

<u>No:</u>	BH2021/00795	<u>Ward:</u>	Hangleton And Knoll Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Benfield Valley Golf Course Hangleton Lane Hove BN3 8EB		
<u>Proposal:</u>	Resurfacing of existing car park and creation of landscaped bunds along car park boundaries.		
<u>Officer:</u>	Michael Tucker, tel: 292359	<u>Valid Date:</u>	04.03.2021
<u>Con Area:</u>		<u>Expiry Date:</u>	29.04.2021
<u>Listed Building Grade:</u>	Listed Building	<u>EOT:</u>	
	Grade II		
<u>Agent:</u>	Enplan 111 High Street Lewes BN7 1XY		
<u>Applicant:</u>	Benfield Investments Ltd 6 Commence Way Lancing BN15 8TA		

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
Location Plan	02-884-001		4 March 2021
Other	02-884-050	B	22 June 2021
Other	02-884-060		4 March 2021
Proposed Drawing	02-884-101	A	22 June 2021
Proposed Drawing	02-884-401	A	22 June 2021
Proposed Drawing	02-884-402	A	22 June 2021
Report/Statement	Preliminary Ecological Appraisal		22 June 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 development hereby permitted shall not be commenced until details of the car park layout have been submitted to and approved in writing by the Local Planning Authority. The required details shall include provision of a vehicle soakaway across where the car park meets the adopted public highway. Development shall be carried out in accordance with the approved details and retained thereafter.

Reason: To reduce the risk of flooding and surface water run-off onto the adopted public highway and to comply with policy TR7 of the Brighton and Hove Local Plan and policy CP9 of the Brighton and Hove City Plan Part One

4. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:
- a) risk assessment of potentially damaging construction activities;
 - b) identification of "biodiversity protection zones";
 - c) practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
 - d) the location and timing of sensitive works to avoid harm to biodiversity features;
 - e) the times during construction when specialist ecologists need to be present on site to oversee works;
 - f) responsible persons and lines of communication;
 - g) the role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
 - h) use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details.

Reason: To ensure that any adverse environmental impacts of development activities are mitigated and to avoid an offence under wildlife legislation.

5. No development shall take place (including any demolition, ground works, site clearance) until a method statement for the protection of badgers, breeding birds, hazel dormouse, reptiles and hedghogs has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include the:
- a) purpose and objectives for the proposed works;
 - b) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
 - c) extent and location of proposed works shown on appropriate scale maps and plans;
 - d) timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
 - e) persons responsible for implementing the works;
 - f) initial aftercare and long-term maintenance (where relevant);
 - g) disposal of any wastes arising from the works.

The works shall be carried out in accordance with the approved and shall be retained in that manner thereafter.

Reason: To protect habitats and species identified in the ecological surveys from adverse impacts during construction and to avoid an offence under the Wildlife and Countryside Act 1981, as amended and The Conservation of Habitats and Species Regulations 2017, as amended.

6. No development shall take place until an ecological design strategy (EDS) addressing mitigation for impacts on Benfield Valley Local Wildlife Site, including the restoration of habitats where appropriate, and enhancement of the site for biodiversity, e.g. through the creation of chalk grassland on the bunds and the provision of bird boxes, has been submitted to and approved in writing by the local planning authority. The EDS shall include the following:
- a) purpose and conservation objectives for the proposed works;
 - b) review of site potential and constraints;
 - c) detailed design(s) and/or working method(s) to achieve stated objectives;
 - d) extent and location /area of proposed works on appropriate scale maps and plans;
 - e) type and source of materials to be used where appropriate, e.g. native species of local provenance;
 - f) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
 - g) persons responsible for implementing the works;
 - h) details of initial aftercare and long-term maintenance;
 - i) details for monitoring and remedial measures;
 - j) details for disposal of any wastes arising from works.

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

Reason: To ensure that any adverse environmental impacts of development activities can be mitigated, compensated and restored and that the proposed design, specification and implementation can demonstrate this, 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.

7. Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme for the protection of the retained trees, 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.

8. Unless otherwise agreed in writing by the Local Planning Authority, the surface planings to be used in the car park hereby permitted shall be no larger than 20mm average aggregate size.

Reason: In the interests of pedestrian safety and accessibility and to comply with policy TR7 of the Brighton and Hove Local Plan and policy CP9 of the Brighton and Hove City Plan Part One

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.

2. SITE LOCATION

- 2.1. The application relates to the informal car park of Brighton Footgolf, within Benfield Valley and north of Hangleton Lane. The site is located to the south of the Benfield Barn Conservation Area and the grade II listed Benfield Barn. The site is adjacent to and partially located within the Benfield Valley Site of Nature Conservation Importance (SNCI) and the Benfield Valley Local Wildlife Site (LWS). A number of public footpaths cross the site and the wider valley, including one Public Right of Way (PRoW) running north-south near the eastern boundary of the site.
- 2.2. A large quantity of chalk has also been deposited on the site, and there is an ongoing Planning Enforcement investigation into this.
- 2.3. The site previously contained a large number of mature trees along its eastern edge however emergency clearing works were carried out in early 2021 due to an outbreak of Elm disease. As a result, the visibility of the car park has increased significantly.

3. RELEVANT HISTORY

An Enforcement Notice was served on 30th March 2021, requiring the removal of the chalk mounds and reinstatement of vegetation lost as a result of the chalk deposits within three months. This notice is currently the subject of an appeal to the Planning Inspectorate.

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for the resurfacing of the existing car park and creation of landscaped bunds along the car park boundaries. The car park would be surfaced with road planings, and the bunds would utilise the large amounts of chalk currently deposited on site and would be seeded with downland wildflower mixes.
- 4.2. The application has been amended since the initial submission, to reduce the size of the car park, vary the positioning of and reduce the gradient of the bunds, and also to increase the amount of replacement tree planting.

5. REPRESENTATIONS

- 5.1. **Ten (10)** letters have been received, objecting to the proposal for the following reasons:
 - Adversely impacts Conservation Area

- Too high
- Wildflower banks require careful maintenance
- Adverse visual impact in longer views
- Overdevelopment
- Many trees and shrubs have been removed and should be replanted
- Application is an effort to avoid the requirements of the enforcement notice
- Car park is not for use of local walkers
- Bunds are too high and not suitable for use as a flower bank
- The chalk should be moved off site
- Paves the way for further destruction
- Proposed car park too large
- Removal of further trees
- The leaseholder should be made to return the site to its original condition

5.2. **Councillor Lewry** has objected to the application and asked for it to be determined at planning committee. A copy of this correspondence is attached to this report.

6. CONSULTATIONS

6.1. **Arboriculture:** No comment received

6.2. **Brighton and Hove Archaeological Society:**

The proposed development is close to the area is close to the location of a Saxon burial found on the golf course. Part of the Benfield valley was the subject of archaeological investigation prior to the creation of the Brighton bypass.

6.3. The Brighton and Hove Archaeological Society would suggest that you contact the County Archaeologist for his recommendations.

6.4. **County Archaeology:** No comment received

Although this application is situated within an Archaeological Notification Area, based on the information supplied, it is unlikely that any significant archaeological remains will be affected by these proposals. For this reason there are no further recommendations to make in this instance.

6.5. **Ecology:** No objection

Following the submission of a Preliminary Ecological Appraisal (PEA), no objection, subject to securing a Construction Environmental Management Plan (CEMP) (Biodiversity), a Biodiversity Method Statement, and an Ecological Design Strategy (EDS) by condition.

6.6. **Heritage:** No objection

The amendments have softened and made more informal the northern edge of the car park and reinforced the boundary with the conservation area and the rural setting of the site. It is now considered that the proposals would preserve the setting of the conservation area and would preserve the setting of the listed Barn and so approval is therefore now recommended.

6.7. **Natural England:** No comment

6.8. **Sustainable Transport:** Verbal comments: No objection

There does not appear to be a height sign on the vehicle barrier. There should be a surface water drainage gully leading to a soakaway across where its access road frontage meets the adopted (public) highway and the surface material should preferably be of 10mm average aggregate size and certainly no larger than the 20mm average aggregate size so pedestrians do not twist ankles and the mobility impaired can get around in wheelchairs or on Zimmer frames.

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 Joint Area Action Plan (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. RELEVANT POLICIES AND GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP9	Sustainable transport
CP10	Biodiversity
CP12	Urban design
CP15	Heritage
CP16	Open space
SA4	Urban Fringe

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

TR7	Safe Development
QD15	Landscape design
QD16	Trees and hedgerows
QD18	Species protection
QD27	Protection of amenity

HE3	Development affecting the setting of a listed building
HE6	Development within or affecting the setting of conservation areas
NC4	Sites of Nature Conservation Importance (SNCIs) and Regionally Important Geological Sites (RIGS)
NC9	Benfield Valley
NC11	Land and buildings in the vicinity of Benfield Barn

Brighton & Hove City Plan Part Two (Proposed Submission October 2020):

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.

DM18	High quality design and places
DM20	Protection of Amenity
DM26	Conservation Areas
DM29	The Setting of Heritage Assets
DM33	Safe, Sustainable and Active Travel
DM40	Protection of the Environment and Health - Pollution and Nuisance
SA7	Benfield Valley

Supplementary Planning Documents:

SPD03 Construction & Demolition Waste
 SPD06 Trees & Development Sites
 SPD11 Nature Conservation & Development

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the principle of the development, the design and appearance of the proposal in the context of the surrounding landscape and heritage assets, ecology and arboriculture matters and transport considerations.

Principle of Development:

- 9.2. Saved policy NC4 of the Brighton & Hove Local Plan seeks to protect Sites of Nature Conservation Importance (SNCI's), and the setting of SNCIs, from proposals likely to have an adverse impact upon the nature conservation features of the site. Exception (a) of policy NC4 states:
- a. the proposal can be subject to conditions that will prevent damaging impacts on the nature conservation features and their setting and includes provision for the protection, enhancement and management of nature conservation features;*
- 9.3. As set out below, it is considered that the scheme, as amended, can be made acceptable subject to conditions that will prevent damaging impacts and include provision for protection and enhancement of nature conservation features. As such, exception (a) would be met.

- 9.4. Saved policy NC9 (Benfield Valley) of the Brighton & Hove Local Plan supports the provision of improved access for pedestrian and cyclists to the area and saved policy NC11 (Land and buildings in the vicinity of Benfield Barn) of the Brighton and Hove Local Plan supports the provision of improved public access to the valley, and NC11(f) specifically supports the provision of a vehicle parking area.
- 9.5. No objection is raised in principle to the proposed development. An informal car park of fluctuating dimensions has been in place for a number years, evidenced as at least as far back as 2009. The formalisation of this car park would accord with the objectives of saved policies NC9 and NC11 by way of improving public access to the valley.
- 9.6. Draft policy Special Area SA7 of the Proposed Submission City Plan Part Two would supersede Saved Policies NC9 and NC11, however this policy currently carries only limited weight in decision making at the time of writing.

Design and Appearance:

- 9.7. In considering whether to grant planning permission for development which affects a listed building or its setting, the Council has a statutory duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Moreover, when considering whether to grant planning permission for development in a conservation area the Council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
- 9.8. Case law has held that the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses, and the desirability of preserving or enhancing the character or appearance of a conservation should be given "considerable importance and weight".
- 9.9. The proposals comprise the re-utilisation of the existing chalk on site to raise the car park level by an average of <1m and also to create bunds surrounding the levelled area of up to an additional 2.5m in height. The bunds would be greatest in scale at the northern end of the car park. The bunds would be seeded with a Downland Wildflower mix and the car park would be surfaced in road planings.
- 9.10. The extent, height and gradients of the bunds have been amended to address Ecology concerns during the course of the application. The footprint of the proposed car park roughly follows that of the existing informal car park and has been amended following Heritage comments to have a more rounded northern edge on the boundary with the Conservation Area. The most recent amendment includes a further reduction in the extent of the car park at the northern end of the site.
- 9.11. The proposal involves the removal of 3no trees in the northern area of the proposed car park. The amended scheme has also included an increased quantity of tree planting along the northern and eastern boundaries of the site, to better delineate the car park from the listed Barn and Conservation Area to

the north, and also to mitigate for the recent tree removals along the Public Right of Way (PRoW) to the east.

- 9.12. There would be a break in the bunds to the west of the car park to provide access to the Barn and Footgolf course
- 9.13. The proposed car park itself would have an area of approx. 1484sqm, increasing to 2820sqm with the area of the bunds included. This equates to an increase in overall footprint, but a decrease in the area used for vehicle parking, compared to the existing informal arrangement.
- 9.14. The bunds would mitigate for the visual impact of the raised car park level. As amended, the bunds would be widest on the northern side on the boundary with the conservation area, and also on the eastern side where the ground level is lower and longer views have opened up following the recent tree clearances. The peak height of the bunds would be greatest on the northern side, reflecting the steady increase in land levels to the north. The bunds would screen the car park and, once seeded, would blend in with the landscape to further reduce the visual impact of the development.
- 9.15. As such, it is considered that the proposal, as amended, would be of an acceptable appearance and would preserve the setting of the conservation area and the listed Barn, in accordance with policies CP12 and CP15 of the CPP1 and policies QD15, HE3, HE6, NC9 and NC11 of the BHLP.
- 9.16. It is acknowledged that the existing chalk mounds and the removal of trees along the eastern boundary of the site have resulted in a dramatic change in the character and appearance of the site, notably in longer views from the east. The existing on site chalk mounds (the subject of the ongoing Planning Enforcement Notice) are harmful to the character and appearance of the site and wider area, and the proposal would re-utilise the existing chalk on site. The bunds would help mitigate for the increased visibility of the car park following the removal of the trees.

Impact on Amenity:

- 9.17. 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.
- 9.18. The proposals would be unlikely to have a significant impact on neighbouring amenity, due to the form of development proposed and the separation from the nearest sensitive uses.

Ecology:

- 9.19. The site is adjacent to and partially located within an SNCI and LWS, and the initial Ecology comments raised concerns with the proposals and the potential impact upon habitats of protected species.

- 9.20. Concerns were also held regarding the depositing of chalk on site and the existing likely encroachment of the chalk spoils into the LWS.
- 9.21. In response to these comments, the applicant provided a Preliminary Ecological Appraisal (PEA) surveying the site for the likelihood of protected species and recommending actions to prevent and mitigate ecology harm.
- 9.22. As set out above the scheme has been amended to reflect the recommendations of the PEA, including a reduction in the extent of the bunds. Other matters such as working practices can be secured by condition.
- 9.23. The County Ecologist has reviewed the PEA and is of the view that planning permission can be granted subject to conditions securing the required mitigation measures, and also securing compensation and enhancement measures. This would be by way of a CEMP (biodiversity), a Biodiversity Method Statement, and an EDS.
- 9.24. As such, it is considered that refusal would not be warranted on ecology grounds as the outstanding concerns can be mitigated through appropriate planning conditions.

Arboriculture:

- 9.25. The scheme involves the removal of 3no trees. It should also be noted that a large number of trees have been removed from the eastern boundary of the site due to an outbreak of Elm disease.
- 9.26. The replacement planting proposed in the amended scheme would go some way towards mitigating for the loss of these trees. A tree survey and protection methodology for the retained trees during construction can be secured by condition.

Sustainable Transport:

- 9.27. The site comprises an existing car park and so is unlikely to result in a significant uplift in trips to and from the site. The number of car parking spaces able to be accommodated is reduced to approximately 50 (compared to approximately 70 as existing and as originally proposed).
- 9.28. A detailed car park layout can be secured by condition to accommodate the Local Highway Authority (LHA) request for a surface water drainage gully. Similarly, the type of road planings to be used can be secured by condition.

- 10. EQUALITIES**
None identified