

<u>No:</u>	BH2017/00994	<u>Ward:</u>	Rottingdean Coastal Ward
<u>App Type:</u>	Removal or Variation of Condition		
<u>Address:</u>	67 Falmer Road Rottingdean Brighton BN2 7FJ		
<u>Proposal:</u>	Application for variation of condition 2 of application BH2015/02049 allowed on appeal (Demolition of existing house and garage and erection of 9no four bedroom houses) to allow amendments to the approved drawings.		
<u>Officer:</u>	Chris Swain, tel: 292178	<u>Valid Date:</u>	22.03.2017
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	17.05.2017
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	16.08.2017
Agent:			
Applicant:	Denton Homes Ltd. Ms Nicola Humphrey The Rear Barn The Manor Farm 124 Manor Road North Thames Ditton Surrey KT7 0BH		

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 commence on or before 16 November 2019.
Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
2. The development hereby permitted shall be carried out in accordance with the approved plans Ref TA864/P01; TA864/P010 Rev F; TA864/P11 Rev F; TA864/P12 Rev D; TA864/P13 Rev B; TA864/P14 Rev B; TA864/P16 Rev C; TA864/P17 Rev A excluding the window arrangement on plots 5-8 typical side (south) elevation and plot 8 garage side (north) elevation; TA864/P19 Rev B; TA864/P20 Rev C; TA864/P21 Rev C; TA864/P22 Rev A; 019-02-02 and 019-02-03.
Reason: For the avoidance of doubt and in the interests of proper planning.
3. No development shall take place until the details of the window arrangement on plots 5-8 is submitted to and approved in writing by the Local Planning Authority. Such details should accord with typical floor plans plots 1-8 as set out on plan TA864/P14 Rev B. Development shall be carried out in accordance with the approved plans.
Reason: For the avoidance of doubt and in the interests of proper planning.

4. No development above ground floor slab level of any part of the development hereby permitted shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings and hard surfaced areas hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
Reason: To ensure a satisfactory appearance to the development and to comply with policy CP12 of the Brighton and Hove City Plan Part One.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extension, enlargement, alteration or provision within the curtilage of the dwellings, as provided for within Schedule 2, Part 1, Classes A-E, other than those expressly authorised by this permission, shall be carried out within the curtilage of any dwelling house.
Reason: The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and to the character of the area and for this reason would wish to control any future development to comply with policy QD14 and QD27 of the Brighton & Hove Local Plan.
6. The development hereby approved shall be carried out in accordance with the conclusions and recommendations set out in the Ecology Report, produced by Applied Ecology and dated 1 September 2015.
Reason: To mitigate any impact from the development hereby approved and to comply with Policy CP10 of the Brighton and Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
7. The parking areas shown on the approved plans shall be completed prior to the first occupation of the development and retained for that use for the occupants and visitors of the development thereafter.
Reason: To ensure that adequate parking provision is retained and to comply with policy CP9 of the Brighton and Hove City Plan Part One.
8. Notwithstanding details on the approved plans, prior to first occupation of the development hereby approved, details of disabled parking, for the occupants and visitors of the development, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented and available for use prior to the first occupation of the development and shall thereafter be retained for that use.
Reason: To ensure the development provides for the needs of disabled occupants and visitors to the site and to comply with policy TR18 of the Brighton & Hove Local Plan and SPD14 guidance.
9. No development shall commence until a surface water drainage scheme for the site, based on sustainable urban drainage principles and an assessment of the hydrological and hydro-geological context of the development has been submitted to and approved in writing by the Local Planning Authority. Such details shall include the maintenance and management of such a scheme. The

scheme shall subsequently be implemented in accordance with the approved details before the development is completed and thereafter maintained and managed in accordance with it.

Reason: As this matter is fundamental to ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with policy SU3 of the Brighton & Hove Local Plan.

10. Notwithstanding details on the approved plans, prior to first occupation of the development hereby approved, details of secure cycle parking facilities for the occupants and visitors of the development shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented and available for use prior to the first occupation of the development and shall thereafter be retained for that use.

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.

11. All tree work shall be carried out in accordance with the British Standard 3998 (2010) *Recommendations for Tree Work*.

Reason: As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to comply with policies QD16 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

12. All the trees and hedges shown on the approved plans as "to be retained" and/or any trees whose canopies overhang the site shall be protected by strong fencing, the location and type to be previously approved in writing by the Local Planning Authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the Local Planning Authority. [In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.]

Reason: As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to comply with policies QD16 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

13. The dwellings hereby approved shall be completed in accordance with the Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to the 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 building control body to check compliance.

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

14. None of the residential units hereby approved shall be occupied until each residential unit built has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).
Reason: To ensure that the development is sustainable and makes efficient use of energy to comply with policy CP8 of the Brighton & Hove City Plan Part One.
15. None of the residential units hereby approved shall be occupied until each residential unit has achieved a water efficiency standard using not more than 11litres 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.
16. No development shall take place until detailed drawings of the site's access road and footway to include junction treatment, dropped kerbs, tactile paving and street lighting, has been submitted to and approved in writing by the Local Planning Authority. The works shall be designed to as near adoptable standards as is possible and be implemented in accordance with the details approved prior to the first occupation of the development and retained as approved thereafter.
Reason: As this matter is fundamental to ensure highway safety and to comply with policies TR7 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One.
17. The amended crossover and access shall be constructed prior to the first occupation of the development hereby permitted.
Reason: In the interests of highway safety and to comply with policies TR7 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One.
18. No development shall commence until full details of existing and proposed ground levels (referenced by Ordnance Datum) with the site and on land and buildings adjoining the site by means of spot heights and cross sections showing the proposed siting and finished floor levels of all buildings and structures, have been submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in accordance with the approved levels 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 and CP12 of the Brighton & Hove City Plan Part One.
19. Prior to the first occupation of the development hereby approved, a detailed plan showing the position, height, design, materials and type of all existing and proposed boundary treatments shall have been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be provided prior to the first occupation of the development as approved and retained in such a condition thereafter.
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 QD15

and QD27 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

20. Prior to the first occupation of the dwellings hereby permitted, a soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include: planting plans, written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment), schedules of plants (noting numbers, densities and implementation programme and extensive replacement tree planting. It shall also include a scheme to enhance the nature conservation interest of the site, to accord with the standards described in Annex 7 of Supplementary Planning Document 11: *Nature Conservation and Development*. The landscaping scheme shall be carried out strictly in accordance with the agreed details and shall be carried out within the first planting season after the first occupation of the development.

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD15 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One and SPD11: Nature Conservation and Development.

The landscaping shall be maintained to the satisfaction of the Local Planning Authority for a period of 5 years after planting, such maintenance to include the replacement of any trees and shrubs that die or have otherwise become, in the opinion of the Local Planning Authority, seriously damaged or defective. Such replacements to be of a similar species and size as those originally planted.

Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

21. Prior to the first occupation of the development hereby permitted full details of the acoustic fence to be located along the boundary of the access road and 71 Falmer Road, shall be submitted to and approved in writing by the Local Planning Authority. The fence, as approved, shall be constructed prior to the first occupation of the development and retained as approved thereafter.

Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

22. The development hereby approved shall not be first occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. They shall be retained as approved and for that use thereafter.

Reason: To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policy QD27 of the Brighton & Hove Local Plan.

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 planning permission granted includes works which require alterations and amendments to areas of the public highway. All necessary costs including any necessary amendments to a Traffic Regulation Order (TRO), the appropriate license and application fees and any costs associated with the movement of any existing street furniture will have to be funded by the applicant. Although these works are approved in principle by the Highway Authority, no permission is hereby granted to carry out these works until all necessary and appropriate design details have been submitted and agreed. The highway works are required to be constructed under licence from the Head of Asset and Network Management. The applicant must contact the Streetworks Team (01273 293 366) prior to any works commencing on the public highway.
- 3 The planning permission granted includes a vehicle crossover which requires alterations and amendments to areas of the public highway. All necessary costs including any necessary amendments to a Traffic Regulation Order (TRO), the appropriate license and application fees for the crossing and any costs associated with the movement of any existing street furniture will have to be funded by the applicant. Although these works are approved in principle by the Highway Authority, no permission is hereby granted to carry out these works until all necessary and appropriate design details have been submitted and agreed. The crossover is required to be constructed under licence from the Head of Asset and Network Management. The applicant must contact the Streetworks Team (01273 293 366) prior to any works commencing on the public highway.
- 4 The applicant is advised that accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see Gov.uk website); two bodies currently operate in England: National Energy Services Ltd; and Northgate Public Services. The production of this information is a requirement under Part L1A 2013, paragraph 2.13.
- 5 The water efficiency standard required under condition 14 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.
- 6 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' which can be accessed on the DCLG website (www.communities.gov.uk).

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1 The application relates to a property located on the western side of Falmer Road, between the junctions with Court Ord Road and Court Farm Road.

- 2.2 The existing 2 storey pitched roofed (part brick part rendered) dwelling, which comprises a large L-shaped garden, is set back from Falmer Road by approximately 15m. A detached garage is located to the north-east of the dwellinghouse.
- 2.3 A boundary of the South Downs National Park is located on the eastern side of Falmer Road, approximately 8.6m from the front boundary of the application site.
- 2.4 The application proposes revisions to plot 9 of the approved scheme **BH2015/02049**. These alterations have been set out below:
- Reduction to the barn hips resulting in an increase in the massing of the roof form,
 - Alterations to fenestration and doors in regards to design and layout,
 - Repositioning of the garage,
 - Alterations to detailing,
 - Repositioning of the protruding front element at ground floor level.

3. RELEVANT HISTORY

BH2017/01994 - Application for Approval of Details Reserved by Conditions 3, 4, 9, 16 and 18 of application BH2015/02049 (approved on appeal). Currently under consideration.

BH2016/00320 - Demolition of existing house and garage and erection of 4no four bedroom and 5no three bedroom houses (C3). Minded to grant at 11 January 2017 committee meeting. Currently awaiting the signing of the Section 106 Legal Agreement.

BH2015/02049 - Demolition of existing house and garage and erection of 9 no. four bedroom houses. Refused on 1 December 2015 for the following reasons;

1. *The proposed development by reason of its design is out of keeping with the prevailing character of the area and does not emphasise its positive characteristics in terms of prevailing density, height, scale, bulk and relationship to adjoining dwellings contrary to policies QD1, QD2, QD3 and HO4 of the Brighton & Hove Local Plan 2005.*
2. *The proposed development by reason of its height and proximity to no. 6 Court Ord Road would result in an unneighbourly development contrary to policy QD27 of the Brighton & Hove Local Plan 2005.*

Planning permission was granted at appeal (**APP/Q1445/W/16/3142069**) on 17 November 2016. This planning permission also included a Section 106 Legal Agreement. The Heads of Terms included,

- An affordable housing contribution of £181,000 (this would be reduced to £108,000 in the event the Ground Investigation Report concludes that piling is required as part of the development),
- A Transport Contribution of £12,000 to be allocated towards footway improvements on Falmer Road in the vicinity of the property, including, but not limited to, the junctions with New Barn Road and Court Farm Road and/or bus stop accessibility improvements at stops to the south of the property and/or parking restrictions between and including the junctions of Court Ord Road / Falmer Road and Court Farm Road / Falmer Road.
- A Residential Travel Plan to promote sustainable transport to and from the site

4. REPRESENTATIONS

4.1 **Neighbours: Six (6)** representations have been received objecting to the application for the following reasons:

- The reduction in the roof hips results in an increase in the mass and bulk of roof when viewed from neighbouring properties to the east and west,
- Increased impact of overlooking and loss of privacy for neighbours due to amended window layout,
- Omission of any obscure glazing,
- Omission of space for future lift to the first floor and accessible WC & shower on ground floor contravening condition 13,
- Reduction in cost and increase in market value should be factored into the developer's contribution to affordable homes,
- Would set a precedent for similar changes to the other properties on this site,
- Alterations to materials,
- A higher build than previously agreed,
- Would contravene condition 5 relating to permitted development,

4.2 A general comment has been received stating that unlike the previous scheme the three high level windows do not appear to have frosting and as such this could result in overlooking / loss of privacy.

5. CONSULTATIONS

5.1 None relevant

6. MATERIAL CONSIDERATIONS

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

6.2 The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016)
- Brighton & Hove Local Plan 2005 (retained policies March 2016);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
- East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only - site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.

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

7. **POLICIES**

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development
SA5 The South Downs
CP1 Housing delivery
CP7 Infrastructure and developer contributions
CP8 Sustainable buildings
CP9 Sustainable transport
CP10 Biodiversity
CP11 Flood risk
CP12 Urban design
CP14 Housing density
CP18 Healthy city
CP19 Housing mix
CP20 Affordable housing

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

TR4 Travel plans
TR7 Safe Development
TR14 Cycle access and parking
SU9 Pollution and nuisance control
SU10 Noise Nuisance
QD5 Design - street frontages
QD15 Landscape design
QD16 Trees and hedgerows
QD18 Species protection
QD27 Protection of amenity
HO5 Provision of private amenity space in residential development
HO13 Accessible housing and lifetime homes

Supplementary Planning Documents:

SPD06 Trees & Development Sites
SPD11 Nature Conservation & Development
SPD14 Parking Standards

8. CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to whether revised details to plot 9 of the consented scheme (BH2015/02049) are acceptable in regards to design and amenity.
- 8.2 It is noted that the Section 106 Legal Agreement for BH2015/02049 contains provision for any variations of this permission and as such a Deed of Variation would not be required for this application.
- 8.3. **Planning History:**
The original scheme (BH2015/02049) was refused in November 2015 on the grounds that the design would be out of keeping with the prevailing character of the area and that there would be an unneighbourly impact on the adjoining property to the rear, No.6 Court Ord Road. The scheme was subsequently allowed on appeal in November 2016.
- 8.3 In regards to design the Inspector stated, 'I conclude that the appeal proposal would not adversely affect the character or appearance of the locality and would generally accord with CP Policies CP12 and CP14.'
- 8.4 In relation to neighbour amenity the Inspector stated, 'I conclude that the appeal development would not adversely affect the living conditions of neighbouring occupiers, with regard to daylight, sunlight, outlook, overlooking or noise and disturbance.'
- 8.5 **Design and Appearance:**
The reductions to the hipped barn ends would result in a slightly bulkier roof form, though this would not significantly alter the overall scale and massing of the dwelling and is considered acceptable in design terms. The other revisions, including the re-siting of the garage and ground floor elements and the alterations to fenestration, doors and detailing are considered to have a neutral impact on the scheme.
- 8.6 Overall the proposal is considered to have an acceptable impact on the appearance and character of the site and the wider surrounding area, including the setting of the South Downs National Park.
- 8.7 **Impact on Amenity:**
Policy QD27 of the Brighton & Hove Local Plan 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.
- 8.8 The alterations to the roof form are relatively minor in scope and are not considered to result in any significant harm to the amenity of adjoining properties by way of loss of light or an overbearing impact.

- 8.9 The proposed fenestration to the front and rear elevations is largely unchanged from the consented scheme and does not result in harm to amenity. Whilst the fenestration to the northern elevation has been altered the proposed windows at first and second floor level serve stairwells and are not considered to result in any significant detrimental impact on the privacy of the adjoining properties. The fenestration on the south facing elevation has been scaled back, reducing the opportunity for overlooking.
- 8.10 Overall the proposed scheme would have an acceptable impact on the residential amenity currently enjoyed by the occupiers of the neighbouring properties in accordance with policy QD27.
- 8.11 **Other Considerations:**
The proposed alterations are minor in scope and would result in a three bedroom property of the same floor area and number of bedrooms as the consented scheme. It is not considered that these minor differences are such that it would necessitate the viability of the scheme and the level of affordable housing contribution to be revisited.
- 8.12 It is considered that the revised layout would satisfy condition 13 relating to accessible or adaptive dwellings.
- 8.13 Representations have been received which have expressed concern that the alterations will set a precedent for future alterations to the scheme. The current application has been assessed on its own merits and this will be the case for any future minor amendment applications.
- 8.14 If this application is approved, a deed of variation to the S106 agreement relating to BH2015/02099 will not be required as the agreement also relates to any subsequent S73 application to vary the original permission.

9. EQUALITIES

- 9.1 The development is required to comply with Part M of the Building Regulations and conditions are proposed which will ensure compliance with lifetime homes standards.

