.

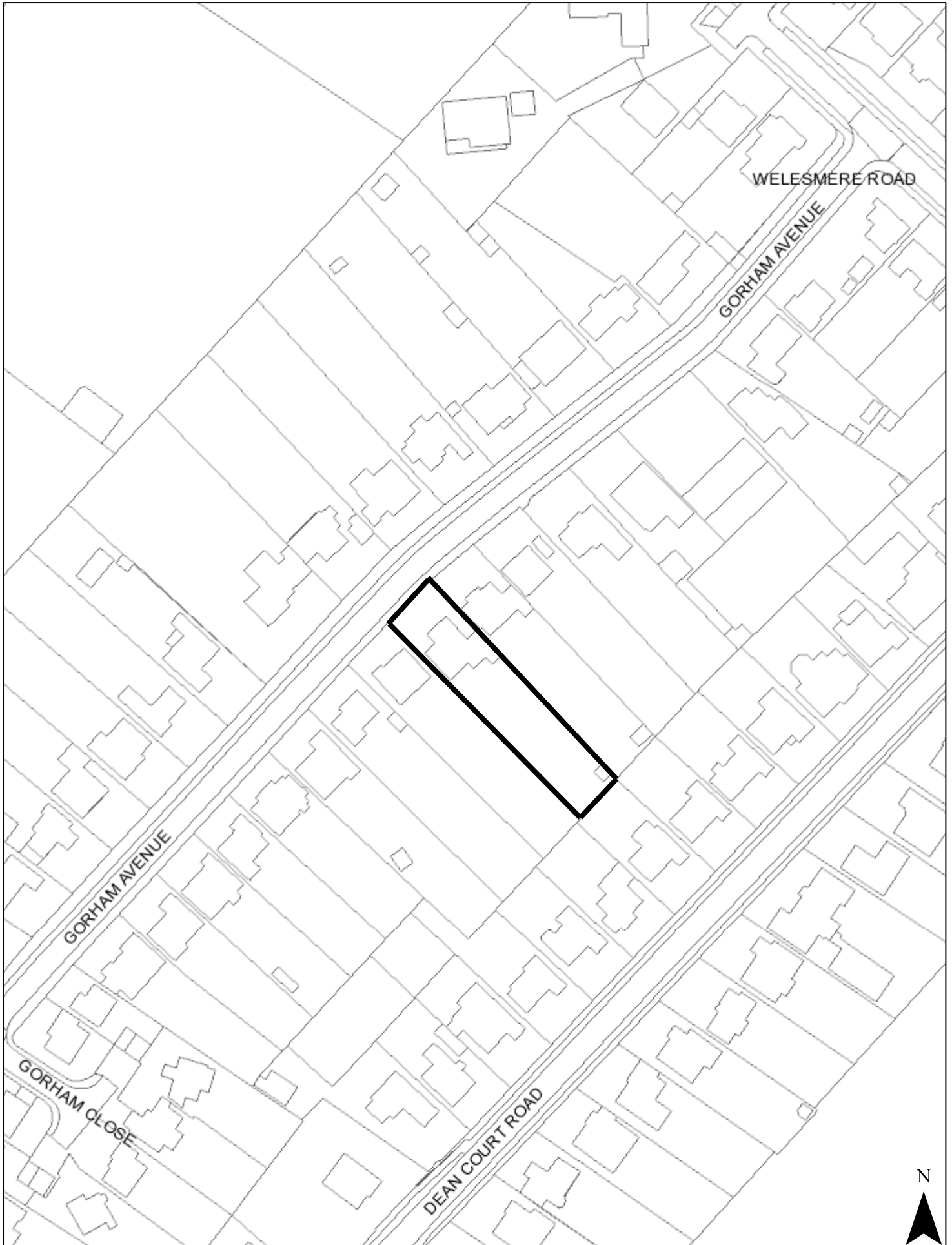


# **ITEM G**

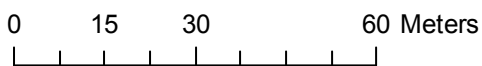
**36 Gorham Avenue, Brighton  
BH2022/03474  
Householder Planning Consent**

**DATE OF COMMITTEE: 8<sup>th</sup> March 2023**





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Scale 1:1,250





<b><u>No:</u></b>	<b>BH2022/03474</b>	<b><u>Ward:</u></b>	<b>Rottingdean Coastal Ward</b>
<b><u>App Type:</u></b>	<b>Householder Planning Consent</b>		
<b><u>Address:</u></b>	<b>36 Gorham Avenue Rottingdean Brighton BN2 7DP</b>		
<b><u>Proposal:</u></b>	<b>Erection of single storey first floor rear extension, porch to front, new pitched roof over garage and 1no front rooflight.</b>		
<b><u>Officer:</u></b>	Vinicius Pinheiro, tel: 292454	<b><u>Valid Date:</u></b>	08.11.2022
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	03.01.2023
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Mel Humphrey 9 Aldsworth Avenue Goring By Sea Worthing BN12 4XQ		
<b><u>Applicant:</u></b>	Mr Mike and Gill Greenhalgh 36 Gorham Avenue Rottingdean Brighton BN2 7DP		

## 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	2022/161	A	26 January 2023
Location and block plan	2022/161		8 November 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. The walls of the extension hereby approved shall be composite cladding. All other external finishes of the development hereby permitted shall match in material, colour, style, bonding and texture those of the existing building.  
**Reason:** To ensure a satisfactory appearance to the development in the interests of the visual amenities of the area and to comply with policies DM18 of Brighton & Hove City Plan Part 2 and CP12 of the Brighton & Hove City Plan Part One.
4. At least one bee brick 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.

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. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.

**2. SITE LOCATION**

- 2.1 The application site relates to a two-storey detached dwellinghouse located on the south-eastern side of Gorham Avenue.

**3. RELEVANT HISTORY**

- 3.1 None

**4. APPLICATION DESCRIPTION**

- 4.1 Planning consent is sought for the erection of single storey first floor rear extension, porch to front, new pitched roof over garage and 1no front rooflight.
- 4.2 Amended plans have been received during the course of the application to retain the flat roof over the rear part of the existing garage.

**5. REPRESENTATIONS**

**One (1)** letter has been received objecting the proposed development on the following grounds:

- Overshadowing
- Impacts on daylight/sunlight

**Councillor's Fishleigh** has objected to the proposal: a copy of the representation is attached.

**6. CONSULTATIONS**

**Rottingdean Parish Council:** No Objection

Rottingdean Parish Council examined the proposals for a single storey first floor rear extension, porch to the front and new pitched roof.

The rear extension is planned as a first-floor extension to existing ground floor rooms and wouldn't increase the footprint of the property. It wouldn't be directly from the road and appears to be proportionate compared with neighbouring properties.

The front porch and new pitched roof over garage would be visible from the road, but the style and materials planned would be in keeping with the other local properties, so it's not considered that this would have a negative impact on the street scene.

## **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.

The Development Plan comprises:

- Brighton & Hove City Plan Part One (adopted March 2016)
- Brighton & Hove City Plan Part Two (adopted October 2022)
- 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).

## **8. RELEVANT POLICIES & GUIDANCE**

The National Planning Policy Framework (NPPF)

Rottingdean Neighbourhood Plan

The policies in Rottingdean Neighbourhood Plan carry limited weight at present but will gain weight as the Plan proceeds through its stages.

The draft Neighbourhood Plan (NP) was submitted to the Council in early 2023. The draft NP reflects previous local community and stakeholder engagement undertaken across the Neighbourhood Area by the Parish Council including a period of public consultation under Regulation 14 of the NP Regulations in 2021. The Council published the draft Plan for pre-submission (Regulation 16) consultation in February 2023. The next steps for the plan are for it to be submitted for examination by an independent examiner. The NP examination is likely to commence in the summer/autumn of 2023.

The policies relevant to the present application are:

H2: Design

Brighton & Hove City Plan Part One:

SS1 Presumption in Favour of Sustainable Development  
CP10 Biodiversity  
CP12 Urban design

Brighton & Hove City Plan Part Two:

DM1 Housing Quality, Choice and Mix  
DM18 High quality design and places  
DM20 Protection of Amenity  
DM21 Extensions and alterations  
DM37 Green Infrastructure and Nature Conservation

Supplementary Planning Documents:

SPD11 Nature Conservation & Development  
SPD12 Design Guide for Extensions and Alterations

## **9. CONSIDERATIONS & ASSESSMENT**

- 9.1 The main considerations in the determination of this application relate to design and appearance of the proposed alterations and whether the proposal would have a detrimental impact on neighbouring amenity.
- 9.2 Amended plans have been received since submission of the application to retain the flat roof over the rear part of the existing garage, in order to mitigate harm to the amenities of the eastern sited neighbouring property, as discussed in more detail below.

### **Design and Appearance:**

- 9.3 The proposal is considered to be acceptable.
- 9.4 The application seeks permission for an additional storey on the existing single storey rear extension. The proposed development would not increase the depth of the existing rear extension. The walls of the extension would be composite cladding. The roof of the extension would be dual pitched, would be set lower from the main ridge and one part of the dual roof would be set lower than the other.
- 9.5 Although the cladding material of the proposed extension is not in keeping with the existing materials of the property, it is noted that the site is not a listed building and does not lie within a conservation area. The proposal would be contained to the rear of the property and would have limited visibility from the public realm. Furthermore, it is noted that some of the properties along the road

provide a variety of materials and colours to the front elevation. Therefore, the proposed cladding is considered to be acceptable.

- 9.6 The locality is residential in character with detached properties dominating in the vicinity of the application site. Notwithstanding this, there is a clear lack of uniformity between properties within the street scene.
- 9.7 The highest ridge of the dual roof extension would be set down approximately 0.12m from the ridge of the existing main roof. This would ensure that the resulting two storey extension would remain subservient to the main dwellinghouse. It would also be in accordance with SPD12: Extensions and Alterations guidance which states that: *"Two storey rear extensions should generally have a roof form which reflects that of the host building. A pitched roof extension should normally be set lower than the main ridge of the roof."* The proposed extension is therefore considered a sympathetic addition to the host dwellinghouse that would not be detrimental to its appearance.
- 9.8 There is no objection to the proposal on design or appearance grounds. It is acknowledged that the proposed extensions would add significant bulk to the building. However, it is well designed in terms of relating to the existing features of the building and is not considered visually intrusive or overly dominant.
- 9.9 A wide variety of ground floor, two storey and roof extensions exist within the immediate and wider area so the proposed extension is unlikely to be overly harmful to the character and appearance of the surrounding area, and certainly not to a degree sufficient to warrant a refusal of the application, particularly as it would be to the rear, so would have no impact on the streetscene.
- 9.10 The proposal also includes a porch to the front of the property. A variety of porch extensions are visible within the immediate vicinity of the site that are not uniform in appearance. Therefore, there is no objection to this addition.
- 9.11 The design and materials of the new pitched roof over garage would not disrupt the visual of the streetscene, considering the variety of materials and design of the neighbouring properties. The garage is set back from the front elevation and is not highly visible from all parts of the streetscene and it is considered to be acceptable.
- 9.12 The proposal seeks to install a single rooflight to the front elevation. The rooflight will be positioned in between the existing rear dormers and its size is in line with the guidance set out in SPD12: Extensions and Alterations.
- 9.13 The new window to the side elevation would match the materials and design of the existing ground floor window and it is considered to be acceptable.
- 9.14 Overall it is considered that the proposal would represent subordinate and sympathetic additions/alterations to the host property that would not harm the appearance of the host property or that of the surrounding area, in accordance with Brighton & Hove City Plan Part Policy CP12 and Brighton & Hove City Plan Part Two Policies DM18 and DM21, and SPD12 guidance.

### **Impact on Amenity:**

- 9.15 Policy DM20 of City Plan Part 2 states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.

It is noted that objections have been received relating to overshadowing and impacts on daylight/sunlight. Whilst these objections are acknowledged, no significant adverse impacts are expected as a result of the proposed development that would justify a refusal of the application.

- 9.16 Amended plans have been received since submission of the application to retain the flat roof form over the rear section of the existing garage to mitigate harm in terms of overshadowing to no. 38. Although some impact is expected as a result of the remaining pitched roof over the front of the garage, it is acknowledged that the roof slopes away from the boundary shared with number 38 as well as from their side elevation and given the orientation of no. 36 to the west of no. 38. It is also important to note that a similar relationship exists between no. 38 and no.40 which was granted planning permission in 2020. Therefore, although some harm is expected, the harm is not enough to warrant a refusal at this stage.
- 9.17 It is noted that the eaves of the proposed flat roof would be of a similar height than existing, therefore, the proposal would not increase in height nearest to the boundary with no. 38 and the impact would be of a similar scale.
- 9.18 Furthermore, from assessment of the photos submitted with the application and from the officer own site visit carried out, it is apparent that the neighbour's side windows potentially affected are not the primary windows serving the property as there is a significant amount of glazing on the rear elevation.
- 9.19 The extension would be set away from No. 34 Gorham Avenue and although some impact is expected, the impact is mitigated considering the south-eastern gardens the properties benefit from.
- 9.20 The proposed extension would back onto the rear garden of 70 Dean Court Road but would be a significant distance from the boundary and rear elevation of this property and is not therefore considered excessively overbearing.
- 9.21 The new fenestration and openings created at the rear would not substantially increase overlooking from that of the existing situation. The proposed extension would provide no more of a view of the neighbouring properties than the existing apertures, or a view from within the garden. Therefore, the potential impact on the privacy of the neighbours is not considered to be harmful.
- 9.22 The new side window would be 1350mm wide and would serve a bathroom. No impact on privacy is, therefore, expected.

- 9.23 Overall, it is considered that, for the reasons set out above, whilst some harm to the neighbours has been identified, the identified harm is not to a magnitude to warrant a refusal, and as such the proposal complies with DM20 of the Brighton and Hove City Plan Part 2.

Standard of Accommodation

- 9.25 The proposed extension would enlarge the existing communal space for the dwellinghouse, which would improve the overall floorspace and standard of accommodation in accordance with policy DM1 of City Plan Part Two.

**10. EQUALITIES**

- 10.1 None identified

**11. CLIMATE CHANGE/BIODIVERSITY**

- 11.1 A condition is attached requiring the installation of a bee brick which will assist improving the biodiversity on site.

**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 23 July 2020 and began charging on all CIL liable planning applications on and from the 5 October 2020. The exact amount will be confirmed in the CIL liability notice which will be issued as soon as it practicable after the issuing of planning permission.





BH2022/03474  
36 Gorham Avenue

Cllr Bridget Fishleigh  
Rottingdean Coastal

On 8 Dec 2022, at 15:01, Vinicius Pinheiro wrote:

Dear Cllr Bridget Fishleigh,

Thank you for your e-mail.

Do you confirm that your objections then are: overlooking, overshadowing and loss of light and privacy?

Thank you

My objections are overshadowing and loss of light.

Thank you.

Best, Bridget

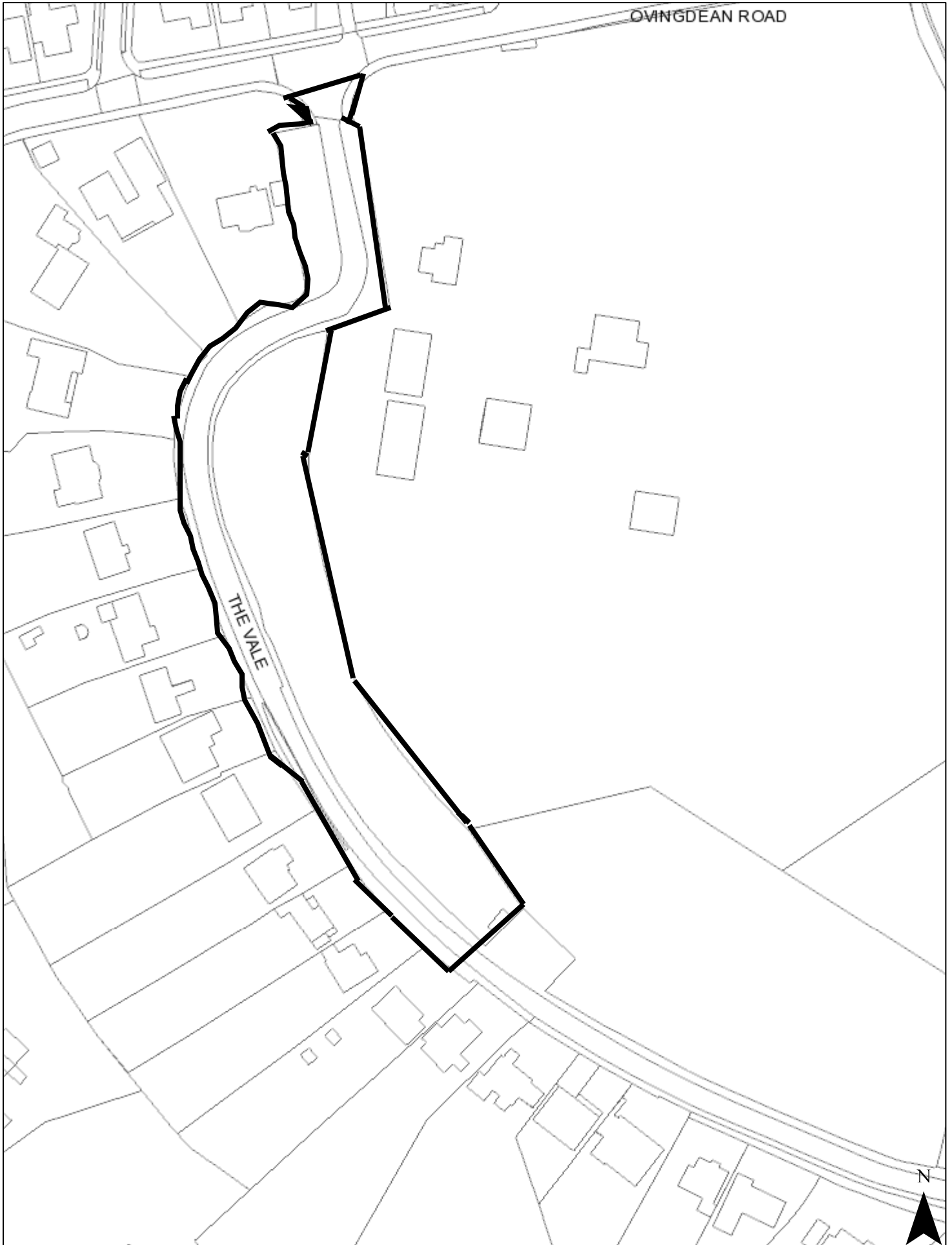


# **ITEM H**

**Land To The East Of The Vale Brighton  
BH2022/03066  
Variation of Condition**

**DATE OF COMMITTEE: 8<sup>th</sup> March 2023**





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0 15 30 60 Meters

Scale 1:1,250



<b><u>No:</u></b>	<b>BH2022/03066</b>	<b><u>Ward:</u></b>	<b>Rottingdean Coastal Ward</b>
<b><u>App Type:</u></b>	<b>Removal or Variation of Condition</b>		
<b><u>Address:</u></b>	<b>Land To The East Of The Vale Brighton</b>		
<b><u>Proposal:</u></b>	<b>Application to vary condition 4 of planning permission BH2015/01890 (allowed on appeal) to permit works to the trees which were listed as to be retained in the Arboricultural Impact Assessment and Tree Constraints Plan but which have subsequently been authorised under applications BH2021/01696 and BH2022/00435 to be felled and replaced by standard red maple trees and field maple trees. And vary condition 4 of planning permission BH2015/01890 (allowed on appeal) to allow six further trees to be felled and replaced with standard red maple trees and field maple trees.</b>		
<b><u>Officer:</u></b>	Steven Dover, tel:	<b><u>Valid Date:</u></b>	11.10.2022
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	06.12.2022
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	15.03.2023
<b><u>Agent:</u></b>	The Sussex Tree Company 2 Nursery Cottage Titnore Way Worthing BN13 3RT		
<b><u>Applicant:</u></b>	Boran Investments Field End Greenways Brighton BN2 7BA		

## 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	LLD783/ 01		26 September 2022
Proposed Drawing	LLD783/ 02		26 September 2022
Proposed Drawing	Devlopment site tree works		1 December 2022
Proposed Drawing	Revised planting/tree installation scheme		4 January 2023
Location and block plan	01B		22 June 2015
Block Plan	02D		22 June 2015
Proposed Drawing	04D		22 June 2015
Proposed Drawing	05C		22 June 2015
Proposed Drawing	06C		22 June 2015
Proposed Drawing	07C		22 June 2015

Proposed Drawing	08B		22 June 2015
Proposed Drawing	09C		22 June 2015
Proposed Drawing	12B		22 June 2015
Report/Statement	Arboricultural Evidential Report		4 January 2023

2. Not used - development commenced
  
3. The sample of materials details should be retained in accordance with the details approved under application BH2021/02832.  
Reason: To ensure a satisfactory appearance to the development and to comply with policies DM18 of Brighton & Hove City Plan Part 2 and CP12 of the Brighton & Hove City Plan Part One.
  
4. The proposed landscaping shall be implemented and retained in accordance with the details approved under BH2021/02832, except those trees which were listed as to be retained in the Arboricultural Impact Assessment and Tree Constraints Plan as approved under application BH2021/02832, but which have subsequently been felled or are due to be felled due to the risk of failure presented by Ash Dieback or the removal of significant sections of their roots, (numbered T15, T16, T17, T18, T19, T20, T21, T23, T24, T25, T26, T27, T28, T29, T30, T31, T32, T33, T34 T38, T36, and T37) as detailed in the Arboricultural Evidential Report produced by The Sussex Tree Company dated January 2023, shall be replaced by eleven (11) Red Maple trees and eleven (11) Field Maple trees with a minimum nursery stock size of 20-25cm diameter. Full details of these replacement trees, including soil decompaction methods, tree pit details and maintenance proposal with a minimum of 3 year watering schedule shall be submitted to and approved in writing by the local planning authority prior to first occupation of any dwelling. Development shall be carried out in accordance with the approved details prior to first occupation of any dwelling, or otherwise in accordance with a programme agreed with the local planning authority.  
Any trees or plants which, within a period of 5 years from the completion of the development, die, are removed, 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 and to comply with policies DM22 of Brighton & Hove City Plan Part 2, and CP12 and CP13 of the Brighton & Hove City Plan Part One.
  
5. The ecological mitigation strategy shall be implemented and retained in accordance with the details approved under BH2021/02832.  
Reason: To enhance the biodiversity of the site and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and DM37 of the Brighton & Hove City Plan Part Two, as well as SPD11.
  
6. Secure bicycle parking facilities shall be provided and retained in accordance with the details approved under BH2021/02832.  
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 DM33 of the Brighton & Hove City Plan Part 2 and SPD14: Parking Standards.



7. The outbuildings hereby approved shall only be used for purposes incidental to their respective main dwellings.  
Reason: To ensure the use of the development hereby permitted it appropriate for its location and does not unduly impact on the amenity of neighbours, in accordance with policy DM20 of Brighton & Hove City Plan Part 2.
8. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any order revoking, re-enacting or modifying that Order), no extensions or alterations to the dwellings hereby approved, which would otherwise be permitted by Schedule 2, Part 1, Classes A, B, C, D and E of that Order, shall be carried out.  
Reason: The Local Planning Authority considers that further development could cause detriment to the character of the area and for this reason would wish to control any future development to comply with policies DM18 of Brighton & Hove City Plan Part 2 and policies CP12 of the Brighton & Hove City Plan Part One.

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 strip of land on the eastern side of The Vale. The site is designated as a Nature Improvement Area (NIA) through City Plan Part 1 (CPP1) Policy CP10, and a Local Wildlife Site (LWS) through City Plan Part 2 (CPP2) Policy DM37.
- 2.2 The site lies outside of the 'built up area boundary' but forms part of an Urban Fringe site (CPP2 Policy H2 and CPP1 Policy SA4) identified as 'Site 42' in the 2015 and 2016 Urban Fringe Assessments.
- 2.3 There is a group Tree Preservation Order (TPO) which protects all trees on the site.
- 2.4 The site has planning permission for the erection of 6no. three-bed dwellings with detached garages, and two detached single storey outbuildings. This was initially refused, but allowed on appeal and has now been implemented (ref. BH2015/01890 - see Relevant History below).
- 2.5 The Vale is a private cul-de-sac with Ovingdean Road to its northern end and Falmer Road to the southern end, and an access to Longhill School taken from the road. The western side of the road, to the north of the school, consists of detached dwellinghouses with long rear gardens, some of which extend up the side of 'Long Hill'.

### 3. RELEVANT HISTORY

**BH2021/02832** - Application for Approval of Details reserved by conditions 3 (External Materials), 4 (Landscape Works), 5 (Ecological Mitigation Strategy) and 6 (Cycle Storage) of application BH2015/01890. Details Agreed 25/10/2021.

**BH2015/01890** - Erection of 6no three bedroom dwellings (C3), detached garages and 2no detached single storey out buildings. Refused due to insufficient ecological survey information, and a lack of legal agreements securing affordable housing and transport contributions. Allowed on appeal on 8 November 2018.

Condition 4 attached to the permission stated:

*No development shall take place until details of both hard and soft landscape works, including hard-surfacing materials and boundary treatments, have been submitted to and approved in writing by the local planning authority. Details of soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedule of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and details of the existing trees to be retained, including their spread, girth and species. Development shall be carried out in accordance with the approved details prior to first occupation of any dwelling, or otherwise in accordance with a programme agreed with the local planning authority. Any trees or plants which, within a period of 5 years from the completion of the development, die, are removed, become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.*

The appeal decision did not include any tree protection measures for those trees to be retained.

#### Treeworks on Preserved Trees (Felling):

**BH2022/00435** - T17/tag no0032, T19/tag no0033, T20/tag no0034, T21/tag no0035, T23/tag no0036, T24/tag no0037, T26/tag no0038, T30/tag no0039, T34/tag no0040, T38/tag no0041, T41/tag no0042, T43/tag no0043 - Fraxinus excelsior (Ash) - Fell to as near to ground level as is possible, (trees display signs of Hymenoscyphus fraxineus or Ash Dieback in upper crown). Replant with Acer rubrum (Red Maple). T20/tag no0034 - Fraxinus excelsior, (Ash) - Fell to as near to ground level as is possible, (tree displays signs of Hymenoscyphus fraxineus or Ash Dieback in upper crown and has significant basal cavity at root / stem junction). Replant with Acer rubrum, (Red Maple). Approved

**BH2021/01696** - T22, Fraxinus excelsior, (Ash) - Fell to as near to ground level as is possible, (tree displays signs of Hymenoscyphus fraxineus or Ash Dieback in upper crown).

T24, Fraxinus excelsior, (Ash) - Fell to as near to ground level as is possible, (tree displays signs of Hymenoscyphus fraxineus or Ash Dieback in upper crown).

T32, Fraxinus excelsior, (Ash) - Fell to as near to ground level as is possible, (tree displays advanced signs of Hymenoscyphus fraxineus or Ash Dieback in crown and is heavily suppressed by adjacent trees).

T41, Fraxinus excelsior, (Ash) - Fell to as near to ground level as is possible, (tree displays advanced signs of Hymenoscyphus fraxineus or Ash Dieback in crown).

T42, Fraxinus excelsior, (Ash) - Fell to as near to ground level as is possible, (tree displays signs of Hymenoscyphus fraxineus or Ash Dieback in upper crown).

Approved

**BH2020/03491** - The verges either side of the northern entrance to The Vale, and land to the east of The Vale - currently a paddock, which is also a permitted development site.

Refusal - T4 - Poplar - the applicant has not provided corroborating evidence of defects, proximity to the property is insufficient justification. Removal of the canopy by 10m would have a detrimental impact on both tree health and visual amenity.

Refusal - T22, 24, 32, 41, 42, Ash - identified within the application, Section 15 Forestry Act 1967 prevents local authorities from considering applications to fell trees protected by a TPO when the felling activity would normally require a felling licence. A formal submission must be made to the Forestry Commission.

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

- 4.1 Planning permission is sought to vary condition 4 of planning permission BH2015/01890 (allowed on appeal) to reflect that 16 trees, listed to be retained in the Arboricultural Impact Assessment and Tree Constraints Plan of the original application, which have already been removed under tree works permissions BH2022/00435 and BH2021/01696 and to approve a further 6 with replacement planting identified for the 22 trees. The application as originally submitted was for the removal of 23 trees in total, but one tree has not had sufficient evidence provided to support its removal at this stage (Tree T22), as assessed by the Councils Arboriculturalist.
- 4.2 Whilst 16 trees have already been removed the 6 identified to be removed are protected by a blanket Tree Preservation Order (TPO)
- 4.3 In total the variation of the condition applied involves the removal and replacement of twenty two (22) trees on the site. Some of these trees (16 in total) have already been approved for removal under the Treeworks on Preserved Trees (Felling) applications detailed in the 'Relevant History' section above. Condition 4 as it currently stands requires development to be carried out in accordance with the approved details prior to first occupation of any dwelling, or otherwise in accordance with a programme agreed with the local planning authority.
- 4.4 The treeworks permission allowed the developer to remove 16 diseased trees from the development site. The removed trees were not considered to be in breach of condition, as these were granted under the treeworks permission, they remained to be shown on approved plans. The six (6) new trees are proposed to

be included for approval to be felled and have been subject to damage through the construction process or felled prior to development. The lack of tree protection measures during construction was considered to be a breach. Whilst the lack of protection measures is the breach, an application for their removal through a variation of condition has been sought. The application also consolidates the measures required to mitigate the loss of all trees.

- 4.5 The loss of trees owing to disease and the subsequent treeworks applications are a material consideration in the determination of the application
- 4.6 The elements of the application covered under the Treeworks on Preserved Trees (Felling) applications would not normally need to be included in a S73 application as the works are already approved, but due to the quantum of felling which has now been carried out, in conjunction with the new felling proposed, the LPA, as advised by the County Arboriculturalist, are of the opinion that a comprehensive replacement and maintenance scheme which covers all trees felled or to be felled is now required.
- 4.7 The variation of the condition would encompass all of the approved and proposed felling works in one application with amendments to the approved landscaping plan, and conditions to secure maintenance of the replacement trees. The amendment to condition 4, would include the obligations for replacement planting for all the felled trees (22 in total) with Red Maple Trees (11 in number) and Field Maple trees (11 in number).

## 5. REPRESENTATIONS

**Twenty two (22)** letters have been received objecting to the proposed development on the following grounds:

- Adversely affects conservation area
- Residential amenity harm
- Effects on local wildlife from tree loss
- Overdevelopment
- What legal measures will be taken against the developer for damage caused to the TPO protected trees
- Poor design
- Cynical ploy to remove healthy trees by the developer
- Adverse impact on environment from loss of trees
- Detrimental effect on property values
- Investigation and prosecution of the developer should take place for damage to TPO trees
- Appeal Inspector stated that the existing trees should remain
- All the trees that have been removed already are not identified
- Doubt the veracity of the degree of damage to the trees and need for removal that the agent has submitted.
- Detrimental to the character of area

**Councillor Fishleigh** has commented on the application requesting the application to be determined by members at Planning Committee should officers be minded to approve. Although in making this request, Councillor Fishleigh did not advise of any reasons and the application is before committee due to the number of representations received. A copy of this correspondence is attached to this report.

## 6. CONSULTATIONS

**Arboriculturalist:** Recommend approval subject to conditions.

It is considered probable these trees will fail and therefore indefensible in a court of law, BHCC Arboriculture expect, irrespective of failure all will decline to the point of removal post development.

The inclusion of Acer Campestre along with the proposed Acer rubrum is acceptable, BHCC Arboriculture recommend that due to the nature of the loss, instant impact specimens are required.

Tree pit dimensions, construction and materials to be submitted and approved along with the applicant's maintenance proposal, in particular their three year watering schedule.

## 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

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 (adopted October 2019);

## 8. RELEVANT POLICIES

The National Planning Policy Framework (NPPF)

Rottingdean Neighbourhood Plan

The policies in Rottingdean Neighbourhood Plan carry limited weight at present but will gain weight as the Plan proceeds through its stages.

The draft Neighbourhood Plan (NP) was submitted to the Council in early 2023. The draft NP reflects previous local community and stakeholder engagement undertaken across the Neighbourhood Area by the Parish Council including a period of public consultation under Regulation 14 of the NP Regulations in 2021. The Council published the draft Plan for pre-submission (Regulation 16) consultation in February 2023. The next steps for the plan are for it to be submitted for examination by an independent examiner. The NP examination is likely to commence in the summer/autumn of 2023.

The policies relevant to the present application are:

S1: Development Within and Beyond the Settlement Boundary;  
GOS3: Wildlife and Biodiversity;  
H1: Balancing the Housing Mix  
H2: Design

Brighton & Hove City Plan Part One

SA6 Sustainable Neighbourhoods  
SS1 Presumption in Favour of Sustainable Development  
CP10 Biodiversity  
CP12 Urban design

Brighton & Hove City Plan Part Two

DM18 High quality design and places  
DM20 Protection of Amenity  
DM22 Landscape Design and Trees  
DM37 Green Infrastructure and Nature Conservation

Supplementary Planning Documents:

SPD06 Trees and Development Sites  
SPD11 Nature Conservation & Development

## **9. CONSIDERATIONS & ASSESSMENT**

- 9.1 The main considerations in the determination of this application relate to the principle of the development; the loss of the trees; and the impact of the tree removal on the landscape, visual amenity and biodiversity.

Principle of Development

- 9.2 The principle of development has already been established through approval of application BH2015/01890 at appeal dated 08/11/2018, which has now been implemented by the applicant. The Planning Inspector considered the development to be acceptable in all regards and secured various measures by planning condition.
- 9.3 It is noted that the City Plan Part Two has been formally adopted since the original application was approved. The City Plan Part Two policies replace the now

superseded Local Plan and the policies hold full weight. There are no new considerations raised by the adoption of CPP2 that would alter the conclusion that the development is acceptable in principle.

#### Loss of Trees

- 9.4 As already noted, the removal of sixteen (16) of the protected trees that form part of this application has already been approved under "Treeworks on Preserved Trees (Felling)" applications BH2021/01696 and BH2022/00435. Six (6) additional trees are proposed to be approved for felling and replacement under this application by variation of condition 4 and seeks to encompass the previously approved felling, unapproved felling and proposed felling under one application with suitable mitigation measures.
- 9.5 Of these additional trees, T16, T26, T28, T31 and T33 have all suffered significant damage to the rooting structures from the development work which the applicant has carried out onsite in relation to BH2015/01890. It is important to note that the appeal decision did not include any measures to protect the trees during construction works. T30 was felled prior to development commencing as it was assessed as 'standing deadwood' by the applicant's agent. No evidence of T30 as standing deadwood has been submitted to the LPA or the felling previously approved.
- 9.6 The submitted plans and evidence in respect of T16, T26, T28, T31 and T33 have been assessed by Council's Arboriculturist who agrees with their removal due to the level of damage which has been caused to the tree roots, risk of failure in the future and/or Ash Die Back.
- 9.7 The felled trees would be replaced with suitably sized Red Maple Trees (11 in number) and Holm Oak/Holly Oak trees (11 in number), which the Arboriculturist also agrees with, subject to the final details and a maintenance scheme being agreed by condition.
- 9.8 On this basis, the proposed removal and replacement of the trees is considered acceptable, given their poor health.

#### Impact on Landscape and Visual Amenity

- 9.9 The removal of trees from the site and the proposed removal is due to a combination of Ash Die Back (16 Trees), Naturel Death (1 Tree) and damage which has been caused by the applicant's development of the site (5 Trees). This has caused a significant diminishment of the site's impact on biodiversity and visual amenity, and on the landscape which formed part of the character and appearance of The Vale. This is regrettable, but in planning terms, given that the felling for diseased/dead trees and the damage to roots has already taken place, it cannot be mitigated other than through replacement planting.
- 9.10 The proposed replacement trees, in conjunction with the previously approved landscaping under BH2021/02832 will go some way to restore the biodiversity and landscape/visual impacts in the short term, and the longer term as they grow

into more mature specimens. While there will be short term impacts as mature specimens are replaced with newer planting, in the long term, the appearance of the area and its biodiversity will be restored to a level agreed through the grant of permission for the development of the site. On this basis the impact on the landscape of the area, and visual amenity is considered acceptable, subject to conditions to secure replacement planting and maintenance.

#### Other Matters

- 9.11 The majority of objections to the proposed works have stated that the applicant caused damage to trees without having first gained permission to fell them. They state that permission should not be given to fell the trees as they are the subject of TPOs, that doing so would undermine the protection given to TPOs, and embolden others to carry out unauthorised works, which could lead to the failure of protected trees. A number of objectors state that the trees should be retained, and the applicant investigated and if applicable prosecuted.
- 9.12 However, in planning terms, only the acceptability or otherwise of the tree removal and replacement can be considered. In this case, the retention of the five (5) identified trees (T16, T26, T28, T31 and T33) is not considered sustainable or beneficial in the long term, given their poor health. Their removal and replacement is considered the best course of action for delivering trees on the site.
- 9.13 In this regard, it should be noted that support for the application does not indicate support for damage to TPO trees or their unauthorised removal, both of which are contrary to Tree Preservation Orders and planning policy. This application seeks only to consolidate and resolve the best course of action for restoring trees to the site, and the associated benefits this brings to the surrounding area.

#### Conclusion:

- 9.14 The proposed development is considered to consolidate historic and proposed felling works to trees which benefit from a tree preservation order, with replacement planting which would ameliorate the loss, improving the landscape of the site and area, visual amenity, and biodiversity. Whilst the loss of trees is regrettable, it is considered that suitable mitigation would be secured. The proposal would be compliant with Policies SA6, CP10 and CP12 of the City Plan Part One and DM18, DM20, DM22 and DM37 of the City Plan Part Two. As such, this application is recommended for approval.

## **10. EQUALITIES**

- 10.1 None identified

## **11 CLIMATE CHANGE/BIODIVERSITY**

- 11.1 The harm to biodiversity through the felling of 22 trees in total is to be offset by the planting of 22 new trees.

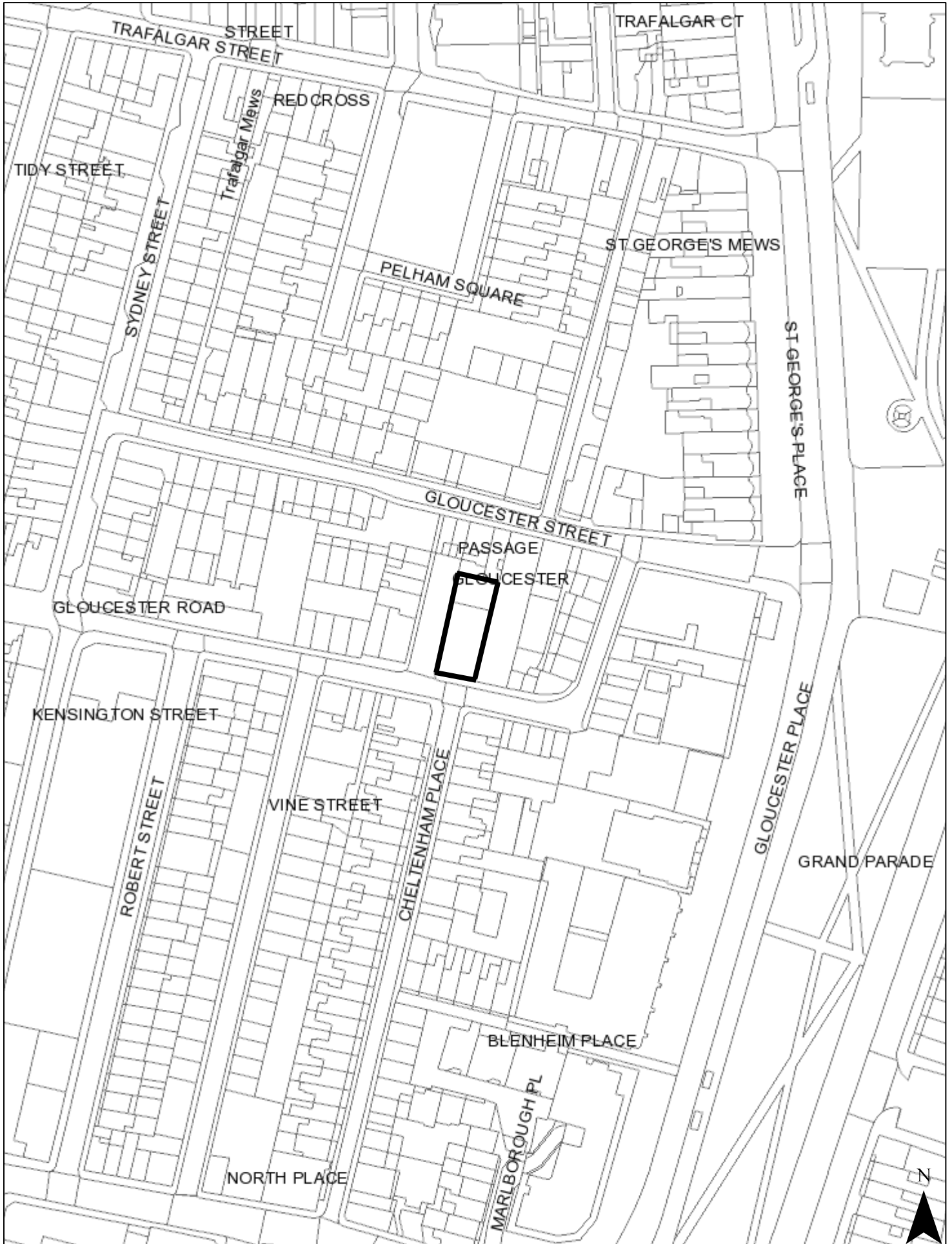


# **ITEM I**

**126 Gloucester Road  
BH2022/02689  
Full Planning**

**DATE OF COMMITTEE: 8<sup>th</sup> March 2023**





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0 15 30 60 Meters

Scale 1:1,250



<b><u>No:</u></b>	<b>BH2022/02689</b>	<b><u>Ward:</u></b>	<b>St. Peter's And North Laine Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>126 Gloucester Road Brighton BN1 4BU</b>		
<b><u>Proposal:</u></b>	<b>Change of use of part of ground floor and of first floor from commercial (E) to residential (C3) and raising of roof ridge height to facilitate second floor accommodation to form 5no residential units, incorporating a single dormer to the south elevation and a single rooflight to the west elevation, revised fenestration and associated alterations.</b>		
<b><u>Officer:</u></b>	Robin Hodgetts, 292366	tel: <b><u>Valid Date:</u></b>	23.08.2022
<b><u>Con Area:</u></b>	North Laine	<b><u>Expiry Date:</u></b>	18.10.2022
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	15.03.2023
<b><u>Agent:</u></b>	CMK Planning 11 Jew Street Hove BN1 1UT		
<b><u>Applicant:</u></b>	Mr S Cole C/o CMK Planning 11 Jew Street BN1 1UT		

## 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 on the Heads of Terms set out below and the following Conditions and Informatives as set out hereunder, **SAVE THAT** should the s106 Planning Obligation not be completed on or before 8 July 2023 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 13 of this report:

### **S106 Heads of terms**

#### Affordable Housing:

- Provision of a commuted sum of £254,300 in lieu of on-site provision of affordable housing.

#### Highway Works

The following highway works are required to be secured via a section 278/38 agreement:

- Implementation of new footway at the eastern corner of the junction of Gloucester Passage with Gloucester Road, and any reasonable adjustments required to the impacted junction.

#### 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>
Location Plan	001		23 August 2022
Block Plan	002		23 August 2022
Report/Statement		Planning Statement	23 August 2022
Proposed Drawing	100	G	13 February 2023
Proposed Drawing	200	G	13 February 2023
Proposed Drawing	201	E	13 February 2023
Proposed Drawing	300	D	13 February 2023

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. 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.
  
4. Prior to first occupation of the development hereby permitted a scheme for the storage of refuse and recycling shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in full as approved prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.  
Reason: To ensure the provision of satisfactory facilities for the storage of refuse and to comply with policy DM20 of City Plan Part One.
  
5. The development hereby permitted shall not be occupied until details showing the five bee bricks required has been submitted to and approved in writing by the Local Planning Authority. The scheme shall then be carried out in strict accordance with the approved details and thereafter retained.  
Reason: To safeguard these protected species from the impact of the development and ensure appropriate integration of new nature conservation and enhancement features in accordance with Policy DM37 of Brighton & Hove City Plan Part 2, Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
  
6. No part of the development shall commence of any part of the development hereby permitted until samples/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, including (where applicable):

- a) samples/details of all brick, render and tiling (including details of the colour of render/paintwork to be used)
- b) samples/details of all cladding to be used, including details of their treatment to protect against weathering
- c) samples/details of all hard surfacing materials
- d) samples/details of the proposed window, door and balcony treatments including any glazing
- e) samples/details of all other materials to be used externally

The 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 DM18 and DM26 of Brighton & Hove City Plan Part 2 and CP12 and CP15 of the Brighton & Hove City Plan Part One.

- 7. 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 DM18 and DM26 of Brighton & Hove City Plan Part 2 and CP12 and CP15 of the Brighton & Hove City Plan Part One

- 8. Prior to occupation of the development details of the sustainable building measures to be undertaken shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved details and retained as such thereafter.

Reason: To ensure that the development is sustainable and makes efficient use of energy, water and materials and has an acceptable appearance and to comply with policies CP8 and CP12 of the Brighton & Hove City Plan Part One.

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. You are advised that details of the development will be passed to B&HCC as Traffic Authority administering the Controlled Parking Zone, of which the development forms part, so they can determine whether occupiers should be eligible for residents' parking permits.
- 3. In order to be in line with Policy TR14 of the Brighton & Hove Local Plan 2005 cycle parking must be secure, convenient, well lit, well signed and wherever practical, sheltered. The Highway Authority's preference is for Sheffield type stands to ensure the main frame of the bicycle can be securely stored. All must be spaced in line with the guidance contained within the Manual for Streets section 8.2.22.
- 4. The proposed highway works include implementing new footway on the eastern corner of Gloucester Passage at its junction with Gloucester Road and any other

reasonable amendments that may be required at the impacted junction. The applicant is advised that they must enter into a Section 278 Agreement with the Highway Authority prior to any works commencing on the adopted highway, contact S278@brighton-hove.gov.uk Any modifications to the highway will need to be agreed through a s278 or carried out under licence, which can be determined in due course.

## 2. SITE LOCATION

- 2.1 This application relates to a 2-storey property located on the junction of Gloucester Road and Gloucester Passage. The property is not listed but is located within the North Laine Conservation Area. The surrounding area is predominantly residential albeit as is typical of the North Laines, with some businesses and two public houses adjacent to the development site. It lies close to the identified Regional Shopping Centre (CP4 and DM12) to the west.
- 2.2 The existing building is currently in use as a workshop (Class E).

## 3. RELEVANT HISTORY

**BH2021/02092** - Change of use of part of ground floor and of first floor from commercial (Class E) to residential (Class C3) and raising of ridge height to facilitate second floor accommodation to form 6no residential units, incorporating dormers to South and West elevations, alterations to fenestration and associated alterations. Refused 02.09.2021 for the following reasons:

1. *The proposed loss of 207sqm of Class E commercial space would not accord with the requirements of policies CP3 and SA2 since the site is still in use by a longstanding business and is not vacant and no marketing campaign has been undertaken for a sustained period of time. It has therefore not been demonstrated that the site is redundant for commercial use, and the proposal would fail to safeguard a premises that helps meet the needs of the city and supports job creation. The proposal would also fail to reinforce central Brighton's role as the city's vibrant, thriving commercial centre. The proposed change of use is therefore contrary to Policies CP3 and SA2 of the Brighton and Hove City Plan Part 1.*
2. *The proposed alterations to the roof and fenestration, by virtue of their design and scale, are considered unsympathetic to the existing building and would fail to preserve or enhance the setting of the wider conservation area. The proposed development would therefore conflict with Policies CP12 and CP15 of the Brighton and Hove City Plan Part 1 and Policy HE6 of the Brighton and Hove Local Plan.*
3. *The amenity and living conditions of the prospective residents would be unduly compromised given the limited outlook and light afforded to the units, and units 1, 2 and 6 in particular. The standard of accommodation proposed*



would therefore be contrary to policy QD27 of the Brighton and Hove Local Plan.

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

- 4.1 Planning permission is sought for the change of use of the property from its current Class E commercial use, primarily as a workshop, to a mixed Class E commercial and residential use, with commercial space at ground floor level with five flats (use class C3) above at ground and first floor level, and in the roof. This is to be achieved by raising the ridge height of the roof by 54cm and the construction of a single dormer to the south elevation and installation of one rooflight to the west elevation and five others in the flat roof above.
- 4.2 It is a revised re-submission of application BH2021/02092 which was refused on 2 September 2021 for the reasons outlined above.
- 4.3 The present application has sought to respond to these reasons for refusal by reducing the number of residential units from six to five, reducing the number and scale of the dormers, and amending the fenestration, materials and frontage proposed.

#### **5. REPRESENTATIONS**

**Twelve (12)** representations have been received objecting to the application on the basis of:

- Overdevelopment of the site
- Impact on the amenity of neighbours in terms of overlooking, loss of light and noise
- Impact on the character of the North Laine conservation area
- The design and height of the proposed development
- Increase in traffic to the site

#### **6. CONSULTATIONS**

##### **External**

**Conservation Advisory Group** No objection

##### **Internal**

**Economic Development** No Comment

**Heritage** No Objection

##### Summary:

Objections were made based on the initial proposal which included multiple dormers and rooflights to the front elevation of the roofslope resulting in harm to the character of the North Laine Conservation Area.

Following amendments to the design to remove all but one rooflight from the front elevation this objection has been resolved.

**Policy No objection**

Summary:

The proposal site is still in active use and so the application cannot be fully assessed against the tests of redundancy and unsuitability as set out by the requirements of policies SA2 Central Brighton and CP3 Employment Land.

Whilst it is noted that under the changes to the Use Classes Order introduced on 1 Sept 2020, employment uses previously classed as B1a now fall under Class E (Commercial, Business and Service Uses), the CPP1 marketing requirements for policies SA2 and CP3.5 do still apply.

The proposed housing units would be a small contribution to the city's housing supply. It should be determined whether the units would meet M4(2) accessibility/adaptability standards (also required by Policy DM1). When considering the planning balance for this proposal, increased weight will need to be given to housing delivery in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).

**Transport No objection subject to conditions**

Summary:

Acceptable, subject to the use of the refuse store being clarified and any necessary amendments to its access, including the refuse doors that open outwards (that may be subject to highway enforcement as per Highway Act 1980) be made, In addition the inclusion of:

- Car-free Informative
- Cycle Parking Scheme condition and informative (for both residential and commercial elements)
- Refuse and recycling scheme condition (only commercial if amendments to the proposed space are made)
- S106 agreement including S278 and the below condition and informative

**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

The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016)
- Brighton & Hove City Plan Part Two (adopted October 2022);

- 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 (adopted October 2019).

## 8. POLICIES

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development  
 CP1 Housing delivery  
 CP3 Employment Land  
 CP4 Retail Provision  
 CP7 Infrastructure and Developer Contributions  
 CP8 Sustainable buildings  
 CP9 Sustainable transport  
 CP12 Urban design  
 CP14 Housing density  
 CP15 Heritage  
 CP19 Housing mix  
 CP20 Affordable Housing  
 SA2 Central Brighton

#### Brighton & Hove City Plan Part 2

DM1 Housing Quality, Choice and Mix  
 DM12 Changes of Use within Regional, Town, District and Local Shopping Centres  
 DM18 High quality design and places  
 DM20 Protection of Amenity  
 DM21 Extensions and alterations  
 DM26 Conservation Areas  
 DM29 The setting of Heritage Assets  
 DM33 Safe, Sustainable and Active Travel  
 DM36 Parking and Servicing

#### Supplementary Planning Documents:

SPD14 Parking Standards  
 SPD12 Design Guide for Extensions and Alterations  
 SPD09 Architectural Features  
 SPD17 Urban Design Framework

## 9. CONSIDERATIONS & ASSESSMENT

- 9.1 The main considerations in the determination of this application relate to the principle of the development, the visual impact of the development on the character and appearance of the site, streetscene and wider conservation area, the standard of accommodation provided and any potential impact on the

amenities of neighbouring properties, in addition to transport issues. Ecology and sustainability are also considerations.

## **Principle of development**

### Housing Supply and the titled balance

- 9.2 Planning permission is sought for the conversion of the existing building to provide commercial uses and 5no residential units.
- 9.3 Policy CP1 in the City Plan Part One sets a minimum housing provision target of 13,200 new homes for the city up to 2030. However, on 24 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.
- 9.4 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).
- 9.5 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).
- 9.6 The provision of 5 new residential units would constitute a windfall development and would make a small but useful contribution to the city's housing supply, as set out in City Plan Part 1 policy CP1. Given the housing supply position, the principle of new residential units on the site is supported and given increased weight.

## **Planning Policy**

### Housing Mix

- 9.7 The development would provide 2x1 bedroom (40%), 2x2 bedroom (40%) and 1x3 bedroom (20%) units.

Policy CP19 states:

*"4.213 A demographic analysis of the demand/ need for homes in the city over the plan period indicates that an estimated 65% of the overall need/demand (for both market and affordable homes) will be for two and three bedroom properties (34% and 31% respectively); 24% for 1 bedroom properties and 11% for four-plus bedroom properties. In terms of the demand for market housing, the greatest*

*demand is likely to be for 2 and 3 bedroom properties (35% and 36% respectively)."*

- 9.8 The mix of units provided is considered acceptable and meets the requirements of Policy CP19 of the City Plan Part One.

#### Affordable Housing

- 9.9 CP20 of the City Plan Part One requires developments of between 5 and 9 (net) residential units to provide 20% affordable housing as an equivalent financial contribution. In this instance, based on the methodology set out in the Developer Contributions Technical Guidance Paper and the updated Schedule of Commuted sum payments (updated May 2021), five units located in Zone 1 would require a contribution of £254,300
- 9.10 The application submission confirms that the applicant is willing to enter into a S106 agreement to secure the required financial contribution.

#### Loss of commercial floor space

- 9.11 A key consideration in determining this application is the loss of Class E employment floorspace, with the scheme proposing the provision of 187 sq m of commercial space where currently there is 509.9sq m. However, as highlighted in the applicant's submission, only around 209.3m of this is in functional use with the remainder being used as redundant storages/garages. Some 47 people use the site for employment, where it is estimated that because of the more modern, efficient use of the site, up to 84 people could be employed in the future.
- 9.12 City Plan Part One Policy CP3, criterion 5. permits the loss of employment premises where it can be demonstrated to be redundant and incapable of meeting the needs of alternative employment uses. Where loss is permitted, the priority for re-use will be for alternative employment generating uses or housing (in accordance with CP20 Affordable Housing).
- 9.13 As set out in the Policy team's detailed comments, there are concerns that the proposal results in the considerable loss of commercial floorspace that has not been fully justified under the criteria of the relevant policies. The building is not vacant and no marketing over a sustained period has taken place. Nonetheless and in spite of the loss of commercial floorspace, there would still be a commercial unit (Class E) retained so there would be no net loss of units, even though there would be a loss of floorspace. In this instance the significant weight which must be given to the provision of housing would outweigh the loss of commercial floorspace.
- 9.14 The redundancy of the commercial space has not been demonstrated but given it would not be entirely lost and is likely to generate a higher number of jobs, as a smaller commercial unit would be retained and modernised, providing an improvement in terms of useability over the existing workshop. On this basis, the scheme is considered to be acceptable in terms of Policy CP3.

- 9.15 Further, given the substantial weight given to the benefits of additional housing, it is considered that the loss of 183m<sup>2</sup> of commercial space is outweighed by the provision of five sustainably located residential units.

### **Design and Appearance**

- 9.16 When considering whether to grant planning permission for development in a conservation area the council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
- 9.17 Case law has held that the desirability of preserving a listed building or its setting or the character or appearance of a conservation area must be given "considerable importance and weight".
- 9.18 The NPPF states at para 202 that 'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'.
- 9.19 City Plan Part 1 Policy CP12 expects all new development to raise the standard of architecture and design in the city, establish a strong sense of place by respecting the character of existing neighbourhoods and achieve excellence in sustainable building design and construction. Policies CP15 of CPP1 and DM26 of CPP2 seek to protect heritage assets and their setting.
- 9.20 The site is located within the North Laine Conservation Area and is located in a prominent position on the corner of Gloucester Road and Gloucester Passage. As a result, the proposed changes to the height and elevations would be clearly visible and would have an impact on the appearance of the area.
- 9.21 The main visible change to the building proposed in this application are the insertion of a dormer windows on the southern elevation, and the raising of the ridge by 54cm to allow sufficient headroom to occupiers. A dormer was initially proposed on the western elevation but this was removed following feedback from Heritage officers, and replaced with a single conservation-style rooflight. Skylights on the flat roof would instead provide light to the occupiers of the new accommodation. This has reduced the impact of the proposal and its effect on the character of the surrounding conservation area. The raising of the ridge by 54cm will allow the existing roofslope to remain and its profile retained, and is considered to be in keeping with the character and appearance of the area, including its heritage features.
- 9.22 The other works proposed in the scheme comprise the reinstatement of a timber door on the Gloucester Road frontage to provide access to the residential units; glazed windows replaced/reinstated on both the Gloucester Road and Gloucester Passage elevations; timber garage doors installed on the Gloucester Passage elevation for access to the commercial unit; and a first floor goods entrance on this elevation being infilled. It is considered that all of these works would have a positive impact on the character of the area, and would enhance the appearance of the somewhat dated building.

- 9.23 It is considered that the proposed development would conserve the historic environment and would thus comply with Policy CP12 Urban Design and CP15 Heritage of the CPP1.

### **Standard of accommodation**

- 9.24 Planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and / or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 9.25 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 and are required to be met by Policy DM1 of the City Plan Part Two.
- 9.26 The Local Planning Authority considers both quantitative and qualitative issues raised with regards to the standard of accommodation for future occupiers.
- 9.27 The proposed development would result in the creation of 5 units in total, comprising:
- Unit 1: Three bedroom, six person unit measuring 113sqm
  - Unit 2: Two bedroom, three person unit measuring 62sqm
  - Unit 3: One bedroom, two person unit measuring 51sqm
  - Unit 4: Two bedroom, three person unit measuring 86sqm
  - Unit 5: One bedroom, two person unit measuring 71sqm
- 9.28 Each of the proposed units would meet or exceed the floor space requirements as set out in the government's Nationally Described Space Standards. The floor plans submitted provide a furnished layout of each new unit which appears to demonstrate adequate circulation space within the properties.
- 9.29 There is concern regarding the lack of light and outlook to Unit Three due to its west facing, single aspect nature. No formal Daylight/Sunlight Assessment has been submitted to enable a fuller assessment of the potential impacts, however, on the basis of the information provided it is considered that the proposal would cause a small degree of harm to the occupiers of Unit Three. To mitigate this, the single conservation style rooflight would be required to the western elevation in order to provide sufficient natural light and ventilation to the bedroom of Unit Three. It is considered that the other proposed units would benefit from acceptable levels of natural light, ventilation, outlook and privacy.
- 9.30 Policy DM1 requires the provision of external amenity space within developments to serve new residents. Only two of the units have any private outdoor amenity space (terraces), which is not ideal, however, it is recognised that the constraints of the site make further provision difficult in this instance, and in this inner city

location there is access to a public park at Pavilion Gardens within 0.6 miles of the site. On balance the provision is considered acceptable.

- 9.31 Policy DM1 of CPP2 requires all new residential dwellings to meet the requirements of Building Regulations Requirement M4(2) for wheelchair access, but it is recognised that this might not be practicable in smaller residential conversions. The development is a small conversion scheme and is situated over a number of floors with no lift present and thus it is acknowledged that it will not be possible to comply with Requirement M4(2) of the optional requirements in Part M of the Building Regulations.
- 9.32 It is noted that concerns have been raised by the Private Sector Housing team that units 1, 2 and 4 all have a layout which may pose a high risk of fire. Alternative layouts could be explored, and ultimately fire safety concerns are dealt with at Building Regulation stage.
- 9.33 Most of the units would provide an acceptable standard of accommodation, albeit the light to Unit Three is not ideal. However this objection is not significant when weighed against the benefits of the scheme in terms of the provision of 5 new, centrally located units of accommodation and as such not sufficient to refuse the scheme. Therefore, on balance the proposed accommodation is not considered sufficiently harmful to warrant refusal of the application.

**Impact on Amenity:**

- 9.34 The neighbouring properties most likely to be affected by the proposals are Nos. 1 to 4 Gloucester Passage and No.11 Gloucester Road, also to an extent the upper floors of the adjacent public houses (no.s 12 and 125) and the adjacent property at no. 127. The impact of the proposal, including the increase in height and addition of dormers on these adjacent properties has been fully considered in terms of daylight, sunlight, outlook and privacy, and no significant harm has been identified. Any additional overlooking would not be significant and the distance between properties follows the tight knit urban grain of the area. The proposed outdoor terraces would be close to rooflights of the adjacent property (no.127) however these rooflights are set significantly higher than the terrace and thus the relationship would be acceptable.
- 9.35 Directly opposite the south and west of the properties lie public houses and the concern raised by the pubs that the proposal may affect their viability is noted in terms of 'agents of change' and the potential for noise complaints from future residents. The site is however located in a busy central urban area and the area is very mixed in terms of land use. There are already a number of residential properties in close proximity to pub. Relatively close relationships between residential properties and commercial ones, including outdoor seating areas occurs successfully in the North Laines and is characteristic of the area. It is not considered that the new residential units would exacerbate this as they would not be any closer than existing units (i.e. 14 and 15 Gloucester Road) so would not unduly affect the viability of any existing businesses.



- 9.36 There are a number of minor amendments to the fenestration layout of the building, but these alterations are not considered likely to cause significant harm to the privacy of neighbouring occupiers. Any new openings would have similar views to those had from existing openings.
- 9.37 The proposed development is therefore considered to be in accordance with Policy DM20 of the City Plan Part 2.

### **Sustainable Transport:**

#### Cycle Parking

- 9.38 SPD14 Parking Standards requires a minimum of one cycle parking space per dwelling and 1 cycle parking space for visitors per 3 units (over a threshold of 5 units) and 2 cycle parking spaces for 3-4 bedroom unit. The applicant is proposing 6 cycle parking spaces in the entrance of the building which therefore accords with the requirement for 1 for each of the four 1- and 2-bed units, and two for the 3-bed unit. The type of stands being proposed is unclear but this will be secured by a condition requiring details to be provided

#### Trip generation

- 9.39 The Local Highway Authority has raised no concerns regarding the potential for the scheme to result in any increase in vehicle trips.

#### Car Parking

- 9.40 The Local Highway Authority has raised concerns with regards to the potential for overspill parking on the highway. However, the site is located within Controlled Parking Zone Y. Given the level of permit uptake within this zone, the highways team have requested that the development be made car free via informative rather than condition as it is acknowledged that parking is already managed through the CPZ.

### **Ecology**

- 9.41 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. A condition requiring bee bricks and the installation of swift bricks will be attached to improve ecology outcomes on the site in accordance with the Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

### **Sustainability:**

- 9.42 A condition will be imposed to ensure the development incorporates sustainable building measures, and sufficient space for refuse/recycling, in accordance with policies CP8 and WMP3e.

## **Conclusion:**

- 9.43 On balance, it is considered that the positive aspects of the scheme such as the provision of 5 new dwellings within a sustainable location and the modernisation of the existing Class E commercial unit are such that they outweigh the concerns regarding the quality of the accommodation provided (in particular Unit 2) or the less than substantial harm to the character of the conservation area. Approval is therefore recommended.

## **10. EQUALITIES**

- 10.1 Given the constraints of the site, and the proposal to make use of the existing building rather than demolish it and rebuild, unfortunately it would not be possible for the dwellings to be made accessible to those with mobility issues.

## **11. CLIMATE CHANGE/BIODIVERSITY**

- 11.1 A condition requiring a bee bricks has been attached to improve ecology outcomes on the site in accordance with the Policy CP10 of the Brighton & Hove City Plan Part One, Policy DM37 of the Brighton & Hove City Plan Part Two and Supplementary Planning Document SPD11 Nature Conservation and Development.
- 11.2 The works would modernise and refurbish the existing building and makes better use of land.

## **12. COMMUNITY INFRASTRUCTURE LEVY**

- 12.1 Under the Regulations of the Community Infrastructure Levy (CIL) 2010 (as amended), Brighton & Hove City Council adopted CIL on 23 July 2020 and began charging on all CIL liable planning applications on and from the 5 October 2020. It is estimated that the amount of CIL liability for this application if it was approved would be £57,750

## **13. S106 AGREEMENT**

In the event that the draft S106 agreement has not been signed by all parties by the date set out above, the application shall be refused for the following reasons:

1. The proposed development fails to provide a commuted sum in lieu of affordable housing, contrary to policy CP20 of the Brighton and Hove City Plan Part 1.
2. The highway works required to make the proposed development acceptable in terms of its impact on road safety have not been secured, contrary to policies DM33 of Brighton & Hove City Plan Part 2, and CP9 of the Brighton & Hove City Plan Part One.

#### **NEW APPEALS RECEIVED**

12th January 2023 - 1st February 2023

#### **WARD**

#### **EAST BRIGHTON**

**APPEALAPPNUMBER**

BH2022/00799

**ADDRESS**

24 Great College Street Brighton BN2 1HL

**DEVELOPMENT DESCRIPTION**

Installation of dormer to rear roof slope and replacement of roof with slate tiles.

**APPEAL STATUS**

APPEAL IN PROGRESS

**APPEAL RECEIVED DATE**

26/01/2023

**APPLICATION DECISION LEVEL**

Delegated

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#### **WARD**

#### **QUEEN'S PARK**

**APPEALAPPNUMBER**

BH2022/01921

**ADDRESS**

Flat 5 23 - 24 Old Steine Brighton BN1 1EL

**DEVELOPMENT DESCRIPTION**

Replacement of window to rear elevation with sliding sash window. (Retrospective)

**APPEAL STATUS**

APPEAL IN PROGRESS

**APPEAL RECEIVED DATE**

26/01/2023

**APPLICATION DECISION LEVEL**

Delegated

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#### **WARD**

#### **WISH**

**APPEALAPPNUMBER**

BH2022/00654

**ADDRESS**

242 Portland Road Hove BN3 5QT

**DEVELOPMENT DESCRIPTION**

Part change of use & conversion of existing rear ground floor retail space (E) to residential (C3) and erection of single storey rear extension to create 1no one bedroom flat.

**APPEAL STATUS**

APPEAL IN PROGRESS

**APPEAL RECEIVED DATE**

12/01/2023

**APPLICATION DECISION LEVEL**

Delegated

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#### **WARD**

#### **WOODINGDEAN**

**APPEALAPPNUMBER**

BH2022/01783

**ADDRESS**

Bexhill Road To Rear Of 4 Hunns Mere Way Brighton

**DEVELOPMENT DESCRIPTION**

Installation of 15m high Phase 8 telecommunications monopole and associated equipment cabinets.

**APPEAL STATUS**

APPEAL IN PROGRESS

**APPEAL RECEIVED DATE**

18/01/2023

**APPLICATION DECISION LEVEL**

Delegated

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#### **APPEAL DECISIONS FOR THE PERIOD BETWEEN 20/01/2023 AND 21/02/2023**

##### **WARD**

##### **HANGLETON AND KNOLL**

**APPEAL APPLICATION NUMBER**

APL2022/00037

**ADDRESS**

27 Broad Rig Avenue Hove BN3 8EW

**DEVELOPMENT DESCRIPTION**

Prior Approval for the proposed erection of an additional storey.

**APPEAL TYPE**

Against Refusal

**APPEAL DECISION**

APPEAL DISMISSED

**PLANNING APPLICATION NUMBER**

BH2021/04314

**APPLICATION DECISION LEVEL**

Delegated

##### **WARD**

##### **HOLLINGDEAN AND STANMER**

**APPEAL APPLICATION NUMBER**

APL2022/00099

**ADDRESS**

27 Ashburnham Drive Brighton BN1 9AX

**DEVELOPMENT DESCRIPTION**

Change of use from 4no bedroom residential dwelling (C3) to a 4no bedroom small house in multiple occupation (C4).

**APPEAL TYPE**

Against Refusal

**APPEAL DECISION**

APPEAL DISMISSED

**PLANNING APPLICATION NUMBER**

BH2022/01626

**APPLICATION DECISION LEVEL**

Delegated

##### **WARD**

##### **ST. PETER'S AND NORTH LAINE**

**APPEAL APPLICATION NUMBER**

APL2022/00084

**ADDRESS**

37B Compton Avenue Brighton BN1 3PT

**DEVELOPMENT DESCRIPTION**

Installation of safety rail around rear flat roof. (Retrospective)

**APPEAL TYPE**

Against Refusal

**APPEAL DECISION**

APPEAL DISMISSED

PLANNING APPLICATION NUMBER BH2021/02589

APPLICATION DECISION LEVEL Delegated

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**WARD**

**WOODINGDEAN**

APPEAL APPLICATION NUMBER

APL2022/00081

ADDRESS

Land East Of 5 Nolan Road Brighton BN2 6RS

DEVELOPMENT DESCRIPTION

Erection of 2no two-storey semi-detached dwellinghouses with associated landscaping.

APPEAL TYPE

Against Refusal

APPEAL DECISION

APPEAL DISMISSED

PLANNING APPLICATION NUMBER

BH2022/00903

APPLICATION DECISION LEVEL

Delegated

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