

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

## 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 1 July 2023 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 13 of this report:

### **S106 Heads of terms**

#### Affordable Housing:

- Secure on-site affordable housing of 3 units (2x affordable rent and 1x shared ownership)
- A Review Mechanism to reassess the viability of the scheme close to completion in order to, where possible, secure up to policy compliant level of affordable housing via an off-site financial contribution

#### Artistic Component

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

#### Employment and training

- Employment and Training Strategies for the provision of local employment opportunities with 20% of any new roles created from the demolition and construction phases of development, at least one month before the intended date of formal commencement of the development.

- £8,100 developer contribution toward the Council's Local Employment Scheme

#### Highway Works

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

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

#### Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.  
(*Note: Drawing list will be included on the Late Representations List*)  
**Reason:** For the avoidance of doubt and in the interests of proper planning.
2. Notwithstanding the site layout details as shown on the submitted drawings including site plan 2048-SK-122 Rev H, no development of unit 12 shall take place until a revised scheme for a reduced vehicular access and crossover from Mallory Road which serves one car parking space only (instead of two) and which retains the existing street tree and provides a boundary wall/fence, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and retained thereafter.  
**Reason:** To ensure there is sufficient distance between the access and the existing street tree to ensure its healthy retention, in the interests of amenity and biodiversity, to comply with policies CP10 and CP12 of the Brighton and Hove City Plan Part One and DM22 and DM37 of the Brighton and Hove City Plan Part Two and SPDS06:Trees and Development Sites.
3. The non-residential commercial uses hereby approved shall be retained as Class E use and shall not be used for any other purpose.  
**Reason:** The Local Planning Authority would wish to retain control over any subsequent change of use of these premises in the interests of safeguarding the amenities of the area and to comply with policy DM20 of the Brighton & Hove City Plan Part 2.
4. No activities associated with the non-residential uses hereby approved, including servicing and deliveries, shall take place outside the hours of 07.00 to 23.00.  
**Reason:** To safeguard the amenities of the locality and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.
5. The development shall be constructed and laid out in accordance with the disabled bays shown on drawing 043-02-P101 rev 01 received on the 26th of July 2022. The approved facilities shall be fully implemented and made available

for use prior to the first occupation of the development and shall thereafter be retained for use at all times.

**Reason:** To ensure the development provides for the needs of disabled staff and visitors to the site and to comply with policy DM36 of Brighton & Hove City Plan Part 2, and SPD14: Parking Standards.

6. Noise associated with plant and machinery throughout the development shall be controlled such that the Rating Level, calculated at 1-metre from the façade of the nearest proposed residential unit, shall not exceed a level 5dB(A) below the existing LA90 background noise level. Rating Level and existing background noise levels to be determined as per the guidance provided in BS 4142:2014.  
**Reason:** To safeguard the amenities of the occupiers of neighbouring properties and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.
7. Prior to first occupation of the development hereby approved, full details of a proposed external lighting scheme shall be submitted for approval by the Local Planning Authority. No external lighting other than that which forms part of the approved scheme shall be installed.  
**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.
8. The construction of the development hereby approved shall be carried out in accordance with the approved CEMP 01 rev A received on the 17th August 2022.  
**Reason:** As this matter is fundamental to the protection of amenity, highway safety and managing waste throughout development works and to comply with policies DM20, DM33 and DM40 of Brighton & Hove City Plan Part 2, policy CP8 of the Brighton & Hove City Plan Part One, and WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013 and Supplementary Planning Document 03 Construction and Demolition Waste.
9. Not used (incorporated into condition 11)
10. The development shall be constructed in accordance with the ordnance datum levels shown on drawings 043-02-P105, 043-02-P106, 043-02-P108, 043-02-P112 and 043-02-P113 received on the 1<sup>st</sup> of November 2022.  
**Reason:** As this matter is fundamental to the acceptable delivery of the permission to safeguard the amenities of nearby properties and to safeguard the character and appearance of the area, in addition to comply with policy DM20 of the Brighton and Hove City Plan Part 2 and policy CP12 of the Brighton and Hove City Plan Part One.
11. Prior to occupation of the development hereby permitted, a scheme for landscaping shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping shall be implemented in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. The scheme shall include the following:

- a. details of all hard and soft surfacing to include type, position, design, dimensions and materials and any sustainable drainage system used;
- b. a schedule detailing sizes and numbers/densities of all proposed trees/plants, to include food-bearing plants, including details of tree pit design, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period;
- c. details of all boundary treatments to include type, position, height, design, dimensions and materials, including gated access.
- d. details of all proposed areas of defensible space as shown on the proposed level 0 plan. The defensible space to the front of units 13-19 should be no less than 0.6m in depth.

Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

**Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies DM22 of Brighton & Hove City Plan Part 2, and CP12 and CP13 of the Brighton & Hove City Plan Part One.

12. No further works shall take place on site until a scheme for the protection of the street trees alongside the boundaries of the site on Mallory Road and the Droveaway, in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS) has been submitted to the Local Planning Authority for written approval. 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 around the site during construction works in the interest of the visual amenities and biodiversity of the area and to comply with policies CP10 and CP12 of the Brighton & Hove City Plan Part One, DM22 and DM37 of the Brighton and Hove City Plan Part Two and SPD06:Trees and Development Sites.

13. All hard landscape surfaces hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.

**Reason:** To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policies CP8 and CP11 of the Brighton and Hove City Plan Part One.

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

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

15. No development above ground floor slab level of any part of the development hereby permitted shall take place until a sample panel of flintwork has been constructed on the site and approved in writing by the Local Planning Authority. The flintwork comprised within the development shall be carried out and

completed to match the approved sample flint panel prior to the development hereby permitted being occupied.

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

16. The rooflights hereby approved shall have steel or cast metal frames colour-finished black or dark grey, fitted flush with the adjoining roof surface and shall not project above the plane of the roof.

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

17. The cycle parking within the development hereby permitted shall be carried out in accordance with drawing 043-02-P101 received on the 26th of July 2022. The approved cycle parking facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.

**Reason:** To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy DM33 of Brighton & Hove City Plan Part 2, and SPD14: Parking Standards.

18. The electric vehicle chargers within the development hereby permitted shall be carried out in accordance with drawing 043-02-P101 received on the 26th of July 2022. These charging facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times. Plus passive bays shall be bought into active service in accordance with the approved arrangements.

**Reason:** To encourage travel by more sustainable means and seek measures which reduce fuel use and greenhouse gas emissions and to comply with policies SA6, CP7, CP9, CP12, CP13 and CP15 of the City Plan Part One and SPD14 Parking Standards.

19. The development shall be constructed in accordance with remediation strategy and verification plan received on 21ST December 2022 and plans 19-230-50-C1 and 19-230-51-C1 received 2nd December 2022.

**Reason:** To ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with policies DM42 and DM43 of City Plan Part and CP11 of the Brighton & Hove City Plan Part One.

20. The layout and management/allocation of the vehicle parking areas within the development shall be carried out in accordance with drawing 043-02-P101 received on the 26th of July 2022. The approved layout and management arrangements shall be implemented prior to the occupation of the buildings and thereafter be retained and maintained.

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

21. Not used.
22. None of the new build residential units hereby approved shall be occupied until each residential unit built has achieved a water efficiency standard using not more than 110 litres per person per day maximum indoor water consumption.  
**Reason:** To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton and Hove City Plan Part One.
23. Unless otherwise agreed in writing by the Local Planning Authority, within 3 months of first occupation of the non-residential development hereby permitted a BREEAM Building Research Establishment issued a Post Construction Review Certificate confirming that the non-residential development built has achieved a minimum BREEAM New Construction rating of 'Excellent' shall be submitted to, and approved in writing by, the Local Planning Authority.  
**Reason:** To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy CP8 of the Brighton & Hove City Plan Part One.
24. The development hereby permitted shall be constructed in accordance with drawing 043-02-P107 which secures a dwelling for a wheelchair user. This shall be completed in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings) prior to first occupation and shall be retained as such thereafter.  
All other dwelling(s) hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2)(accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter.  
Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.  
**Reason:** To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy DM1 of Brighton & Hove City Plan Part 2.
25. The development hereby permitted shall not be first occupied until all ecological measures and/or works have been carried out in accordance with the details contained in Ecological Design Strategy (Bakerwell, August 2022). and all measures shall be thereafter maintained in accordance with the details of the Strategy.  
**Reason:** To increase the biodiversity of the site, to mitigate any impact from the development hereby approved and to comply with Policy DM37 of Brighton & Hove City Plan Part 2, Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
26. (i). The development shall be constructed in accordance with the Remediation Strategy and Verification Plan received on the 21<sup>st</sup> December 2022, Preliminary Contamination Risk Assessment October 2017 received 11<sup>th</sup> November 2022, Existing and Historic Land use Assessment Rev received 17<sup>th</sup> August 2022, Ground water letter received 11<sup>th</sup> November 2022,

Preliminary information report by Geo Environmental received on the 17<sup>th</sup> of August 2022, and Phase 2 land contamination assessment dated May 2018, received on 26<sup>th</sup> July 2022.

- (ii) The development hereby permitted shall not be occupied or brought into use until there has been submitted to, and approved in writing by, the local planning authority a written Verification Report by a competent person to verify that any remediation scheme required and approved under the provisions of condition (i) above has been implemented fully in accordance with the approved details (unless varied with the written agreement of the local planning authority in advance of implementation). Unless otherwise agreed in writing by the local planning authority the verification report shall comprise:
- a) built drawings of the implemented scheme;
  - b) photographs of the remediation works in progress;
  - c) certificates demonstrating that imported and/or material left in situ is free from contamination.

**Reason:** To safeguard the health of future residents or occupiers of the site and to comply with policy DM41 of City Plan Part 2, and SU11 of the Brighton & Hove Local Plan.

27. The development hereby permitted shall not be occupied until a scheme for the storage of refuse and recycling, for the residential and non-residential uses hereby approved, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out and provided in full in accordance with the approved details prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.

**Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and to comply with policy DM20 of the Brighton & Hove City Plan Part 2, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.

28. The development, including surface water drainage and means of foul water disposal, shall be constructed in accordance with remediation strategy and verification plan received on 21st December 2022, drawings 19-230-50-C1 and 19-230-51-C1 received 2nd December 2022 and drawings 21-077-52-B1 and 21-0777-53-B1 received 26<sup>th</sup> July 2022.

**Reason:** To ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with policies DM42 and DM43 of City Plan Part and CP11 of the Brighton & Hove City Plan Part One.

29. Not used (amalgamated with condition 28)

30. If during site investigation on construction any asbestos containing materials are found, which present significant risk/s to the end user/s then: a) A report shall be submitted to the local planning authority in writing, containing evidence to show that all asbestos containing materials have been removed from the premises and taken to a suitably licensed waste deposit site.

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

31. If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority), shall be carried out until a method statement identifying and assessing the risk and proposing remediation measures, together with a programme for such works, shall be submitted to the Local Planning Authority for approval in writing. The remediation measures shall be carried out as approved and in accordance with the approved programme.

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

32. The level 1-bedroom windows in the northern elevation of unit 12 of the development hereby permitted shall not be glazed otherwise than with obscured glass up to 1.7m in height and thereafter permanently retained as such.

**Reason:** To safeguard the privacy of the occupiers of the adjoining property and to comply with policies DM20 and DM21 of the Brighton and Hove City Plan Part 2.

33. At least nineteen bee bricks shall be incorporated within the external walls of the development hereby approved and shall be retained thereafter.

**Reason:** To enhance the biodiversity of the site and to comply with Policy CP10 of the Brighton & Hove City Plan Part One, DM37 of the Brighton and Hove City Plan Part 2, and Supplementary Planning Document SPD11 Nature Conservation and Development.

34. The development hereby permitted shall incorporate at least 27 (twenty seven) swift bricks/boxes within the external walls of the development and shall be retained thereafter.

**Reason:** To enhance the biodiversity of the site and to comply with Policy CP10 of the Brighton & Hove City Plan Part One, DM37 of Brighton and Hove City Plan Part 2, and Supplementary Planning Document SPD11 Nature Conservation and Development.

35. All pantiles and plain clay tiles must be retained and reused as per the submitted Schedule of Materials Rev B – 26/07/2022. If any new tiles are required details of the new tiles must be submitted to and approved in writing by the Local Planning Authority prior to commencement of the re-covering of the roofs. Development shall be carried out in accordance with the approved details.

**Reason:** As this matter is fundamental to the acceptable delivery of the permission to ensure a satisfactory appearance to the development and to comply with policy CP15 of the Brighton & Hove City Plan Part One and DM28 of the Brighton and Hove City Plan Part 2.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of



sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.

2. A formal application for connection to the public sewerage system is required in order to service this development. Please read the Southern Water New Connections Services Charging Arrangements documents which has now been published and is available to read on the website via the following link: [southernwater.co.uk/infrastructure-charges](https://southernwater.co.uk/infrastructure-charges).
3. A formal application for connection to the water supply is required in order to service this development. Please contact Southern Water for further information.
4. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.
5. Swift bricks/boxes can be placed on any elevation, but ideally under shade-casting eaves. They should be installed in groups of at least three, at a height above 5m height, and preferably with a 5m clearance between the host building and other buildings or obstructions. Where possible avoid siting them above windows or doors. Swift bricks should be used unless these are not practical due to the nature of construction, in which case alternative designs of suitable swift boxes should be provided in their place where appropriate.
6. The applicant is advised that Part L – Conservation of Fuel and Power of the Building Regulations 2022 now requires each residential unit built to have achieved a 31% reduction in carbon emissions against Part L 2013.
7. The applicant is advised that Part O of Building Regulations 2022 has been introduced. This standard is aimed at designing out the need for mechanical air conditioning systems in dwellings that would otherwise be prone to overheating and limiting unwanted solar gains. There are optional methods to demonstrate compliance through the Building Regulations.

## **2. SITE LOCATION**

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

### 3. RELEVANT HISTORY

- 3.1. **BH2022/01506** Application for approval of details reserved by conditions 5(disabled parking),7(external lighting), 8(CEMP), 10(ground levels), 12(tree protection), 14(external surfaces), 17(cycle parking), 18(electric vehicle charging points), 19(drainage systems), 20(vehicle parking), 24(Building Regulations Optional Requirement M4(3)(2b)), 25(ecological design strategy), 26 (contaminated land), 27(refuse & recycling), 28(surface water drainage), 29(drainage strategy) and 30(asbestos) of application BH2020/00931. Withdrawn August 2022.
- 3.2. **PRE2021/00145** Pre-Application Enquiry proposing a series of minor amendments to the approved design and layout of the scheme approved in association with planning application Ref BH2020/00931. Written response issued November 2021. Summary: The proposals could be supported in principle however further amendments and justifications required.
- 3.3. **BH2020/00931** Change of use from former Dairy Crest depot (B8) to mixed-use development comprised of 19no. dwellings (Use Class C3) & commercial space (Use Class E), including partial demolition of the existing & erection of a new northern wing; erection of a new central wing to courtyard; onsite car & cycle parking; & associated works (Amended Plans). – Approved 22.06.2021
- 3.4. **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
- 3.5. **BH2017/04050** Change of use from former Dairy Crest depot (B8) to Mixed-use flexible commercial development of 1383sqm (Flexible between use classes B1(a), A1, A2, A3, D1) incorporating alterations including removal of northern extension and erection of a new wing with 14no residential units (C3). Erection of a new central wing to court-yard, onsite car parking, cycle storage and areas for storage of waste and recycling – Appeal Allowed 25/10/2019

### 4. APPLICATION DESCRIPTION

- 4.1. This application is a part-retrospective full planning application for the change of use of the former dairy depot to a mixed-use development comprising 19 dwellings and commercial space. The proposals include the erection of a new northern wing and a new central wing to the courtyard.
- 4.2. This application is a variation to the original planning permission BH2020/00931 and seeks permission for the development as a whole again.
- 4.3. The predominant differences between what is currently proposed and the approved scheme (BH2020/00931) relate to site and internal layouts, elevations,

roof design, materials, fenestration, amenity space, landscaping, cycle and bin storage. The part-retrospective elements relate to some demolition and site clearance that has occurred recently.

- 4.4. Following the approval of application BH2020/00931, the applicant undertook a review of the site and approved scheme and identified a number of opportunities to improve the external design and enhance the layout of the scheme. The applicant submitted a pre-application enquiry engaging with heritage and design officers.
- 4.5. At pre-application stage it was advised that the reformatting of the site offered the potential to create better amenity spaces and improve the quality of living accommodation across the site. It was acknowledged however that careful consideration should be had to ensure any such changes referenced the character and history of the site.

## 5. CONSULTATIONS

### 5.1. Internal:

### 5.2. Air Quality No objection

### 5.3. Arboriculture Comment

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

### 5.4. Environmental Health: No Objection

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

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

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

### 5.6. Heritage Initial Comments 04.03.2022:

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

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

- 5.7. The new build central range should be finished in Ibstock Chailey Rustic (or similar). Drawing no. 2048-SK-126 B shows a brick soldier course to the flint

facing on the south end of the new central range. There is no local tradition for such soldier courses on flintwork and it was not shown on the approved elevations. It should be omitted so that the south end matches that of the existing east and west ranges.

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

Further comments following the submission of a demolition plan 07.11.2022

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

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

- 5.11. **Sustainability** No objection

- 5.12. **Sustainable drainage** Comments following the submission of further information 07.12.2022  
Adequate information has been provided in relation to the wider surface water drainage strategy.

- 5.13. **Sustainable transport** Comment  
Further information required in relation to electric vehicle and motorcycle parking. The Construction Environment Management Plan is considered to be acceptable.

- 5.14. **Urban Design Officer** Comment: Summary - The proposals are generally an improvement upon the approved scheme.  
Units 1, 2 and 3: Agree that changes to internal layout are an improvement. The position of small trees will help to informally demarcate defensible space.

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

- 5.16. Units 5, 6 and C1: Proposed revisions are generally supported, especially the legibility of the western archway and enlivened frontage to the east courtyard. A refuse storage has been relocated to the north of Commercial Unit C3. This generates improvements to the street frontage, and the refuse storage area appears more spacious. However, it is unclear how refuse collection will

function. The general strategy to split residential and commercial activity between the two courtyards is supported.

- 5.17. New build central wing to front courtyard: Separating the new and existing roof forms is successful, respecting the form of the existing barn and appearing more like a farmyard cluster than a single extended building, and responding to the existing junctions between the main barn and the east and west ranges. The proposed roof form is now connected as an extension to the existing barn. This is also considered acceptable. Revised elevational detailing is an improvement, appearing contemporary in character whilst remaining sensitive to the heritage context. Larger apertures which align between ground and first floors generate the impression of continuous apertures from ground to eaves height as recommended. Eaves height appears to have been lowered to more closely match that of the existing east and west ranges. The horizontal band at 1st floor level has been retained, however this is less of a concern in light of revisions to apertures. As such, proposed revisions are supported.
- 5.18. Units 9, 10, 11 and 12: Generally, proposals are an improvement. Amended layouts improve amenity provision and quality, as well as internal daylight and outlook. The contemporary architectural character of this group of dwellings is also supported. Unit-12 - the glazed eastern gable presents a rather incongruous form / appearance as viewed from Mallory Road. To achieve outlook and light for this room, perhaps a south facing dormer window (similar to those in units 10 and 11) would be more appropriate and a solid gable would more sensitively address Mallory Road. Trees need to be protected.
- 5.19. North Terrace of Houses: Revised internal layouts are supported and it is agreed that the terrace presents a stronger and more legible identity than approved proposals. The architecture appears more refined and cohesive with other elements of the scheme. The stepped building line has been retained but the stepped eaves line has been omitted, which is supported and refines the expression of this terrace enough that the stepped building line is considered acceptable. Revised proposals indicate communal amenity space to front gardens to the south of the terrace, including natural play, food growth, natural planting and lawn area. This is strongly supported. However, no defensible space to adjacent dwellings is proposed. Even a small strip e.g., 600mm of planting in front of these dwellings would be an improvement and is recommended.
- 5.20. Landscape design: This is considered successful in principle.

**External:**

- 5.21. **Environment Agency** Comments following the submission of further information 28.12.2022  
Sufficient information has been provided within the remediation and verification plan submitted to negate the need for pre-commencement conditions relating to land contamination. Sufficient information has also been submitted to address previous drainage concerns.
- 5.22. **Ecology:** No objection subject to conditions.

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

5.24. **Sussex Police** No objection

## 6. REPRESENTATIONS

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

- The revised location of the new bin store causing issues of noise and odour
- Increased roof heights
- Additional overlooking
- Roof forms are not typical of the area
- Pedestrian or vehicle access to the site from Mallory Road
- Increase in traffic and other highways issues
- Overshadowing and loss of light
- Non-compliance with policy
- Disruption during the build
- The proximity of the terrace to No.6 Mallory Road
- The changes proposed are not minor in nature
- Light pollution
- Impact on trees
- Impacts on drainage
- Unit 12 is of a larger volume than previously approved
- No construction traffic should be allowed down Mallory Road
- The application proposes numerous changes
- Dust during construction
- Proximity of the dwellings to No.6 Mallory Road
- Concerns over lack of landscaping details
- Construction traffic
- Units 11 and 12 appear at odds with Mallory Road
- Roofing materials not in keeping with Mallory Road
- Air pollution

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

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

- Unit 12 is located nearer neighbouring properties causing overshadowing and loss of privacy
- Additional glazing to unit 12

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

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

**7. MATERIAL CONSIDERATIONS**

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

7.2. The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016);
- Brighton & Hove City Plan Part 2 (adopted October 2022);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
- Shoreham Harbour Joint Area Action Plan (adopted October 2019).

**8. RELEVANT POLICIES**

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

SA6 Sustainable Neighbourhoods

CP1 Housing delivery

CP2 Sustainable economic development

CP3 Employment land

CP4 Retail provision

CP7 Infrastructure and developer contributions

CP8 Sustainable buildings

CP9 Sustainable transport

CP10 Biodiversity

CP11 Flood risk

CP12 Urban design

CP13 Public streets and spaces

CP14 Housing density

CP15 Heritage

CP16 Open space

CP17 Sports provision

CP18 Healthy city

CP19 Housing mix

CP20 Affordable housing

Brighton & Hove City Plan Part Two

DM1 Housing Quality, Choice and Mix

DM11 New Business Floorspace

DM18 High quality design and places

DM19 Maximising Development Potential

DM20 Protection of Amenity

DM22 Landscape Design and Trees

DM26 Conservation Areas

DM28 Local Heritage assets

DM33 Safe, Sustainable and Active Travel

DM36 Parking and Servicing

DM37 Green Infrastructure and Nature Conservation

DM40 Protection of the Environment and Health - Pollution and Nuisance

DM43 Sustainable Urban Drainage

DM44 Energy Efficiency and Renewables

Supplementary Planning Documents:

SPD03 Construction & Demolition Waste

SPD06 Trees & Development Sites

SPD11 Nature Conservation & Development

SPD14 Parking Standards

SPD17 Urban Design Framework

## **9. CONSIDERATIONS & ASSESSMENT**

- 9.1. The main considerations in the determination of this application relate to the principle of the development, affordable housing provision, housing mix, the impact of the proposed development upon the character and importance of the locally listed heritage asset and the wider area, impacts upon neighbouring amenity, sustainable drainage, sustainability, landscaping, ecology, trees and related traffic implications.

### **Principle of development**

- 9.2. The principle of redeveloping the site was accepted under a previous approval (BH2020/00931). This approved scheme was considered acceptable in all regards and secured various details and measures by planning conditions and via a S106 agreement. This included some demolition works.
- 9.3. In terms of planning policy, there are considered to be no significant changes in circumstances or new material considerations since the original permission was granted, except the adoption of City Plan Part Two. There is not considered to be any significant changes to the aims of the policies that the previous application was assessed against and as such application BH2020/00931 is a significant material consideration in the determination of this planning application.



- 9.4. The report below concentrates on the changes made under this application to the approved scheme. The principle of the development, the proposed land uses, affordable housing provision, housing mix and the impact on the development on the character and appearance of the locally listed heritage asset were previously considered acceptable and this view remains.
- 9.5. Considering the changes proposed to the site layout, elevation and roof designs, fenestration and external amenity area changes, the main assessment set out below is primarily concerned with:
- the visual impact of the development on the character and appearance of the site and wider area, including heritage considerations
  - the standard of accommodation provided
  - any potential impacts on neighbouring amenity
- 9.6. These considerations are assessed against each respective part of the site for clarity, as set out below.
- 9.7. This application provides a revised scheme to the original approval which is led by design and layout changes. This follows on from pre-application advice provided in 2021, which included discussions with both Heritage and Design officers, and revised proposals have been submitted.
- 9.8. As acknowledged, some demolition works have taken place on the site prior to discharge of all relevant conditions associated with the earlier permission and, as a consequence, the current application is part-retrospective. A slightly greater amount of demolition has taken place to the northern part of the eastern range (Building C) than that under the previous 2020 approval. This has been explained in the 'Proposals for demolition' document submitted as part of this application.
- 9.9. It is noted that the demolished sections of wall were brick rather than flint and would have been lost owing to the layout changes proposed. Whilst the document does not address the loss of the wall that is parallel with building A, this again would be lost under the ground floor plan proposed. Overall, therefore, there is no objection from the Heritage team regarding the additional demolition.
- 9.10. The proposed scheme will deliver the same number of residential units and will largely comprise the same cumulative residential and commercial floor space as the approved scheme. The mix of housing units is largely the same as the approved application with the exception of unit 10 which as approved comprised a two-bedroom unit and as proposed comprises a three-bedroom unit. This new dwelling would still meet the national space standards for this housing type. This alteration is considered acceptable as a varied mix of units is still achieved across the site with 6 smaller two-bedroom properties proposed, in compliance with policy. It is important to note also, that each of the two-bedroom dwellings proposed on the site would exceed the minimum required space standard.
- 9.11. The previous application BH2020/00931, approved in November 2021, was accompanied by a Viability Assessment which concluded that the scheme was not capable of providing a full policy compliant scheme of 40% affordable

housing but could be viable with 3 units (16%) consisting of 2no. affordable rent and 1no. shared ownership. This current application was submitted in February 2022 and given that this application proposes alterations to an almost identical scheme that had a viability assessment submitted with it, this assessment is still considered to be valid for the purposes of this application.

- 9.12. The proposals also include the same main vehicular access and number of car parking spaces (with the reduction to one space on Mallory Road) and cycle parking spaces as the approved scheme.

**Main changes compared to previously approved scheme**

- 9.13. The proposed changes from the original 2020 scheme are summarised below.

**Units 1, 2 and 3**

- 9.14. These units are located to the south eastern corner of the site.
- 9.15. The internal floor spaces of these units have been reduced from 101sqm to 82.3sqm (which would still exceed the respective national space standards) and provide internal living spaces that are more suitable for future occupants. At ground floor the layout has been altered to provide a larger shared open plan kitchen/dining/living area provide a more flexible space for occupants. In addition, the first floor ensuite bathrooms have been removed.
- 9.16. The height, scale and roof form of these dwellings will remain consistent with the approved application. However, improvements have been made to the external design of the buildings by incorporating additional glazing at ground floor and a strip of rooflights which replace the two individual roof lights previously proposed. The use of strip roof lights on the eastern range is welcomed by the Heritage team.
- 9.17. The proposed site plan indicates how external areas within the courtyard would appear to be in the ownership of individual dwellings through the use of metal studs. However, it is considered that the position of small trees will further help to informally demarcate defensible spaces and these details are sought within the overall landscaping condition.

**Units 4, 7 and 8**

- 9.18. These units are positioned centrally within the site and are located adjacent to the archway which provides pedestrian access between the front and rear parts of the site.
- 9.19. The internal layouts of these units have been amended to create a more efficient layout. The relocation of the staircase in these units has improved the layout at first floor, by creating bedrooms that are less narrow and therefore accommodate likely furniture items more suitably. The position of the en-suites and bedrooms at first floor in these units has also been amended so that now the bedrooms proposed are south facing, thereby providing better living accommodation.

- 9.20. As approved, the private amenity space to unit 4 was to the north of the property. This has been altered and as such the amenity space for this unit is now proposed to the south, resulting in improved sunlight and daylight. Owing to layout changes with the adjacent unit to the east (which will be discussed later in the report) it is not considered that any harmful impact would result from neighbouring occupiers to this external space. A planting buffer is also proposed to the north of the property to maintain privacy levels, further details of which will be required as part of the overall landscaping condition for the site.
- 9.21. The proposals incorporate the removal of the north facing ground floor external amenity spaces as a consequence of relocating vehicle parking on the site to the rear boundary of units 7. A subsequent amendment to the scheme is the incorporation of balconies to units 7 and 8 to the northern elevation. These balconies will be raised above ground level to provide further privacy and usability. Whilst the amenity space represents a reduction from the approved scheme, given that the communal amenity space to the north has been improved and expanded this is considered acceptable and in accordance with policy DM1 of the City Plan Part 2.
- 9.22. Externally the windows to the northern elevation all now benefit from brick dress detailing as requested by Heritage officers. The southern elevations remain as approved.

#### **Eastern and Western Courtyards and the re-arrangement of units 5, 6 and C1**

- 9.23. The approved commercial unit C1 (located within the centre of the site) is proposed to be split and provide two commercial units (C1a and C1b), these two units will provide the same combined floorspace as that approved. The proposed Unit C1b will interchange positions with units 5 and 6. The result of this is that the western courtyard will as a whole become more commercial in nature. The removal of the grassed area from the historic western courtyard is welcomed by heritage officers and results in a more flexible courtyard area that will provide further opportunities for the commercial units. The proposals to split the residential and commercial activity between the two courtyards is supported.
- 9.24. It is considered that the relation of units 5 and 6 will allow for visual interest to be incorporated to the eastern elevation of the central wing and is also considered to result in a better outlook to the east and west for future occupiers.
- 9.25. As a result of these layout changes, the cycle stores will be relocated close to the frontage of the site which will improve accessibility. The refuse store has also been repositioned from the archway between units 4 and 8 to the west of the site, to the rear of unit C3. This generates improvements across the site and appears more spacious. Concerns have been raised however, by neighbouring residents with regards to issues of noise and odour. Further details have been provided by the applicant to advise that the refuse store will now be fully enclosed to mitigate these impacts. Full details of the refuse store are sought under condition 27. Discussions with city clean confirm that the location of the bin store is acceptable and is not considered to be at a distance that is too far for residents. The team did advise that were any future occupants in need of

assistance in this regard then it would be for the managing agents of the site to assist with this. City Clean also confirm that the refuse teams would walk into the site and collect refuse and recycling.

### **New central wing**

- 9.26. The new central wing accommodates units 5 and 6 and commercial unit C1a.
- 9.27. The external design of this element of the scheme has been revised to ensure that the wing appears less domestic in appearance. As a result, the fenestration layout has been amended so that it adopts a less vertical emphasis. Larger apertures which align between the ground and first floors generates the impression of continuous apertures as recommended by design officers.
- 9.28. The plans show that the roof design has been maintained so that it joins the main barn in accordance with its original character and the overall height is reduced.
- 9.29. The amendments to the design of the new central wing and the retained barns satisfactorily reflect the pre-application advice that was given. It is noted that the scale of the central wing does not exceed that of the approved plans and indeed the ridge line is slightly lower due to a reduced roof pitch; this is considered to be acceptable as this is a clearly new element (albeit following a historic footprint) In accordance with policy CP15 of the City Plan Part One and DM28 of the City Plan Part 2.

### **Units 9, 10, 11 and 12**

- 9.30. These units are positioned along the eastern boundary of the site, extending to the northern boundary.
- 9.31. Previously a terrace was proposed here. The applicant has advised of a number of issues with these units specifically relating to internal layouts, outlook, lighting. As a result of the proposals unit 9 has been reduced in size and is now positioned to the south of unit 4 and accessed from within the eastern courtyard. As a result, this property now benefits from an improved outlook and light levels. The previously approved private courtyard was surrounded by high walls and offered limited outlook to future occupiers. The revised layout allows for a larger courtyard which does not limit outward views.
- 9.32. The size and layout of units 10 and 11 have also been revised so that both units now form courtyard dwellings. Alterations to the plan form of the development mean that the now proposed unit 11 is positioned further south within the site adjacent to No.10, facing both east and west. These dwellings would however still feature a set back from the northern courtyard by way of a planting buffer. The dwellings would benefit from suitable light and outlook levels and feature external amenity spaces with greater privacy.
- 9.33. Unit 10 features an additional bedroom; the overall floor space of the building would still comply with national minimum space standards. Whilst this would alter the mix of units, this is not considered likely to impact upon the viability

assessment for affordable housing as submitted as part of the original application.

- 9.34. Amendments to the layout of the scheme result in the creation of a detached unit (12) in the north-eastern corner of the site. This property is positioned so that it provides a break from the rest of the terrace. As a result, this property now seeks to respond to Mallory Road in terms of its design. The visual break from the northern terrace is considered successful and avoids any awkward junctions between these two elements. It is confirmed that no communal access will be had into the site from Mallory Road, the steps to the western side of unit 12 provide access to this property's private rear amenity space.
- 9.35. The revised form and massing of the now unit 12, on the north-eastern corner has addressed the concerns set out by the Urban Design officer as part of the 2020 application. The gable ended roof form and eaves level are more in keeping with the character of other buildings on Mallory Road. The lower volume on the east also softens the visual impact of the otherwise relatively tall building here.
- 9.36. The contemporary architecture of this group of dwellings (10, 11 and 12) is supported. The solid roof form proposed to No.12 is also supported. Amended plans have been received during the lifetime of this application to overcome concerns by the design officer with regard to the glazed eastern gable of this property. Amendments have been received which reduce the level of glazing on the gable end to a single pane of glass either side of the central brickwork. This is considered an improvement. In order to not impact on light levels into this room, as recommended by the design officer, a dormer similar to that proposed on units 10 and 11 is proposed on the southern elevation. It is considered that this unit more sensitively address Mallory Road than the approved scheme in accordance with CP12 of the City Plan Part 1.
- 9.37. In terms of impact to neighbours, Unit 12 is positioned closer to the northern boundary than the approved scheme by approximately 2.3m. A separation distance would be maintained of 7.6m between the rear elevation of this unit and the northern boundary. No.6 Mallory Road is located immediately north of the site. The height of unit 12 which fronts Mallory Road has been reduced in height when compared to earlier schemes. The highest ridge point of the dwelling also does not exceed the 2018 application. It is acknowledged that this new dwelling will have some impact on the light levels received by the side windows of No.6 Mallory Road. However, it is noted that these are secondary windows to a kitchen and living room which also benefit from windows to the front or rear. The impacted window at first floor serves a bathroom. As such it is not considered that the development would result in harm so significant as to warrant the refusal of this application.
- 9.38. It is noted that objections have been received in respect of a lack of privacy towards this property. The windows facing on to the side elevation of 6 Mallory Road serve a central staircase and two first floor bedrooms, which would be comparable to the ground floor of properties on Mallory Road.

- 9.39. This new dwelling proposes two windows at first floor which serve bedrooms and provide outlook over No.6 Mallory Road. In order to prevent any harmful levels of overlooking and loss of privacy towards this property, it is considered suitable to condition these windows to be obscurely glazed up to 1.7m in height. Whilst it is acknowledged that for the rear bedroom in this unit, there would be limited outlook, on balance this is considered acceptable given the standard of accommodation throughout the rest of the property. As a result this element of the scheme is considered to comply with policy DM20 of the CPP2.
- 9.40. The new built form of unit 12 would be in closer proximity to an existing street tree on Mallory Road than the previous scheme approved in 2020. Unit 12 includes a new double vehicle crossover to serve this property. The crossover proposed is located south of the existing cherry tree.
- 9.41. The plans as originally submitted sought to retain this street tree, however, some doubt has since been expressed whether this would be compatible with the access. Retention of the tree is considered important for amenity and biodiversity reasons and therefore a condition is recommended requiring submission of revised plans showing one parking space and access (instead of two) located further away from the tree, to ensure it is retained. The applicant has agreed to submit revised plans showing a reduced access and the condition will be updated accordingly if this is received prior to the committee meeting. A further condition requiring tree protection details is recommended. It is noted that the arboriculture team would only consider the loss of the tree acceptable if 2 replacement street trees are planted and maintained. However, the retention of the tree is considered to be more important than provision of a double parking space and therefore it is recommended that the tree is retained and protected.

#### **Northern Terrace (Units 13-19)**

- 9.42. The approved terrace group to the north of the site are dominated visually by the provision of the main car parking area to the front elevation. This application seeks to relocate the parking area adjacent to the rear elevation of the central barn. A benefit of this is that new south facing communal lawned gardens will be created for residents. Amendments have also been provided to ensure that each of the terrace dwellings features defensible space to the front, consisting of planting. The windows within units 7 and 8 which are located adjacent to the new parking area have been increased in height to ensure acceptable levels of outlook remain.
- 9.43. The north facing rear terraces include a level change leading to the rear gardens. The approved scheme provided single aspect living spaces. The reduction of the number of units in this terrace from 8 to 7 allows for alterations to the internal layouts of these units.
- 9.44. The terrace features amendments to its external appearance such as the central section stepping forward. Whilst this does not reflect the simple, consistent building lines of the historic buildings, which is regrettable, it is not considered that this would cause any significant harm to the setting of the historic barns.

- 9.45. The external design of the dwellings has been amended to provide a simplified roof design and elevations that are more consistent with the character of the rest of the development. A similar level of glazing is proposed to the proposed ground and first floor levels to the rear elevation with simplified roof lights within the roof slope.
- 9.46. The roof form to the front of this terrace group has been amended which now results in a consistent ridge line. This now appears more refined than the approved 2020 application and more cohesive with other elements of the scheme.
- 9.47. The terrace has been increased in height above the 2020 application by approximately 0.6m. It should be noted however that the eaves height of the terrace is the same as that approved under the 2020 scheme. Further the terrace remains 0.9m below the approved 2018 scheme. A contextual long section has been provided to demonstrate and confirm that the terrace would not be viewed above the main barn when viewed at eye level from The Drove way thereby complying with policy DM28 of the City Plan Part 2.
- 9.48. The footprint of the terrace has positioned further north so that consequently the separation distances between the terrace and No.6 Mallory Road have been reduced. The greatest difference is to the eastern end of the terrace group. It is noted that this end of the terrace is more sensitive, being adjacent to the neighbouring building. The resultant terrace would be approximately 0.5m nearer than the approved 2020 scheme at this point. However, this distance isn't considered to result in a significant impact to the amenities of this neighbouring occupier in the context of the terrace as a whole which has been approved in principle. It is further noted that the central part of the terrace would also measure between 0.6 and 0.9m closer to the boundary however the relationship between the terrace and neighbouring occupier remains acceptable. The development is therefore considered to comply with policy DM20 of the CPP2.

#### **Other matters**

- 9.49. Given the part-retrospective nature of this application, information has been provided upfront in relation to ordnance datum levels, drainage and land contamination. Specialist consultee advice has been sought on these areas of the scheme.
- 9.50. The proposals include a surface water drainage strategy which incorporates infiltration via a soakaway and permeable paving. Furthermore, foul water is to be discharged to the existing foul sewer via existing connections. It has been confirmed by the drainage team and Southern Water that there is no objection to the drainage water strategy proposed.
- 9.51. With regard to land contamination on site, Environmental Health and the Environment Agency have been consulted on the information provided. During the lifetime of the application additional plans and documents have been provided in response to consultee comments. Following the submission of this further information, consultees are satisfied that issues surrounding land contamination have been addressed. The application secures a condition

requesting the submission of a verification report demonstrating the completion of works set out in the remediation strategy submitted under this current application and the effectiveness of the remediation.

- 9.52. Other documentation such as the Construction Environmental Management Plan and details relating to disabled parking, cycle parking, charging points, vehicle parking, asbestos and accessible dwellings have also been provided upfront as part of this application.
- 9.53. External lighting can be controlled by condition to prevent pollution.

### **Conclusion**

- 9.54. Overall, the layout and design changes are considered an improvement to the 2020 approval on this site and are supported (provided revised access/parking to Unit 12 is secured).
- 9.55. It is acknowledged that there are some slight changes to the amenities of neighbouring properties, particularly as a result of the repositioning of the northern part of the site. However, on balance in the context of the approved application (BH2020/00931), the amendments proposed to the existing permission would not result in undue harm, and result in a more efficient use of the site and one which is sympathetic to heritage assets.
- 9.56. The proposal would make a positive contribution towards the city's housing supply, and is welcomed in accordance with policies CP12, CP14 and CP15 of the City Plan Part One, and Policies DM18, DM19, DM22 and DM28 of the City Plan Part Two.

## **10. BIODIVERSITY & CLIMATE CHANGE**

- 10.1. This application makes efficient use of the existing site and buildings in a sustainable location, which is welcomed. The current site has limited biodiversity value. The previous permission holds weight and conditions were attached (and again now) to ensure the proposal will provide improved biodiversity with additional landscaping including food growing opportunities and habitat creation with the inclusion of swift boxes. Street trees would be retained. The proposals are considered to comply with policy DM37. In addition, sustainable measures such as cycle parking is to be provided on site and electric vehicle charging points for all dwellings.

## **11. EQUALITIES**

- 11.1. Conditions are proposed which would ensure all new build dwellings are in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings). In addition, 5% of the new dwellings are to meet Wheelchair Accessible Standards.



## **12. COMMUNITY INFRASTRUCTURE LEVY**

- 12.1. Under the Regulations of the Community Infrastructure Levy (CIL) 2010 (as amended), Brighton & Hove City Council adopted its CIL on 23 July 2020 and began charging on all CIL liable planning applications on and from the 5 October 2020. It is estimated that the amount of CIL liability for this application is £425,721.56 (as previously). The exact amount will be confirmed in the CIL liability notice which will be issued as soon as it practicable after the issuing of planning permission.

## **13. S106 AGREEMENT**

- 13.1. A S106 agreement is required for this application. Given the very similar nature of this application to that previously approved (BH2020/00931), the contributions and measures secured are no different to that previously agreed and are listed in the heads of terms.
- 13.2. In the event that the draft S106 agreement has not been signed by all parties by 1<sup>st</sup> July 2023, the application shall be refused for the following reasons:
1. The proposed development fails to provide affordable housing contrary to policy CP20 of the Brighton and Hove City Plan Part 1.
  2. The proposed development fails provide a financial contribution towards the City Council's Local Employment Scheme to support local people to employment within the construction industry contrary to policy CP7 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.
  3. The proposed development fails to provide an Employment and Training Strategy specifying how the developer or their main contractors will provide opportunities for local people to gain employment or training on the construction phase of the proposed development contrary to policy CP7 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.
  4. The proposed development fails to provide a financial contribution towards an onsite artistic component provision contrary to policies CP5, CP7 and CP13 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.
  5. The proposed development fails to provide required highway works on Mallory Road and The Drove way to comply with policies CP9 of the Brighton & Hove City Plan Part One and DM33 and DM36 of the Brighton and Hove City Plan Part Two.

