

<u>No:</u>	BH2018/00329	<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 BH2017/00994 (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). to permit amendments to the approved drawings including landscaping, elevations and boundary treatments.		
<u>Officer:</u>	Luke Austin, tel: 294495	<u>Valid Date:</u>	05.02.2018
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	02.04.2018
<u>Listed Building Grade:</u>	<u>EOT:</u>		
<u>Agent:</u>			
<u>Applicant:</u>	Denton Homes 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 be carried out in accordance with the approved drawings listed below.
Reason: For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
Floor Plans Proposed	019-201		1 February 2018
Floor Plans Proposed	019-202		1 February 2018
Floor Plans Proposed	019-211		1 February 2018
Floor Plans Proposed	019-212		1 February 2018
Floor Plans Proposed	019-221		1 February 2018
Floor Plans Proposed	019-222		1 February 2018
Floor Plans Proposed	019-231		1 February 2018
Elevations Proposed	019-301		1 February 2018
Elevations Proposed	019-311		1 February 2018
Elevations Proposed	019-321		1 February 2018
Elevations Proposed	019-331		1 February 2018
Landscaping Proposed	LC-2628-01		23 July 2018

2. Time condition not used.
3. Not used.

4. The development shall be implemented in accordance with the material samples approved by the Local Planning Authority under application BH2017/03172.
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. The approved disabled parking as approved under application BH2017/03172 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. The water drainage scheme as approved under application BH2017/03172 shall 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. The cycle parking facilities, as approved under application BH2017/03172, 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. The tree protection methods shall be carried out as approved under application BH2017/03172.
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 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.
16. The site's access road and footway shall be implemented in accordance with the details approved under application BH2017/03172 and shall be installed 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. The development hereby approved shall be implemented in accordance with the ordnance datum levels details as approved under application BH2017/03172.

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. The boundary treatments shall be provided in accordance with landscape plan LC-2628-01 received 23.07.18 and shall be installed 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 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.

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 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.

21. The acoustic fencing, as approved under application BH2017/03172, 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. **SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1 The application site relates to a pre-existing two storey property located to the west of Falmer Road. Permission was granted at appeal for the demolition of existing house and the erection of 9 four bedroom houses (BH2015/02049). Subsequent amendments have been made to the proposal under application BH2017/00994. The site has been cleared and the works are currently under way.
- 2.2 This application seeks consent for alterations to the drawings within the latest permission on site (BH2017/00994) including amendments to the landscaping, elevations and boundary treatments.
- 2.3 Several amended versions of the landscaping plan have been submitted during the assessment of the application.

3. **RELEVANT HISTORY**

BH2017/00994 - 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. Approved 15.08.2017.

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 Four (4) letters has been received, objecting to the proposed development for the following reasons:

- Disregard of previous conditions
- Overlooking / loss of privacy
- Inaccurate landscaping plans
- Inadequate detail provided
- Trees / hedges have already been removed

4.2 Councillor Mears objects to the proposed development. A copy of the objection is attached.

5. CONSULTATIONS

5.1 Environmental Health: No Comment

5.2 Arboriculture: No objection.

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, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);

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
 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
 QD14 Extensions and alterations
 QD15 Landscape design
 QD16 Trees and hedgerows
 QD18 Species protection
 QD27 Protection of amenity
 HO5 Provision of private amenity space in residential development
 HO13 Accessible housing and lifetime homes

Supplementary Planning Documents:

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

8. CONSIDERATIONS & ASSESSMENT

- 8.1 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.
- 8.2 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.'
- 8.3 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.'
- 8.4 Whilst this permission remains extant, it must be considered whether circumstances policy or practice has changed significantly since the time this decision was taken.
- 8.5 In this case it is considered that the policy context has not changed substantially in regard to the principle of development, design, sustainability or sustainable transport; however the council's position on affordable housing has altered for proposals of this many units since the time that permission was given. City Plan Part One Policy CP20 – Affordable Housing, seeks 20% affordable housing as an equivalent financial contribution on sites of between 5 and 9 (net) dwellings. As the works are already underway it is not considered reasonable to secure an affordable housing contribution in this instance.
- 8.5 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.
- 8.6 Proposed Variation of Condition 2:**
The application states that changes are required to the landscaping and elevations due to compliance with Building Regulations Part M4(2) as secured by condition 13 of the original permission.
- 8.7 The alterations to the elevations to plots 1-4 would involve minor changes to the design of the building including amendments to the roof of the rear single storey section, slight changes to the roof of the dormer window and alterations to the fenestration. New side facing windows are also proposed at second floor level to either side.
- 8.8 The alterations to plots 5-7 would also be relatively minor and similar to the alterations to plots 1-4. The dormer window would be reduced in size slightly and the positioning of the rooflights would be also be amended.
- 8.9 Plot 8 would have similar alterations in addition to an amended design to the garage door.

- 8.10 Plot 9 would also undergo several minor amendments including an increase in height of the front projection, alterations to the roof of the rear projection and minor changes to the glazing to the rear elevation.
- 8.11 Overall the alterations to the dwellings are relatively minor and are considered acceptable in terms of design. It is noted that they would provide additional views towards neighbouring gardens from a raised level however; the outlook provided would be largely similar to that of the previously approved first floor windows and the windows would serve stairwells rather than habitable rooms.
- 8.12 The application also seeks consent for alterations to the boundary treatments in addition to amendments to the proposed landscaping scheme including the removal of several trees to the western rear boundary, the installation of new hedgerows and planting to the south and north boundary in addition to the planting of a number of new trees within the rear gardens of the new properties.
- 8.13 Following clarification from the applicant and the installation of improved species of planting within the site and improved ground conditions in order to ensure that the proposed planting will thrive, the landscaping scheme is now considered acceptable.
- 8.14 Other Matters:**
Several of the drawings submitted with the application include details required by conditions placed on the overall planning permission. The proposed elevations and floorplans include a window arrangement which is consistent and acceptable. Condition 3 requiring details of the window arrangement on plots 5-8 is therefore no longer required.
- 8.15 The proposed landscape plan includes details of the boundary treatment on site. No further details are required to satisfy 19 and the implementation and retention of the boundary treatment details provided shall be secured by condition.
- 8.16 Furthermore as the works on site have already commenced, no time condition is required.

9. EQUALITIES

- 9.1 None identified

