

<u>No:</u>	BH2020/00931	<u>Ward:</u>	Hove Park Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Former Dairy 35 - 39 The Droveaway Hove BN3 6LF		
<u>Proposal:</u>	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).		
<u>Officer:</u>	Wayne Nee, tel: 292132	<u>Valid Date:</u>	15.04.2020
<u>Con Area:</u>		<u>Expiry Date:</u>	15.07.2020
<u>Listed Building Grade:</u>		<u>EOT:</u>	07.07.2021
<u>Agent:</u>	Lewis And Co Planning SE Ltd Lewis And Co Planning 2 Port Hall Road Brighton BN1 5PD		
<u>Applicant:</u>	Superstone Homes Ltd C/O Lewis And Co Planning 2 Port Hall Road Brighton BN1 5PD		

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 7 October 2021 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), or as a commuted sum in lieu of onsite provision
- 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.
- £11,100 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
- Reinstatement of existing crossover on western garage block as a grass verge
- Provision of two on-street loading bays.

- 1.2. A detailed scheme of highway works and associated TRO changes to be agreed and the TRO confirmed before prior to commencement of 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.

Plan Type	Reference	Version	Date Received
Proposed Drawing	TA/1215/08		26 March 2020
Proposed Drawing	TA/1215/34		15 April 2020
Location Plan	TA/1215/09		26 March 2020
Proposed Drawing	TA/1215/10	C	21 January 2021
Proposed Drawing	TA/1215/11	C	21 January 2021
Proposed Drawing	TA/1215/12	C	21 January 2021
Proposed Drawing	TA/1215/13	C	21 January 2021
Proposed Drawing	TA/1215/17	C	21 January 2021
Proposed Drawing	TA/1215/18	C	21 January 2021
Proposed Drawing	TA/1215/19	B	21 January 2021
Proposed Drawing	TA/1215/20	C	21 January 2021
Proposed Drawing	TA/1215/21	C	21 January 2021
Proposed Drawing	TA/1215/22	C	21 January 2021
Proposed Drawing	TA/1215/23	C	21 January 2021
Proposed Drawing	TA/1215/24	B	21 January 2021
Proposed Drawing	TA/1215/26	C	21 January 2021
Proposed Drawing	TA/1215/27	B	21 January 2021
Proposed Drawing	TA/1215/28	B	21 January 2021
Proposed Drawing	TA/1215/29	B	21 January 2021
Proposed Drawing	TA/1215/30		21 January 2021
Proposed Drawing	TA/1215/31	B	21 January 2021
Proposed Drawing	TA/1215/32	B	21 January 2021
Proposed Drawing	TA/1215/33	B	21 January 2021
Proposed Drawing	TA/1215/34	B	21 January 2021
Proposed Drawing	TA/1215/14	D	30 March 2021
Proposed Drawing	TA/1215/15	E	30 March 2021
Proposed Drawing	TA/1215/16	D	30 March 2021
Proposed Drawing	TA/1215/25	D	30 March 2021

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 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 QD27 of the Brighton & Hove Local Plan.
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 protect the amenity of neighbouring occupiers and to comply with policies SU10 and QD27 of the Brighton and Hove Local Plan.
5. Notwithstanding the plans hereby permitted, no development above ground floor slab level of any part of the development shall take place until details of disabled parking facilities 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 the development provides for the needs of disabled residents and visitors to the site and to comply with policy TR18 of the Brighton & Hove Local Plan and SPD14 guidance.
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 SU10 and QD27 of the Brighton and Hove Local Plan.
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 ensure the satisfactory preservation of this listed building, to protect neighbouring amenity, and to comply with policies QD25, QD27 and HE10 of the Brighton and Hove Local Plan and CP15 of the Brighton and Hove City Plan Part One.
8. No development shall take place until a separate a highway-focussed Highway Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall at least include:

- a) 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 any considerate constructor or similar scheme)
- b) 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
- c) details of hours of construction including all associated vehicular movements and adequate on-site parking provision for all construction staff vehicles
- d) a plan showing construction traffic routes and haul routes
- e) details of any site entrances and their management, construction compound and offices
- f) details of any oversailing of the highway construction, falsework, formwork and scaffolding
- g) details of the use of any cranes, lifts, escalators and lifting equipment's.
- h) details of any Department for Transport Abnormal Load Notification and/or Order

The construction shall be carried out in accordance with the approved CEMP.

Reason: In the interests of amenity and road safety and to comply with policies TR7, SU3, SU5, SU9, SU10, QD27 and HE6 of the Brighton & Hove Local Plan and CP1, CP2, CP3, CP7, CP9, CP11, CP12, CP13 and CP15 of the City Plan Part One.

9. 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 gated access, 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 QD15 and QD27 of the Brighton & Hove Local Plan, and CP12 and CP13 of the Brighton & Hove City Plan Part One.

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 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, 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 QD15 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.

12. Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme for the protection of the trees alongside the boundaries of the site, 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 policies QD16 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One and SPD06:Trees and Development Sites.

13. All hard 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. 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 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 of all hard surfacing materials

- d) samples of the proposed window, door and balcony treatments
- e) samples of all other materials to be used externally, including rainwater goods.

Reason: To ensure a satisfactory appearance to the development and to comply with policies QD14 and HE10 of the Brighton and Hove Local Plan 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 QD14 and HE10 of the Brighton and Hove Local Plan 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 QD14 and HE10 of the Brighton and Hove Local Plan and CP12 and CP15 of the Brighton and Hove City Plan Part One.

17. Notwithstanding the plans hereby permitted, prior to commencement of development, details of secure, accessible and inclusive cycle parking facilities for the occupants of, and visitors to, the development, and for the management thereof, 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 and National Planning Policy Framework Paragraph 110.

18. Prior to first occupation of the development hereby permitted, full details of electric vehicle charging points within the proposed car park hereby approved including arrangements for bringing bays with passive facilities into active use 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. Plus passive bays to be brought 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. 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: The SUDS Management and Maintenance Plan (Nimbus Jan 2020) states that due to groundwater levels infiltration SUDS is not appropriate at this site. However this condition is required 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, and to comply with policy SU3 of the Brighton & Hove Local Plan.
20. Notwithstanding the plans hereby permitted no development shall commence on site until a Scheme of Management and Layout of the vehicle parking areas has been submitted to and approved in writing by the Local Planning Authority. The scheme must include the following measures:
- Details of how each car parking space will be allocated and managed.
 - Details of measures to ensure that each car parking space is for the sole use of its allocated owner and/or those they permit to use said space.
 - Details of measure of control for vehicles entering and exiting the site.
 - The approved layout and management arrangements shall be implemented prior to the occupation of the building and thereafter be retained and maintained.
- Reason:** To ensure the development maintains a sustainable transport strategy and to comply with policies TR7, TR12, TR14 and TR18 of the Brighton & Hove Local Plan and CP9 of the City Plan Part One.
21. 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 and Hove City Plan Part One.
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 has issued a Post Construction Review Certificate confirming that the non-residential development built has achieved a minimum BREEAM New Construction rating of 'Excellent' and such certificate has been 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. Other than demolition no development shall take place until a scheme has been submitted to and approved in writing by the Local Planning Authority providing full details of one of the units which form part of the approved scheme, which shall be 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 HO13 of the Brighton and Hove Local Plan.

25. No development shall take place until an ecological design strategy (EDS) addressing enhancement of the site for biodiversity has been submitted to and approved in writing by the local planning authority. The EDS shall include the following:

- a) purpose and conservation objectives for the proposed works;
- b) review of site potential and constraints;
- c) detailed design(s) and/or working method(s) to achieve stated objectives;
- d) extent and location /area of proposed works on appropriate scale maps and plans;
- e) type and source of materials to be used where appropriate, e.g. native species of local provenance;
- f) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- g) persons responsible for implementing the works;
- h) details of initial aftercare and long-term maintenance;
- i) details for monitoring and remedial measures;
- j) details for disposal of any wastes arising from works.

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

Reason: To ensure that any adverse environmental impacts of development activities can be mitigated, compensated and restored and that the proposed design, specification and implementation can demonstrate this, and to provide a net gain for biodiversity as required by Section 40 of the Natural Environment and Rural Communities Act 2006, paragraphs 170 and 175 of the National Planning Policy Framework, and Policy CP10 of the Brighton & Hove City Council City Plan Part One.

- 26.

- (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 national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS 10175:2011+A1:2013 - Investigation of Potentially Contaminated Sites - Code of Practice;
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+A1:2013;
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 (i)c that any remediation scheme required and approved under the provisions of condition (i)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 free from contamination.

Reason: To safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan.

- 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 QD27 of the Brighton & Hove Local Plan, 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. Other than demolition works and works to trees the development hereby permitted shall not be commenced until a surface water drainage scheme for the site, based on sustainable 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. 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 and to prevent pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal and to comply with policy SU3 of the Brighton & Hove Local Plan.
29. 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 SU5 of the Brighton & Hove Local Plan.
30. 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. A written record of any archaeological works undertaken shall be submitted to the Local Planning Authority within 3 months of the completion of any archaeological investigation unless an alternative timescale for submission of the report is first agreed in writing with the Local Planning Authority.
Reason: To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with policy HE12 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One
31. 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 SU11 of the Brighton & Hove Local Plan.
32. If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority), shall be carried out until a method statement identifying and assessing the risk and proposing remediation measures, together with a programme for such works, shall be submitted to the Local Planning Authority for approval in writing. The remediation measures shall be carried out as approved and in accordance with the approved programme.

Reason: To safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan.

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 our New Connections Services Charging Arrangements documents which has now been published and is available to read on our website via the following link: southernwater.co.uk/infrastructure-charges
3. A formal application for connection to the water supply is required in order to service this development.
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. With regard to the CEMP, the applicant must contact the Highway Authority (s278@brighton-hove.gov.uk - assigned officer phone number will be provided in e-mail response) at their earliest convenience to avoid any delay and prior to any works commencing on-site and on the public highway.
6. The applicant is advised that the disabled car parking spaces should be designed in accordance with Department for Transport produced Traffic Advisory Leaflet 5/95 Parking for Disabled People. This requires a 1.2m clear zone to both sides of the bay.

2. SITE LOCATION

- 2.1. The application relates to a vacant commercial site located to the north of The Drove way, 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 19th century out-buildings associated with a larger dairy farm, and was used as a commercial dairy depot for many years until 2016. The site comprises a series of long, low buildings with half-hipped or gabled clay tile roofs and flint walls with brick dressings. The main barn building has semi-circular arched openings providing access to the rear. The eastern and northern ranges are in reddish brown brick in Flemish Garden wall bond. There is a tall flint wall with brick coping to the front boundary.

- 2.3. 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.
- 2.4. The main barn is the most significant element, with its long unbroken roof, but the buildings have group value; the historic, functional inter-relationship of the buildings is an important element of their significance. There is particular visual interest provided by the two semi-circular headed openings and by the uniformly long and low form of the buildings, which are executed in the local vernacular. The complex retains considerable agricultural charm and has historic interest as a reminder of the agricultural origins of the area and of The Drove way. These are an unusually intact example of a group of former farm building in the local context of Brighton & Hove, despite significant 20th century alterations for commercial dairy use. The original rural setting has long been lost but the surrounding low-rise suburban development has not overwhelmed the site and the buildings remain an attractive and distinctive feature of the street scene with the open yard at the front.

3. RELEVANT HISTORY

- 3.1. 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
- 3.2. 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
- 3.3. There are a number of historic permissions for the 1940's up to the 1980's for various alterations and changes of use within the site in association with the use of the property as a dairy distribution depot.

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for the redevelopment and change of use of the site to provide 19no. dwellings (Use Class C3) and 766sqm commercial space (Use Class E).
- 4.2. The proposals include the following physical works:
 - The northern wing of the buildings would be demolished and replaced with a terrace of dwellings.

- The covered courtyard, which is a modern addition, would be removed.
 - A central wing would be constructed; historic mapping indicates that there was a structure in this location in the past.
 - Restoration and alterations are proposed to the buildings which would be retained.
- 4.3. This application follows similar development approved under previous applications BH2018/03798 and BH2017/04050 (allowed on appeal) for 14no. residential dwellings and flexible commercial space.
- 4.4. Following receipt of consultation comments, the applicant submitted amendments to the scheme as follows:
- Reduction in no. of residential units from 25 to 19;
 - Provision of two additional commercial units (Class Use E)
 - The dormers to the main barn building have been removed
 - The proposed rooflights are now largely formed in short strips rather than individually spaced;
 - The courtyards would no longer be subdivided into individual private gardens;
 - Reduction of car parking in western courtyard from eight to two spaces

5. REPRESENTATIONS

- 5.1. **Councillors Vanessa Brown and Samer Bagaen** object to the application.
- 5.2. **Twenty (20) letters** of representation have been received objecting to the proposed development for the following reasons:
- Overlooking between new properties
 - Additional overlooking towards 6 Mallory Road
 - Poorly designed fencing within site
 - Gardens are too small
 - Increased traffic problems and congestion
 - Increased parking pressure
 - Overdevelopment
 - New central wing is out of proportion to the existing
 - Less attractive scheme
 - Increased noise and disturbance
 - Loss of privacy and loss of light to properties on Mallory Road
 - More electric vehicle charging provision required
 - Rooflights are not in keeping with the buildings' past agricultural use
 - There should be no access from Mallory Road
 - Detrimental affect on property value
- 5.3. **One (1) letter** of representation has been received in support of the proposed development.
- 5.4. **The Regency Society** have commented on the application as follows:

- The Regency Society considers that on balance this application is a significant improvement over the one approved on appeal.
- 5.5. **One (1) further letter** of comment was received, commenting as follows:
- Could the areas in front of the dairy have double yellow lines to ensure traffic from the shop would not impede access to any of the properties near the development.

6. CONSULTATIONS

External

6.1. **Conservation Advisory Group: Objection**

- The current proposals would still lead to an overdevelopment of this important and prominent heritage site;
- The plans still show an excessive number of roof lights, particularly in the main barn roof facing The Drove and in the eastern barn;
- Whilst it is appreciated that consent for a new central barn was given under BH2018/03798, the inclusion of a new central barn in this application is nevertheless regretted;
- Whilst some improvements have been made the current proposals will seriously diminish the site's value as a locally listed heritage asset;
- Any repairs to the flint barns and walls should be conditioned to ensure they are correctly carried out.

6.2. **County Ecologist: No objection**

The site currently consists of buildings and hard standing within an urban environment and is of relatively low biodiversity interest. There are no sites designated for their nature conservation interest that are likely to be impacted by the proposed development. There are unlikely to be any impacts on protected species. If protected species are encountered during development, work should stop, and advice should be sought on how to proceed from a suitably qualified and experienced ecologist.

- 6.3. The Planning Statement states that proposals will provide a net gain in biodiversity through the introduction of soft landscaping and residential gardens. However, no details are provided. If the Council is minded to approve the application, it is recommended that a condition for an Ecological Design Strategy is applied.

6.4. **Environment Agency: No objection**

No objection to the proposed development as submitted, subject to the inclusion of the following 4 conditions, in any permission granted.

- 6.5. The previous use of the proposed development site as a dairy presents a medium risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is located upon a principal aquifer and within a source protection zone 2 for a public water abstraction.

- 6.6. **Southern Water: No objection**
The proposed development lies over or within a clearance distance of public water main. In order to protect water and sewer apparatus, Southern Water requests that if consent is granted, a condition is attached to the planning permission.
- 6.7. Initial investigations indicate that Southern Water can provide foul and surface water sewage disposal to service the proposed development. Southern Water requires a formal application for a connection to the public sewer to be made by the applicant or developer.
- 6.8. **Sussex Police: No objection**
Sussex Police have no major concerns with the proposals at the location, however, additional measures to mitigate against any identified local crime trends and site specific requirements should be considered.
- 6.9. It is noted that the commercial elements have their own access from The Drove way and the residential properties having their own gated access.
- 6.10. Sussex Police would support the application from a crime prevention perspective subject to confirmation of details, in particular in respect of gated access, to be satisfactorily addressed.
- Internal
- 6.11. **Air Quality: No objection**
The development will not add sufficient traffic to warrant a detailed air quality assessment. On ground of air quality there is no objection to the proposals.
- 6.12. **CityClean: No objection**
Good provisions for bin storage, Some residents whose properties do not sit road/carpark side will need to take bins to a collection point on collection days.
- 6.13. **City Regeneration: No objection**
City Regeneration supports this application.
- 6.14. If approved, City Regeneration requests a contribution through a S106 agreement towards the council's Local Employment Scheme in accordance with the council's Developer Contributions Technical Guidance.
- 6.15. **Flood Risk: No objection**
No objections to this application subject to the inclusion of a condition to ensure that the principles of sustainable drainage are incorporated into this proposal.
- 6.16. **Heritage: Comment**
Overall it is considered that the heritage benefits of bringing these locally listed heritage assets back into an appropriate mix of uses outweighs the harm resulting from the number and size of the rooflights and the courtyard tree planting and that, having regard to the significance of the site and paragraph 197 of the NPPF, the proposals would acceptably conserve the locally listed heritage assets and their setting, subject to details by condition.

- 6.17. **Housing Strategy:** Comment
The viability assessment at this scheme has confirmed that three affordable housing units can be provide on site. This is supported by Housing in the context of national planning guidance and the outcome of the independent viability assessment.
- 6.18. **Planning Policy:** Comment
- The principle of mixed residential/employment uses on the site has already been established through the previous extant planning permission and a second mixed use application agreed by Planning Committee. The site is also proposed as a mixed use allocation for housing with B class employment and ancillary retail uses in Policy H1 of the draft CPP2.
 - The proposed 25 residential units would contribute towards the City Plan housing target of 13,200 new homes over the period 2010-2030 and would help address the current five year housing land supply shortfall.
 - The application proposes a figure of only 146 sq.m B1a office space, which is significantly lower than the current extant permission (1,383 sq.m flexible employment space), and also below the minimum indicative figure of 500 sq.m for B class uses in CPP2 Policy H1.
- 6.19. The revised housing provides a more balanced mix which is less skewed towards 3-bed units and would accord more closely with the need/demand across the city set out in CPP1 Paragraph 4.213 accompanying Policy CP19.
- 6.20. The revised mix of uses is welcomed and would provide a more substantial commercial element exceeding the indicative minimum figure in CPP2 Policy H1 and according better with the policy objectives of Policy CP3.
- 6.21. The application can now be supported subject to other detailed planning considerations.
- 6.22. **Policy (Artistic Component):** No objection / Objection / Comment
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.
- 6.23. It is suggested that the Artistic Component element for this application is to the value of £19,470
- 6.24. **Sustainability:** Comment
The application requires an Energy Statement for the residential units, and a BREEAM pre-assessment report for the commercial/office units in order to be able to fully assess the sustainability aspects of the development.
- 6.25. **Sustainable Transport:** Objection
Unfortunately, the application is unsuitable for determination to assess the likely significant impacts of the proposals - as required by National Planning Policy Framework (NPPF) paragraph 111. These include concerns relating to proposed

loading bay arrangements, pedestrian access, bin collection and cycle parking design.

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 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 JAAP (adopted October 2019).
- 7.3. 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.

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
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
CP21	Student housing and Housing in Multiple Occupation

Brighton and 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
EM4	New business and industrial uses on unidentified sites
HE10	Buildings of local interest
HE12	Scheduled ancient monuments and other important archaeological sites

Brighton & Hove City Plan Part Two

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications. The weight given to the relevant CPP2 policies considered in determining this application is set out in the Considerations and Assessment section below where applicable.

DM1	Housing Quality, Choice & Mix
DM9	Community Facilities
DM11	New Business Floorspace
DM18	High Quality Design & Places
DM20	Protection of Amenity
DM28	Locally Listed Heritage Assets
H1	Housing Sites and Mixed-Use Sites

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD06	Trees & Development Sites
SPD09	Architectural Features
SPD11	Nature Conservation & Development
SPD12	Design Guide for Extensions and Alterations
SPD14	Parking Standards

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.

Planning Policy:

- 9.2. The site was formally used as a commercial dairy depot, but since 2016 has been vacant. The last known use of the site was storage / distribution (Use Class B8).
- 9.3. The site has been the subject of two similar developments approved at appeal under BH2017/04050 (for 14 residential units and 1,383sqm flexible commercial space), and also approved under BH2018/03798 (for 14 residential units and 1,435sqm flexible commercial space). Both applications included the proposed provision of four affordable residential units.

Principle of Proposed Development:

- 9.4. The loss of the existing uses and the principle of development on this site has already been established under the extant planning permissions for mixed use residential and flexible employment space.
- 9.5. The site is allocated for a mixed-use development in Policy H1 of the emerging City Plan part 2 Proposed Submission, with a minimum indicative figure of 14 residential units and 500sqm employment uses with potential ancillary retail. At present, policies in City Plan Part 2 Proposed Submission do not carry full weight, however Policy H1 currently has significant weight. In this application, the proposed balance of residential and employment uses would need to be considered.
- 9.6. As initially submitted, the proposed development sought permission for 25 no. residential units and a Use Class B1a (now Use Class E) office building comprising 146sqm. Following submission of amendments to the scheme, the proposed development would now provide 19 no. residential units and a total of 766sqm of commercial floorspace (Use Class E).
- 9.7. Policy SS1 of City Plan Part 1 sets out the presumption in favour of sustainable development indicating that planning applications that accord with the policies of the Local Plan will be approved without delay, unless material considerations indicate otherwise, taking account of any adverse impacts being significantly and demonstrably outweighed by the benefits when assessed against the NPPF taken as a whole. This position is supported by Policy CP1 of CPP1 (Housing Delivery) which promotes higher densities in appropriate locations and where all new housing developments contribute to the creation and/or maintenance of mixed and sustainable communities.
- 9.8. 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).

- 9.9. 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.
- 9.10. The local housing need figure for Brighton & Hove using the standard method (including the 35% uplift) is 2,331 homes per year which gives a five-year housing supply shortfall of 6,604 (equivalent to 2.2 years of housing supply).
- 9.11. 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).
- 9.12. The proposed development would provide 19 no. residential units that would contribute towards the City Plan housing target. The proposed amended number of residential units would exceed the indicative figure of 14 dwellings within Policy H1 which reflects the extant permissions.
- 9.13. Emerging policy DM11 New Business Floorspace in the Draft City Plan Part Two (which can be given limited weight) seeks to ensure that development proposals involving the provision of new business floorspace, either in stand-alone commercial or mixed-use schemes, provide for well-designed buildings and layouts suitable for incorporating a range of unit sizes and types that are flexible, with good natural light, suitable for sub-division and configuration for new uses and activities.
- 9.14. The application as originally submitted provided only 146sqm of office space which was considerably less than the extant permissions and below the indicative minimum 500sqm B Class employment uses required under the site allocation within Policy H1. The revised scheme of 766sqm of commercial floorspace (Use Class E) with three units at the front of the site is a welcomed improvement of a more substantial commercial element which would generate significant employment, and would exceed the indicative minimum figure with Policy H1.
- 9.15. 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.
- 9.16. The site is well located for a development of this type, with appropriate access to local facilities and services, and opportunities to access public transport. Given the city's housing requirement and the current supply position, the

principle of mixed-use residential and office development on the site is considered acceptable, subject to all other material considerations set out below.

Proposed Mix:

- 9.17. City Plan policy CP19 seeks to improve housing choice and ensure that an appropriate mix of housing is achieved across the city. Policy CP19 notes that it will be important to maximise opportunities to secure additional family sized housing on suitable sites. Where appropriate (in terms of site suitability and with reference to the characteristics of existing communities/neighbourhoods), the intention will be to secure, through new development, a wider variety of housing types and sizes to meet the accommodation requirements of particular groups within the city. Significant weight is given to Policy DM1 of CPP2 which seeks 'the delivery of a wide choice of high-quality homes which will contribute to the creation of mixed, balanced, inclusive and sustainable communities'.
- 9.18. Policy CP19 of the City Plan Part One requires development to demonstrate regard to housing mix considerations and be informed by local assessments of housing demand and need. The policy indicates a requirement of 24% for 1-bedroom units, 34% for 2-bedroom units, and 31% for 3-bedroom units. In terms of the demand for market housing, the greatest demand is likely to be for 2- and 3-bedroom properties which reflects continuing demand for housing from younger persons and young families.
- 9.19. The number of 3-bed units has been reduced from 17 to 11 as part of the amendments to the scheme. The proposal is for 7x 2-bed, 11x 3-bed units, and 1x 4-bed which is considered to be a broad mix and less skewed towards 3-bed units, according more closely with the need across the city set out in Policy CP19. The provision of larger properties would reflect the location and character of the surrounding area.

Affordable Housing:

- 9.20. City Plan Part One Policy CP20 requires the provision of 40% on-site affordable housing for sites of 15 or more net dwellings. For this proposal of 19 dwellings this would equate to 8 affordable units. The Council's Affordable Housing Brief (2014) sets out a citywide objective to achieve a tenure mix of affordable housing of 55% social or affordable rented and 45% intermediate e.g. shared ownership. For the application scheme this would equate to approximately 4 rented units and 4 for shared ownership.
- 9.21. The policy wording of CP20 advises that the target of 40% may be applied flexibly where it is considered to be justified in light of various criteria including, among others: the costs relating to the development; in particular the financial viability of developing the site (using an approved viability model); the extent to which affordable housing would prejudice other planning objectives; and, the need to achieve a successful housing development.
- 9.22. A Financial Viability Assessment was submitted with the application in order to assess whether or not the provision of 40% on site affordable housing would be viable. Officers requested the District Valuer Service (DVS) provide an

independent review of this evidence. The review follows extensive consideration between the DVS and the applicant's Viability Consultant.

- 9.23. The DVS advised in the final review that the proposed scheme was not capable of providing a fully policy compliant scheme of 40% affordable housing, but could be viable with 3 units (16%) consisting of 2 no. affordable rent and 1 no. shared ownership (2 x2-bed houses and 1x 3-bed house) whilst retaining a reasonable developer profit.
- 9.24. This follows the sentiment of Paragraph 64 of the National Planning Policy Framework (NPPF) which states, 'Where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership'.
- 9.25. Homes available through planning gain have traditionally been provided through Registered Provider (RP) partners, however sites with smaller numbers of homes have more recently been rejected for purchase by the RPs as not viable. The Council therefore consider alternative ways in which the affordable housing can be provided. This includes looking at council purchase of homes direct, and commuted sums in lieu of onsite provision. These options will be considered if there is no RP take up at this development.
- 9.26. Final details of the numbers, type, tenure and location on the site of the affordable housing and its management by a suitable RSL are secured within the s106 heads of terms. A review mechanism is proposed to be included as an obligation in the legal agreement to ensure that the viability of the scheme is reappraised at a later date when actual costs and values are known and if there is any uplift in the development value, a proportion of this can be captured as a financial contribution.

Standard of Accommodation:

Internal Layout:

- 9.27. Draft Policy DM1 in the Proposed Submission CPP2 requires that all residential units should as a minimum meet the Nationally Described Space Standards (NDSS) and the accessibility and adaptability standards in Building Regulation M4(2).
- 9.28. The principle features of Building Regulations M4(2) guidance comprise, level access throughout, including thresholds to balconies, outdoor space, and private entrances. Generous circulation space within each home, wide corridors and flexibility are all key attributes incorporated into the design proposals in order to meet the changing needs of households and to ensure adaptability for occupants growing older or those experiencing changes in circumstance.
- 9.29. The requirement to meet Lifetime Homes (under saved Local Plan Policy HO13) has been superseded by the accessibility and wheelchair housing standards within the national Optional Technical Standards. Step-free access to the building is achievable therefore in the event permission is granted a condition is required to ensure the development complies with Requirement M4(3) of the

optional requirements in Part M of the Building Regulations for the wheelchair accessible units, and Requirement M4(2) for all other units.

- 9.30. The proposed units would meet the minimum Nationally Described Space Standards (NDSS) as required by the draft CPP2 Policy DM1. The size and layout of each unit is generally considered acceptable, with all rooms having acceptable access to outlook, as well as sufficient ventilation and daylight.

Outdoor Amenity Space:

- 9.31. Brighton and Hove Local Plan policy HO5 requires the provision of private and useable external amenity space within new residential development. The policy notes that schemes should aim to provide private amenity space through balconies and/or garden space, highlighting that a sense of ownership of external space is important to any home but especially important to high density residential schemes such as the present proposal.
- 9.32. Emerging 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.
- 9.33. Most of the residential units would include front/rear gardens and/or a private courtyard, which would meet the private outdoor amenity requirements in Policy HO5, and also draft Policy DM1 which now carries significant weight.
- 9.34. In response to the Heritage concerns, the proposal was amended to remove the sub-division of the courtyard areas at the front of the site. As a result of this, three units at the front would not have any private outdoor amenity space but would access a shared courtyard. This is unfortunate, however given the improvements to the scheme overall, on balance the lack of private amenity space for these units is considered acceptable in this instance.
- 9.35. More ground planting may offer scope for privacy and generate identifiable areas that each dwelling may assume ownership of, without the requirement of fences/boundary treatments, as well as generate communal spaces for socialisation and play. Further details will be required by condition.

Noise:

- 9.36. Saved policy SU10 seeks to ensure that all new developments minimise the impact of noise on the occupiers of proposed buildings, neighbouring properties, and the surrounding environment.
- 9.37. Future residents may experience some noise and disturbance from the commercial uses, however the site layout provides the commercial uses in one corner of the site, and so it is considered that the impact here would be minimised for residents of most units. The residential properties that would face south towards the commercial units have dual aspect with garden spaces on the north side.
- 9.38. Overall, the development is considered to provide an acceptable standard of accommodation.

Design and Appearance:

- 9.39. The National Planning Policy Framework attaches great importance to the design of the built environment and identifies good design as a key aspect of sustainable development. This is reflected in policy CP12 of the City Plan which seeks to raise the standard of architecture and design in the city.
- 9.40. The Council's Design objectives are covered in the City Plan and expect development to raise the standard of architecture and design in the city and establish a strong sense of place by respecting the diverse character and urban grain of the city's identified neighbourhoods. Development should achieve excellence in sustainable building design and construction. It should conserve or enhance the city's heritage assets and their settings. Development should protect or enhance strategic views into, out of and within the city. The design of the external spaces should be an integral element of the overall design approach, in a manner which provides a legible distinction between public and private realm.
- 9.41. Saved Policy QD15; City Plan Part One Policies CP12, CP14, and CP16 and emerging City Plan Part Two Policy DM18 and DM22 seek to deliver quality developments, raise the standard of architecture and design in the City and establishing a strong sense of place by respecting the diverse character and urban grain where landscape is an integral part of the design.
- 9.42. The proposals are to convert the existing historic buildings within the front of the site, and for extensions and new build development at the front and rear of the site. The residential units would face into three separate courtyard spaces. The proposed layout is similar to that in the previously approved applications, a factor which has to be given weight in consideration of the scheme.

Impact on Heritage Assets:

- 9.43. The site is included on the Council's Local List of Heritage Assets. Draft Policy DM28 of City Plan Part 2 Proposed Submission states that the council will strongly encourage the retention of locally listed heritage assets and their continued use. Saved Policy HE10 states that whilst not enjoying the full protection of statutory listing, the design and the materials used in proposals affecting these buildings should be of a high standard compatible with the character of the building.
- 9.44. The site comprises single storey early 19th century farm out-buildings associated with a larger dairy farm. On previous applications, a significant amount of information was presented regarding the condition of the existing buildings and their suitability for conversion to employment or alternative uses.
- 9.45. The buildings have half-hipped or gable clay tile roofs and flint walls with brick dressings. The main barn building has semi-circular arched openings providing access to the rear yard.
- 9.46. As with the previous application, the principle of bringing this vacant heritage asset back into active use is welcomed and a mixed use approach is considered

appropriate. The proposed footprint and scale is similar as approved under application BH2018/03798. The proposal retains the most significant elements of the heritage asset however it would result in the loss of the late 19th century northern and part eastern ranges to the rear of the site. It has previously been accepted that due to the poor condition and limited height of these ranges, a conversion scheme would not accommodate many residential units and would be likely to require substantial rebuilding works. The loss of the 20th century roofed enclosure is welcome.

- 9.47. The proposals partial retention and partial rebuild of other buildings. The main large central barn would be retained as previous, as well as the detached building to the west, which is a late 19th century animal shelter. The proposal also includes the reinstatement of a central range to the front courtyard which is consistent with the historic mapping of the site. The height of this range and its continuous ridge line are appropriate, and this building as previously approved would be appropriately subservient in scale to the main barn.
- 9.48. To the rear (north) of the site, the existing building would be demolished and the central canopy over the covered courtyard would be removed. A terrace of housing set on a similar footprint is proposed in replacement of the building. The new building would not be visible from The Droveaway, and the updated contemporary design is considered an appropriate change from previously approved. It is therefore considered that the proposed new building would remain subservient to the main building and would be acceptable in terms of its impact on the setting of the locally listed heritage asset.
- 9.49. The Heritage Team initially raised concern regarding the largely residential conversion, excessive number of rooflights in historic roofs, inappropriate dormer window additions, the sub-division of the historic courtyard spaces to provide gardens, and an excessive amount of car parking using space around the historic gardens.
- 9.50. Following amendments to the scheme, the amount and density of residential development and the mix of uses are now considered to be more compatible with the historic agricultural character of the site. The removal of harmful dormers and general improvement to the appearance of the rooflights is a welcomed improvement overall. The number of car parking spaces has been reduced, and the two courtyards would now be retained as largely open, undivided and uncluttered spaces
- 9.51. Paragraph 197 of the NPPF states that "in weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset".
- 9.52. In this case, the proposals would result in some harm to the heritage asset as a whole through loss of historic fabric and features and a change in the character of the site. The loss of some parts would impact negatively on the significance of the retained elements by eroding the historic grouping and context. The most significant elements of the site would however be retained and the key public

views from The Drove way would be conserved. Furthermore bringing the site back into long term sustainable use is a heritage benefit and the removal of the harmful 20th century additions would also be a welcome heritage benefit.

- 9.53. The overall development and arrangement proposed is considered to be acceptable in design and heritage terms, and the heritage benefits outweighs the harm in this instance.

Landscaping:

- 9.54. The proposed site layout indicates areas of lawn / planting. A fully detailed landscaping scheme and planting schedule is recommended to be secured by condition. The parking courtyard could accommodate a greater area of ground planting around edges, to define between vehicular and pedestrian areas and improve outlook from northern and eastern wing dwellings.

- 9.55. The Heritage Team have highlighted that the trees within the courtyards conflicts with the agricultural character of the site. A more informal planting scheme required by condition would be able to mitigate the harm.

- 9.56. Whilst there are no trees within the site itself, a number of trees are located within neighbouring sites alongside the boundaries of the site. It is recommended that a scheme of protection measures to ensure that these trees are not harmed during construction works be secured by condition.

Impact on Amenity:

- 9.57. 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.

- 9.58. Whilst the proposal would generate a certain amount of noise from private amenity areas within the development and the usual comings and goings including vehicular movements that you would expect from a residential development of this scale, it is not considered that any potential noise disturbance would be significant, especially having regard to the previous uses on site.

- 9.59. In terms of increased bulk and overlooking, the greatest potential impact would occur to the north of the site where the proposed terrace would be built facing the shared boundary with residential dwellings beyond. The dwellings in the proposed north building have a layout of living accommodation at ground floor level with bedrooms within the upper levels. The revised design of the northern building would have a differing roof shape and fenestration to that of the previously approved scheme.

- 9.60. Due to the site levels, in addition to the screening proposed along the northern boundary, it is considered that the proposed development can be successfully accommodated on site whilst achieving an appropriate relationship with the residential property to the north (6 Mallory Road).

- 9.61. The proposed commercial uses have the potential to cause disturbance through customer and employee movement, deliveries and services, and plant and machinery. As with previous permissions, it is recommended that hours are restricted by condition, as well as other conditions being used to restrict noise output from any plant/machinery. The s106 agreement would secure the provision of the loading bays for future deliveries/servicing.
- 9.62. It is also recommended that a Construction and Environmental Management Plan be secured to control noise and disturbance during the construction phase of the development.
- 9.63. Many of the representations received object to the scheme on the basis that it would generate additional vehicular movements in the surrounding area. It is not considered that the potential for vehicular movements would cause disturbance of a magnitude which would warrant the refusal of planning permission, particularly given the former use of the site as a dairy, and the extant permissions.
- 9.64. Subject to the application of appropriate conditions, overall it is considered that the proposed development would not cause significant harm to neighbouring amenity.

Sustainable Transport:

- 9.65. National and local planning policies seek to promote sustainable modes of transport and to ensure highway safety. 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). Policy CP9 c) of the Brighton and Hove City Plan Part One is relevant as are Local Plan policies TR4 (Travel Plans), TR7 (Safe Development), TR14 (Cycle 75 Access and Parking) and TR18 (Parking for people with a mobility related disability).
- 9.66. The previous use of the site as a storage and distribution centre by its nature would have generated vehicular movements and trips. Since this use ceased the site has been dormant.
- 9.67. The applicant has positively responded to the highway issues raised by the Highway Authority, where the constraints of the site and the precedent of the previous approved application allowed for improvements. It is considered that no material transport issues remain outstanding that would affect highway capacity or road safety to an extent such as to warrant refusal of the application.
- 9.68. Overall, subject to appropriate conditions and s106 requirements, the scheme is considered acceptable in transport terms.

Access:

- 9.69. The proposed development would reuse the three existing site access points on The Drove and as approved under the previous applications. The proposed vehicular access on Mallory Road as previously approved would require a

vehicular crossover secured by condition and carried out under license. The proposed pedestrian accesses and vehicular accesses are considered acceptable.

- 9.70. The proposed plans show a demarcated footway along the western vehicular access to provide a continuous footway to access the north of the site. The design of this would need to comply with building regulations.
- 9.71. Proposed on-street loading bays are proposed on The Droveway. The western bay is shorter in length and could be utilised by smaller delivery vehicles. This will require compliance with a Stage 1 Road safety Audit to fully ensure it is safety compliant.
- 9.72. The Highway Authority have raised concerns regarding the bin storage and collection but CityClean have raised no objection. Concerns have also been raised regarding vehicle manoeuvring conflicting with location of cycle stands within the site. Further details of cycle storage and bin storage are required by condition.

Cycle Parking:

- 9.73. Further to amendments made to the scheme, additional cycle parking is now proposed with 80 cycle parking spaces overall providing occupier and visitor parking. The Highway Authority have raised concerns in relation to the configuration and access of the cycle stores. However, these are considered insubstantial, and given the constraints of the site layout, not so significant as to warrant refusal of the application on this basis. Full details, including further security measures, are to be provided by condition.

Vehicle Parking:

- 9.74. Saved' Policies TR4, TR7 and TR18 and CPP1 Policy CP9 seeks to ensure that developments provide sufficient on-site parking. There are, however, situations where requirements for on-site provision of parking, for example, can be reduced, particularly if the site is in a sustainable location and within walking distance of public transport
- 9.75. Following the site layout amendments to the scheme, four disabled spaces would now be provided. The scheme overall would provide 26 parking spaces for the residential development. Details of the parking layout can be provided by condition.
- 9.76. The proposed uses would generate vehicular movements / trips from residents, workers and visitors to the site. It is acknowledged that there is a high demand for on street parking on The Droveway for various reasons. The site is within Controlled Parking Zone P. The potential increase in vehicle trips, despite the provision of off-street parking, has the potential to exacerbate existing reported parking stress in the area. However, it is not considered appropriate to impose the car-free condition requested by the Local Highway Authority because parking in the local area and limiting the issue of parking permits is already covered through the management of the Controlled Parking Zone.

- 9.77. Details of electric car charging provision would be required by condition.

Sustainability:

- 9.78. 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 policy specifies the residential energy and water efficiency standards required to be met, namely energy efficiency standards of 19% reduction in carbon emissions over Part L Building Regulations requirements 2013 and water efficiency standards of 110 litres per day and conditions are proposed to secure these standards. A further condition is proposed to secure a BREEAM rating of excellent for the B1 office element of the scheme.
- 9.79. Commercial and leisure space will be designed to achieve "Excellent" BREEAM rating. Commercial spaces will target energy performance 40% lower than typical development. BREEAM certificates will be required by condition. This may be challenging given that some conversion of historic buildings is involved, therefore the condition wording proposed allows some flexibility should an Excellent scoring not be achievable across all scoring categories.

Other Considerations:

Air Quality:

- 9.80. Policy SU9 of the Local Plan relates to pollution and nuisance control. The site is not within an Air Quality Management Area (AQMA). The extra vehicle movements as a result of the development is unlikely to create a significant impact on air quality in the vicinity.

Flood Risk:

- 9.81. Policy CP11 in the City Plan Part One sets out that the council will seek to manage and reduce flood risk and any potential adverse effects on people or property in Brighton & Hove, in accordance with the findings of the Strategic Flood Risk Assessment (SFRA). Policies SU3, SU5 and SU11 in the Local Plan relate to water resources and their quality, surface water and foul sewage disposal infrastructure and polluted land and buildings.
- 9.82. The site is within Flood Zone 1 which has the lowest risk fluvial risk of flooding. The applicant has submitted a Flood Risk Assessment and SuDs report. The application sets out that the site is at low risk from surface water flooding and concludes that the proposed development is appropriate for the flood risk. The proposal includes porous surfacing and rainwater harvesting tanks alongside two onsite attenuation tanks.
- 9.83. The Council Flood Risk Team have recommended details of the existing drainage arrangement and details of the final peak rate of the surface water runoff are submitted by condition.

Ecology:

- 9.84. 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.

- 9.85. The County Ecologist advises ecological harm and impact upon protected species unlikely on the existing site. The Planning Statement states that proposals would result in a net gain in biodiversity through the introduction of soft landscaping and residential gardens. However, the details provided are limited. It is recommended that Ecological Design Strategy be secured by planning condition.

Archaeology:

- 9.86. The proposed development is within an Archaeological Notification Area defining the remains of an historic farm
- 9.87. The County Archaeologist has previously recommended that a scheme of Archaeological Investigation is provided, this will be required by condition.

Land Contamination:

- 9.88. It has been identified that the site has a history of use that potentially has resulted in contaminated land. Given the proposed residential uses, further investigation works are required. The Environment Agency have recommended conditions which are considered appropriate to secure in this instance.

Waste Management:

- 9.89. Policy WMP3d of the Waste and Minerals Plan requires development proposals to minimise and manage waste produced during construction demolition and excavation. A Site Waste Management Plan (SWMP) is required by condition to demonstrate compliance with Policy WMP3d.
- 9.90. 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.

Conclusion

- 9.91. 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.
- 9.92. As noted previously the Council is currently unable to demonstrate a 5-year housing supply. In the current climate, this scheme would make a significant contribution to the housing shortfall.

- 9.93. The proposed development would provide a significant delivery of commercial employment floorspace. Furthermore, the proposal would ensure the retention of much of the fabric and character of a locally listed heritage asset and would secure an active use of the site for the future.
- 9.94. Other factors including impacts relating to ecology, sustainability, landscaping, flood risk, land contamination, and air quality have been assessed and have been considered acceptable.
- 9.95. Overall, whilst the proposed scheme would have some impact upon neighbouring amenity and traffic implications, it is considered that the scheme would deliver genuine benefits in the form of new employment and mixed use spaces, residential units including affordable units, and would ensure an appropriate redevelopment of a locally listed heritage asset. Overall, the scheme is considered acceptable and it is recommended for approval subject to the conditions and s106 requirements set out in this report.

10. COMMUNITY INFRASTRUCTURE LEVY

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

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. S106 AGREEMENT

- 12.1. 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 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 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, CP17 and CP3 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 Drove way to comply with policies TR7 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One.