Brighton & Hove City Council

Tourism, Equalities, Communities & Culture Committee

Date: **16 June 2022**

Time: **4.00pm**

Venue: **Hove Town Hall - Council Chamber**

Members: **Councillors:** , Osborne (Joint Chair), Powell (Joint Chair), Rainey (Deputy Chair), Evans (Opposition Spokesperson), Grimshaw (Opposition Spokesperson), Bagaeen (Group Spokesperson), Ebel, Littman, Robins and Simson
Standing Invitee: Lola Banjoko (B&H - CCG), Joanna Martindale (Community Voluntary Sector), Justin Burtenshaw (Sussex Police) and Stephanie Prior

Contact: **Thomas Bald**
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Date of Publication - Wednesday, 8 June 2022

AGENDA

Part One **Page**

PROCEDURAL MATTERS

1 PROCEDURAL BUSINESS

(a) **Declarations of Substitutes:** Where councillors are unable to attend a meeting, a substitute Member from the same political group may attend, speak and vote in their place for that meeting.

(b) **Declarations of Interest:**

(a) Disclosable pecuniary interests;
(b) Any other interests required to be registered under the local code;
(c) Any other general interest as a result of which a decision on the matter might reasonably be regarded as affecting you or a partner more than a majority of other people or businesses in the ward/s affected by the decision.

In each case, you need to declare
(i) the item on the agenda the interest relates to;
(ii) the nature of the interest; and
(iii) whether it is a disclosable pecuniary interest or some other interest.

If unsure, Members should seek advice from the committee lawyer or administrator preferably before the meeting.

(c) **Exclusion of Press and Public:** To consider whether, in view of the nature of the business to be transacted or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

Note: Any item appearing in Part Two of the agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the press and public. A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls and on-line in the Constitution at part 7.1.

2 MINUTES **9 - 20**

To consider the minutes of the meeting held on 10 March 2022.

Contact Officer: Thomas Bald Tel: 01273 295709

3 CHAIRS COMMUNICATIONS

4 CALL OVER

(a) Items (8 – 15) will be read out at the meeting and Members invited

to reserve the items for consideration.

(b) Those items not reserved will be taken as having been received and the reports' recommendations agreed.

5 PUBLIC INVOLVEMENT **21 - 22**

To consider the following matters raised by members of the public:

(a) **Petitions:** To receive any petitions presented by members of the public notified by the due date of 15 June 2022;

i. Rethink the Skateboard and Bike Pump Park at Hove Lagoon – Liz Cook

(b) **Written Questions:** To receive any questions submitted by the due date of 12 noon on the 10 June 2022;

(c) **Deputations:** To receive any deputations submitted by the due date of 12 noon on the 10 June 2022.

6 ITEMS REFERRED FROM COUNCIL **23 - 30**

Items: referred from the last meeting of Full Council held on 7 April 2022:

1) **Cross Party Notice of Motion** – Solidarity with Refugees
2) **Petition** – Save Brighton and Hove's Green Fringe

7 MEMBER INVOLVEMENT **31 - 34**

To consider the following matters raised by Members:

(d) **Petitions:** To receive any petitions;

(e) **Written Questions:** To consider any written questions (Copy Attached);

(1) **Councillor Bagaeen** – Black Rock

(2) **Councillor Simson** – Victoria Fountain

(3) **Councillor Simson** – Funding Received for Community Safety

(4) **Councillor Bagaeen** – Anti-Racism Strategy

(f) **Letters:** To consider any letters;

(g) **Notices of Motion:** to consider any Notices of Motion submitted directly to the Committee.

i. **Conservative Group NoM** – Black Rock Disabled Access

(Copy Attached)

8 ANTI RACISM PLEDGE UPDATE **35 - 40**

Report of the Executive Director Housing Neighbourhoods & Communities (Copy Attached)

Contact Officer: *Jamarl Billy*
Ward Affected: *All Wards*

9 DOMESTIC ABUSE ACT NEW BURDENS FUNDING 2022/23 **41 - 48**

Report of the Executive Director Housing, Neighbourhoods, and Communities (Copy Attached)

Contact Officer: *Anne Clark*
Ward Affected: *All Wards*

10 BIODIVERSITY AND NATURE CONSERVATION SUPPLEMENTARY PLANNING DOCUMENT **49 - 178**

Report of the Executive Director Economy, Environment, & Culture (Copy Attached)

Contact Officer: *Helen Pennington* *Tel: 01273 292333*
Ward Affected: *All Wards*

11 BRUNSWICK TOWN CONSERVATION AREA CHARACTER STATEMENT **179 - 254**

Report of the Executive Director Economy Environment & Culture (Copy Attached)

Contact Officer: *Tim Jefferies* *Tel: 01273 293152*
Ward Affected: *Brunswick & Adelaide*

12 UPDATE ON CONSERVATION AREA AT RISK **255 - 258**

Contact Officer: *Tim Jefferies* *Tel: 01273 293152*
Ward Affected: *All Wards*

13 IMPLEMENTATION OF A PRINCIPAL RESIDENCE POLICY **259 - 280**

Report of the Executive Director Econonmy, Environment & Culture (Copy Attached)

Contact Officer: *Helen Gregory* *Tel: 01273 292293*
Ward Affected: *All Wards*

14 LOCAL ENFORCEMENT PLAN AND PROACTIVE ENFORCEMENT PROJECTS **281 - 326**

Report of the Executive Director Economy, Environment, & Culture (Copy Attached)

Contact Officer: *Marina Brigginshaw* *Tel: 01273 291297*

Ward Affected: *All Wards*

15 SPORTS FACILITIES CONTRACT EXTENSION **327 - 332**

Report of the Executive Director Economy, Environment & Culture (Copy Attached)

Contact Officer: *Mark Fisher*
Ward Affected: *All Wards*

16 ITEMS REFERRED FOR FULL COUNCIL

To consider items to be submitted to the 21 July 2022 Council meeting for information.

In accordance with Procedure Rule 24.3a, the Committee may determine that any item is to be included in its report to Council. In addition, any Group may specify one further item to be included by notifying the Chief Executive no later than 10am on the eighth working day before the Council meeting at which the report is to be made, or if the Committee meeting take place after this deadline, immediately at the conclusion of the Committee meeting

17 SPORTS FACILITIES CONTRACT EXTENSION - EXEMPT **333 - 336**

Report of the Executive Director Economy Environment & Culture (Copy Attached)

Contact Officer: *Mark Fisher*
Ward Affected: *All Wards*

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Further information
For further details and general enquiries about this meeting contact Thomas Bald, (01273 291354, email thomas.bald@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

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Brighton & Hove City Council

Tourism, Equalities, Communities & Culture Committee

4.00pm 10 March 2022

Hove Town Hall - Council Chamber

Minutes

Present:

Councillors: Osborne (Joint Chair), Powell (Joint Chair), Evans (Opposition Spokesperson), Simson (Group Spokesperson), Ebel, Littman, Appich and Shanks

Part One

70 PROCEDURAL BUSINESS

(a) Apologies from Councillor Brown.
Councillor Appich substituting for Councillor Grimshaw.
Councillor Shanks substituting for Councillor Rainey.

71 MINUTES

71.1 Councillor Simson raised that:

- In 60.7 the minutes should read that the Council declined to apply for the first round of safer streets funding, but were unsuccessful when applying for the second round.
- The additional item (Anti-Racism Pledge Update) should not be listed under item 61.
- In item 65 it should be minuted that the proposals were agreed via the Chair's casting vote.

72 CHAIRS COMMUNICATIONS

Ukraine

Like many of you here, I must start by acknowledging the growing horror that we are witnessing daily in the Ukraine. I'm sure I speak for us all when I say that our thoughts and prayers are with the Ukrainians, a people who are showing immense courage and resolve in this horrifying and frankly frightening situation.
We're all starting to hear about local groups and residents who are helping the relief effort in so many ways, and we thank you all from the bottom of our hearts.
The government has now published details of their Ukraine Scheme which explains the Home Office rules allowing Ukrainians with family members in the UK to get 3-year visas to be in the UK. We know that some residents have kindly offered spare rooms in their homes as emergency accommodation for Ukrainian refugees, however, there has been no news on a

wider scheme to place Ukrainians in local authority areas, so there is currently no mechanism for placing refugees into people's homes. The council website and twitter will however, be kept up to date on this.
We've all been touched to see the Pavilion lit-up in the blue and yellow colours of the Ukrainian flag. And today, the Ukrainian flag is atop the town halls as a mark of our solidarity.

The UN Day Against Racism is Saturday 19th March 2022. This year, the day will see international protests taking place in cities around the world under the slogan 'World Against Racism & Fascism', and I spoke at the online event last night about our anti-racist work in the city council. The Pavilion and town halls will be lit up in blue to mark the day.

Exciting news…. There will be a free day at the **Royal Pavilion,** on Sunday 13th March 2022. There is nothing the public need to do except just turn up. People are advised to arrive early and be prepared to queue. They have a maximum capacity on the building so please note this. They will be doing a collection on the day for the Red Cross supporting Ukraine so if visitors want to contribute to that then it would be encouraged.

Libraries

The 3rd March was **World Book Day** and the 17th anniversary of the opening of the award winning Jubilee Library!
Library staff had a wide range of books to give away to children, who were allowed to have one of each title on offer if they wished, and there were books suited to differing age groups. In Whitehawk, the City Academy decided to bring their entire school into the public library during the week to celebrate World Book Day.

From **Wednesday 16 March 2022 to Tuesday 22 March 2022 the** Jubilee is taking part in the **Oska Bright Film Festival** which is celebrating its tenth Year. The **One Bum Cinema Club** is possibly the smallest free cinema to visit on the planet, just one bum at a time, take your seat and enjoy a selection of films showing as part of the Oska Bright Film Festival at Jubilee Library. The festival puts people with learning disabilities, autism and aspergers where they should be - programming the festival and starring centre stage.

I would like to welcome the new **domestic abuse team** to the council. Anne CLARKE will head up the small team which will commission services and will lead on the VAWG agenda, including MARAC. We are hoping that the team will be up and running from 1st April, and further communications will be put out in the next few weeks.

And on behalf of the council and councillors I would like to issue an apology. In a recent meeting I was made aware that some of the public consultation responses that the council received regarding the new **Pan Sussex domestic abuse accommodation and support strategy**, caused concern and harm to our Trans and Nonbinary communities. I would like to reassure everyone that these comments were not the views of councillors or officers, and that in future, if such responses are included in the papers for transparency, then I have asked officers to acknowledge that these comments in no way reflect the views of this council, or councillors.

The next Third Thursday event will be next week, 17th March. This is the 4th event in the series and there will be film trail of commissioned films, all with an environmental theme, projected onto buildings in The Lanes and North Laine starting at

TK Maxx, North Street, at 7pm. Businesses' windows will also feature films to be watched throughout the evening.
There's also an exciting environmentally-friendly digital fireworks show (which can be projected from participants' smartphones), a silent disco and a specially curated screening of Other Worlds, presented by Oska Bright Film Festival - the world's biggest film festival featuring films made by, or featuring learning disabled and autistic people - at Komedia.

The Third Thursday events are one part of the ABCD cultural recovery plan but there has been a lot more going on over the last month or so and which continues, including a successful series of Igniter events, an online webinar series which have brought together international, national and local guest speakers to provoke ideas, suggest new ways of working and inviting people to re-energise collaborations. The 4th and final one of these Igniter events entitled *"Clusters, communities and co-working*" takes place online next week from 4:30 to 6:30 on Wednesday 16th March.

There is too much to mention now and but if you are interested in finding out more, there is a website dedicated to the ABCD plan called www.cultureinourcity.com which has full updates and information on the plan as well as opportunities to get involved.

Events

As part of the wider cultural offering in the city, we really value the **importance of events** and it was great to have a successful half marathon, not last weekend but the weekend end before. That was the first big event of the year, and there are further big events lined up for next month including the marathon on 10th April, InCarNation on Madeira Drive on 23rd April, and the Foodies Festival in Preston Park on 30th April and 1st May.

Then, as ever, we're really looking forward to welcoming both Brighton fringe and Brighton festival back in May. The theme of the festival this year is "Rebuilding" and there will be 150 events taking places across the city- you might have seen the brochure around town but if you haven't got it yet, you can download the programme online and book tickets.
Also, it's great to have the children's parade back during the first weekend of the festival season and which will be the first one held since 2019. Similarly, you can explore the full schedule for the fringe on their website, and with over 500 events so it's looking like another exciting year for the city. This includes the Spiegeltent, the Rotunda Theatre in Regency Square, the Lady Boys of Bangkok in St Peter's Square and more!

Planning policy

A reminder that there are **two consultations on planning policy** documents that are still open for a little while longer. Firstly, the Article 4 Direction to remove permitted development rights of class E to residential is open until 14th March, so only until the start of next week.
Then secondly you have until the 21st March to submit comments for the consultation on our update to the Biodiversity and Nature Conservation SPD. Both are important documents for the council and have previously come to TECC, so don't miss out on the opportunity to respond if you wish to do so.

Mike Sansom, will be retiring as **Building Control Manager** on 31 March after an incredible 48 years' working at the City Council. I'm told over 20 years of that time he has been as Building Control Manager.

Liz – and us all - would like to thank Mike for his long service and the huge contribution he has made to the city, the city council and the building control profession over those years. He has played a key role in both the life of the city and the national governing body of local authority building control. He has been involved in some of the key developments for the city, helping to protect life and limb; and had a leading role in the development and operation of the Falmer Stadium within the Safety at Sports Grounds Act. He also had a key role in assessing the safety of cladding on high rise blocks across the city after the Grenfell tragedy. Many thanks Mike and may you have a very long and happy retirement.

Finally, last and not least, a little bird tells me that this is Nick Hibberd's last TECC committee. I don't know exactly how many years Nick has been with BHCC, but it's a long old time – 20 odd years, I think? Nick is venturing to pastures new in South London, so Nick – we wish you all the very best. You've been a pleasure to work with over the years, and you will be very missed. Best of luck to you.

73 CALL OVER

The following items were reserved for discussion:

Item 77	Anti Racism Pledge Update
Item 78	Community Safety Strategy 2020-23 Update
Item 79	Spending Options Domestic Abuse Act Funds
Item 80	RPMT Annual Plan and Review
Item 82	Public Art – Planning Advice Note and Developer Contributions Calculator
Item 83	City Plan Part 2 – Consultation on Modifications Arising from Examination Hearings
Item 86	The Queen's Platinum Jubilee Celebrations Update

The following items were therefore agreed:

Item 81	Brighton Dome & Brighton Festival Annual Review
Item 84	Listed Building Heritage Partnership Agreement for the University of Sussex
Item 85	Local Development Scheme Update

74 PUBLIC INVOLVEMENT

(b) Public Questions

74.1 The Chair agreed that a written response would be sent to Daniel Harris for his question regarding Domestic Abuse Spending Priorities.

74.2 The Chair invited Naomi Bos to present the following question:

I note that the funding for domestic abuse from central Government is going to remain the same over the next two years. Inflation will therefore have a big impact on the services the Council can afford. With this in mind, working in partnership with service providers will be vital.

Will the Council commit to prioritising bids from providers with a proven track record of adding value by raising money with grants and fundraising specifically for services in Brighton & Hove?

The Chair gave the following response:

The City Council has received notification from the Dept of Levelling Up Housing and Communities for the funding award of new burdens funding for 2022/23. We haven't as yet received notification of any potential funding beyond that.

Any award of funding to external providers must be in line with Council contract standing orders and follow procurement rules to ensure that there is transparency and equity regarding awards of public money.

Therefore we can't 'commit' to any process that falls outside of that process. But we do have a social value framework of course. Anyone bidding still has to evidence how they meet requirements. As you know we have the working group which is looking at the procurement process, and which we hope the work of the working group will seek to strengthen.

Naomi Bos gave the following supplementary question:

Its been about 12 months since we presented the largest petition ever to Brighton and Hove City Council after the Domestic Abuse Service RISE was defunded, and just wanted to say that from us as an activist group, its been really heartening to see Councillors working across parties to find a solution to something that obviously was not working, and to try and fix the holes in procurement process that have seen a fracturing of services, so just wanted to say its been really positive to experience this especially knowing how easy it is to ignore pressure groups.

The Chair responded with thanks and mentioned that she had raised this issue in her budget Council speech.

75 ITEMS REFERRED FROM COUNCIL

75.1 The petition referred from Council regarding Dyke Road Park was raised by the Chair and the following response was given:

Thank you for your petition.

The Article 4 Direction you're seeking is a measure available to councils to withdraw permitted development rights. These rights cover 5G Masts which normally require prior approval. Prior approval limits the number of matters that can be considered by the local planning authority in deciding these applications – in this case, siting and appearance.

National policy sets the rules for putting an Article 4 Direction in place and these were tightened last summer. Robust and clear evidence is required to justify that without removing those rights there would be wholly adverse impacts. It goes on to state that local planning authorities should not impose a ban on new electronic communications development in certain areas (5G), or impose blanket Article 4 directions over a wide area or a wide range of electronic communications development.

You raise concerns about health matters, I'm advised that all proposals for new 5G Masts and equipment must provide evidence that International Commission guidelines are met on health and safety for people and the environment.
With this context, the request in the petition for an Article 4 Direction to cover Dyke Road Park would be extremely unlikely to be successful. For that reason, though I understand your concerns, I propose your petition for noting only.

76 MEMBER INVOLVEMENT

Notices of Motion

Banning the Sale of New Homes as Second Homes

76.1 The Chair introduced the NoM on regarding banning the sale of new homes as second homes which was referred from Full Council. The Committee agreed to have the NoM bought back to TECC for discussion within 6 months.

Addressing the Climate & Biodiversity Emergency through our Planning Process

76.2 Councillor Osborne introduced the NoM regarding Addressing the Climate and Biodiversity Emergency through the Planning Process, which was seconded by Councillor Ebel.

76.3 Councillor Appich expressed her support for the NoM, highlighting the importance of the checklist which could be used to condition planning applications as well as the monitoring report. She also expressed a concern about the enforcement of those conditions especially whether there is enough staff to carry these out effectively.

76.4 Councillor Littman also expressed his support stating that having these conditions would help committees such as planning when determining applications.

76.5 Councillor Osborne confirmed that he had asked planning officers if they needed the extra resources as part of the process and those resources could be provided.

RESOLVED: The Committee agreed the Notice of Motion.

77 ANTI-RACISM PLEDGE UPDATE

77.1 Emma McDermott introduced the report starting on page 17 of the Agenda.

77.2 Cllr Simson was informed that the reporting centres are Possibility People, the Racial Harassment Forum, and the Rainbow Hub, and are due to open on the 1 April.

77.3 Stephanie Prior raised that:

- Thanks should be forwarded to Jamarl Billy and the Community Engagement Team.
- Regarding 3.32, wondered if the BICP office supports the CICs as it would be good to make links between them so that the local projects can be maximised, and for them to succeed long term.
- It is good to see that the World Reimagined project funding will be discussed at the Community Advisory Group, but to make sure it is well marketed so everyone can be involved in the decision making process.
- Tourism and Business should be added to the initiatives as Barclays, BICP, and the Sussex Innovation Centre are offering support to Black and Asian and Minority Ethnic groups in terms of business innovation.

Stephanie Prior was informed that a written response would be provided to her regarding point 3.6 as to whether the ABCD plan for cultural recovery was specific to the current strategy. Cllr Powell added that big thanks should be given to Stephanie Prior and the Community Advisory Group.

77.4 Cllr Simson raised that she was glad that the World Reimagined project funding had been ringfenced for other projects. Cllr Powell agreed that the money should be kept in the city for anti-racist work.

77.5 Joanna Martindale was informed that the £110,000 is a one off investment and no other funding has been allocated at Budget Council.

77.6 Cllr Appich was informed:

- A written response would be circulated about how staff were selected for the diversity talent programme.
- A written response would be provided regarding the uptake of anti racist training taken by staff.
- Conversations have been taken with the museums trust about their way forward for statues and monuments, and a document and tender will be put out to make some progress, whilst consulting numerous groups who are interested in paving the way forward.

77.7 The Chair noted the Labour Group Amendment and invited Cllr Appich to move the Amendment.

77.8 Cllr Appich moved the Amendment which was seconded by Cllr Evans.

77.9 Cllr Simson raised that nothing would go forward without the input of the Community Advisory Group, but the original recommendations would be the best way to proceed.

77.10 Cllr Littman raised that he would be unable to support the Amendment as the budgets shouldn't be conflated under one strategy.

77.11 Cllr Evans raised that the idea is to include smaller projects in the budget under the umbrella of the anti-racist strategy.

RESOLVED: That the Committee:

(i) Noted the report;

(ii) Delegated authority to the Executive Director for Housing, Neighbourhoods and Communities to award the £110,000 – previously allocated to the World Reimagined Project - in accordance with the broad principles set out at paragraph 3.7.5. and with oversight from the cross-party Members Advisory Group for the council's Voluntary Community Sector grant programme;

(iii) Approved the use of funds allocated to the cultural programme of the World Reimagined Project to establish a budget of £50,000 for uses outlined in paragraph 3.7.5 which will be part of the ABCD Plan for Cultural Recovery.

78 COMMUNITY SAFETY STRATEGY 2020-23 UPDATE

78.1 Jo Player introduced the report starting on page 27 of the Agenda.

78.2 Councillor Simson was informed that:

- Exact figures would be circulated regarding the numbers of taxi drivers that hadn't completed the mandatory safeguarding training.
- A lot of work has been completed in Preston Park and the Level regarding antisocial behaviour.
- Operation Marble is the scheme run on Friday and Saturday nights and won't be subsided until crime numbers are reduced.
- Police work with door security to combat issues such as spiking.
- There has been good progress to combat graffiti artists in the city, and the 3 month graffiti removal trial has been successful.

78.3 Stephanie Prior was informed that:

- More information would be circulated about the access reporting centres have to the Police and Lawyers to assure victims that they are being helped as much as possible and to secure more prosecutions.
- The Police are doing all they can to combat hate crimes and prosecute to the fullest extent.

78.4 Councillor Shanks raised that graffiti should be removed from the Council's own buildings such as the closed café on the level before trying to remove graffiti from other buildings, and that the policies on drugs should be treated more as a public health issue.

78.5 Councillor Appich was informed that Brighton and Hove have been deprioritised as a Prevent Area so funding for those projects won't be received from the Home Office, but options are being looked at about how to deliver the Prevent strategy going forward.

RESOLVED: That the Committee noted the work being undertaken by the Safer Communities Team and partners in relation to the Community Safety and Crime Reduction Strategy 2020-23.

79 SPENDING OPTIONS DOMESTIC ABUSE ACT FUNDS

79.1 Anne Clark introduced the report starting on page 91 of the Agenda.

79.2 Councillor Simson was informed that the 3 elements on the table on page 93 will work together.

79.3 Councillor Appich was informed that:

- The statistic on point 4.7 would be amended.
- A written response would be provided to Cllr Appich regarding the role of children's services on point 4.9.

RESOLVED: That the Committee agreed to allocate available funding as set out in paragraphs 4.5 to 4.9 of the report.

80 RPMT ANNUAL PLAN AND REVIEW - 2022/23

80.1 Mark Croston introduced the report starting on page 101 of the Agenda.

80.2 Councillor Appich was informed that:

- A hybrid working model would be to rationalise office space by hot desking and working from home where appropriate.
- Major Exhibitions are planned 3 or 4 years ahead of schedule.
- There are business plans for the organisation as a whole and for key audiences.
- There is now a dedicated Garden Team for museums, and gardens will be treated as another site in future.
- There is a projected loss of £1.5 million for 2022/23.
- A second loan is being organised which will see the trust through to next year.

80.3 Councillor Shanks was informed that:

- There are joint tickets available with the i360, and in the past have done 3 way tickets with the i360 and the Sea Life centre.
- Opening hours are being assessed to save costs after the Pandemic.

RESOLVED: That the Committee –

(i) Noted the difficult circumstances facing the Trust as it moves forward into 2022/23 as a result of successive lockdowns and visitor restrictions over the course of the past year;

(ii) Approved the annual service plan for 2022/23 as set out in Appendix 1.

81 BRIGHTON DOME & BRIGHTON FESTIVAL ANNUAL REVIEW

The item was agreed without discussion.

82 PUBLIC ART - PLANNING ADVICE NOTE AND DEVELOPER CONTRIBUTIONS CALCULATOR

82.1 Liz Hobden introduced the report starting on page 175 of the Agenda.

82.2 Councillor Simson raised that public art is subjective and be quite controversial, and emphasised the need to engage with the community when making public art. She was informed that whilst there were only 7 responses, there was at least 1 response from each target group.

82.3 Councillor Osborne raised that the first thing he noticed when he came to Brighton was the public art, and how it blended seamlessly into the environment – and stressed the importance not to take it for granted and to ensure public art is given the same thought as other policies. He also mentioned that the Public Art Strategy, Planning Advice Notice, and Commissioning Toolkit all work nicely together to deliver great public art.

82.4 Councillor Littman agreed that people may take the public art for granted, and stressed the importance of actively creating public art through the new guidance.

82.5 Councillor Shanks raised that some public art isn't accessible to everyone and is often on private buildings – public art should be able to be seen by everyone. Synthia Griffin responded that with the introduction of the CIL (Community Infrasture Levy) there is more scope to interpret the 106 agreements broadly so they don't necessarily have to be commissioned in the site of the development.

82.6 Synthia Griffin raised that whilst there were only 7 official responses to the calculator, there was extensive public engagement through digital campfires, online polls, and dedicated sessions to galvanise views.

RESOLVED: That the Committee –

(i) Approved the publication of the Public Art PAN (Appendix 1) to inform the delivery of public art through the planning system, subject to any minor alterations (grammatical, non-material text and illustrative) to be agreed by the Head of Planning;

(ii) Approved the inclusion of the Public Art Developer Contributions Calculator and associated minimum threshold (Appendix 2) as an update to the Developer Contribution Technical Guidance, subject to any minor alterations (grammatical and non-material text) to be agreed by the Head of Planning;

(iii) Noted responses to consultation on the proposed calculator and associated minimum threshold (Appendix 3) as well as the evidenced review (Appendix 4) which informed those rates.

83 CITY PLAN PART 2 - CONSULTATION ON MODIFICATIONS ARISING FROM EXAMINATION HEARINGS

83.1 Helen Gregory introduced the report starting on page 221 of the Agenda.

83.2 Councillor Simson raised that unfortunately she could not support the recommendations as she cannot support the City Plan part 2.

83.3 Councillor Littman raised that the best way to protect urban fringe sites is with a workable city plan so would be supporting the recommendations.

83.4 Councillor Shanks raised that if affordable housing has to be built on the urban fringe to relieve the housing crisis then she would be in support of that.

RESOLVED: That the Committee –

(i) Agreed the Schedule of Proposed Main Modifications set out in Appendix 1 along with supporting documents (the Sustainability Appraisal and Health and Equalities Impact Assessment) for a seven week period of public consultation;

(ii) Noted the schedule of consequential changes that will impact on proposed change to the Policies Map and the schedule of Additional Modifications set out in Appendix 2.

84 LISTED BUILDING HERITAGE PARTNERSHIP AGREEMENT FOR THE UNIVERSITY OF SUSSEX

The item was agreed without discussion.

85 LOCAL DEVELOPMENT SCHEME UPDATE

The item was agreed without discussion.

86 THE QUEEN'S PLATINUM JUBILEE CELEBRATIONS: UPDATE

86.1 Nick Hibberd introduced the report starting on page 361 of the Agenda.

86.2 Councillor Simson thanked officers for the report, and was informed that communities are being invited to come forward and apply for street closures sooner rather than later – and there are sufficient resources within the Council to deal with them.

86.3 Councillor Osborne also thanked officers for the report and raised confirmed that lots of effort had been put in to ensure the celebrations could go ahead.

RESOLVED: That the Committee noted the progress to date on preparations for the Jubilee celebrations.

87 ITEMS REFERRED FOR FULL COUNCIL

The meeting concluded at 6.50pm

Signed Chair

Dated this day of

Brighton & Hove City Council

Tourism, Equalities, Communities, and Culture Committee

Agenda Item 5 (a)

Subject: **Petitions**

Date of meeting: **16 June 2022**

Report of: **Executive Director for Governance, People & Resources**

Contact Officer: **Name: Thomas Bald**
Email: thomas.bald@brighton-hove.gov.uk

Ward(s) affected: **All**

1. Purpose of the report and policy context

1.1 To receive any petitions submitted directly to Democratic Services or any e-Petition submitted via the council's website.

2. Recommendations

2.1 That the committee responds to the petition either by noting it or where it is considered more appropriate, calls for an officer report on the matter.

3. Context and background information

3.1 To receive the following petition signed by 125 people at the time of publication:

(1) Rethink the Skateboard and Bike Pump Park at Hove Lagoon

We the undersigned petition Brighton & Hove Council to Please revisit the proposed Kingsway to the Sea Development plans as regards the skateboard and bike pump part of the plan on the western part of the pitch and putt area. This is going to take away and hard core over a disproportionate amount of valuable and now much used community green space.

This area was designated as Underused but in fact is enormously well used now by dog walkers, exercise groups and people young and old gathering and picnicking. We dispute the contention it is underused. This is a quiet area of the seafront surrounded by residential streets and quiet use of the promenade. In addition to the loss of an open green space the development here will, sadly, almost inevitably, attract the sort of antisocial behaviour, noise etc that accompanies unsupervised areas like this , of which the Level is one example. There are not enough toilet facilities and the beach huts and trees and shrubbery are already used as such and it is naive to assume this will improve with a great deal more use. The area is serving the benefits of large numbers of the community. The dog owning/walking demographic of the city has massively increased since lock down and the needs of this should be actively included in planning strategy to avoid displacement of dog walking to create issues in other areas. Please reconsider if this big change of use which will see a popular green open space disappear for good is really the best way forward for the whole community.

Brighton & Hove City Council

Tourism, Equalities, Communities & Culture Committee

Agenda Item 6

Subject: **Solidarity With Refugees**
Notice of Motion referred from Council on the 7 April 2022

Date of meeting: **16 June 2022**

Ward(s) affected: **All**

For general release

1. SUMMARY AND POLICY CONTEXT:

1.1 To receive the following Notice of Motion which was debated at and referred from the full Council meeting held on the 7 April 2022.

2. RECOMMENDATIONS:

- TECC committee receives regular reports, so residents and councillors remain informed of ongoing work to support all refugees, as well as any capacity and resource needs affecting the local authority,
- Updates include public information on how community groups and individuals can assist, with reference to the new 'Homes for Ukraine' scheme set up by government.

3. CONTEXT / BACKGROND INFORMATION

3.1 The following resolution from the full council meeting held on the 7 April 2022 for the committee to consider is detailed below:

JOINT NOTICE OF MOTION FROM THE GREEN, LABOUR AND CONSERVATIVE GROUPS

This Council:

- Publicly restates its ongoing commitment to support refugees and asylum seekers and notes the council's recent re-accreditation as a City of Sanctuary,
- Expresses solidarity with the people of Ukraine, and others fleeing displacement from conflict, oppression, and climate change,
- Notes the war in Ukraine is an act of aggression by political leaders, not by residents with Russian heritage living and working in this area, and reaffirms our city's values that hate towards any of our diverse communities will not be tolerated,
- Agrees that Brighton & Hove City Council adds its name to the 'Declaration of Solidarity' established by the Council of European Municipalities and

Regions (CEMR); that currently brings together over 700 regional authorities in the UK & Europe, in support of the work of local and regional government in Ukraine.

Resolves to request that:

- TECC committee receives regular reports, so residents and councillors remain informed of ongoing work to support all refugees, as well as any capacity and resource needs affecting the local authority,
- Updates include public information on how community groups and individuals can assist, with reference to the new 'Homes for Ukraine' scheme set up by government.

Supporting Information:

We note the continued devastating impact of conflict, oppressive and racist regimes, climate change and famine, that is forcing many, including young children and families to leave their homes, often undertaking perilous journeys at great risk to seek safety and sanctuary.

We also note the context of the unacceptable invasion of Ukraine, that United Nations analysts predict will lead to one of the largest refugee crises in Europe since the second world war, having already displaced millions of people and expected to displace millions more. Council of European Municipalities and Regions: https://www.ccre.org/en/actualites/view/4276

BRIGHTON & HOVE CITY COUNCIL

COUNCIL

6.30pm 7 APRIL 2022

HOVE TOWN HALL - COUNCIL CHAMBER

MINUTES

Present: Councillors Robins (Chair), Allcock, Appich, Atkinson, Bagaeen, Barnett, Brown, Clare, Davis, Druitt, Evans, Fishleigh, Gibson, Heley, Henry, Hugh-Jones, Janio, Lewry, Lloyd, Meadows, Mac Cafferty, McNair, Moonan, Nemeth, O'Quinn, Osborne, Peltzer Dunn, Powell, Shanks, Simson, C Theobald, Wilkinson and Williams

PART ONE

98 Solidarity With Refugees

98.1 The Joint Notice of Motion as listed in the agenda was proposed by Councillor Powell, Councillor Appich and Councillor McNair and formally seconded by Councillor Allcock.

98.2 The Mayor then put the following motion to the vote:

This Council:

- Publicly restates its ongoing commitment to support refugees and asylum seekers and notes the council's recent re-accreditation as a City of Sanctuary,
- Expresses solidarity with the people of Ukraine, and others fleeing displacement from conflict, oppression, and climate change;
- Notes the war in Ukraine is an act of aggression by political leaders, not by residents with Russian heritage living and working in this area, and reaffirms our city's values that hate towards any of our diverse communities will not be tolerated;
- Agrees that Brighton & Hove City Council adds its name to the 'Declaration of Solidarity' established by the Council of European Municipalities and Regions (CEMR); that currently brings together over 700 regional authorities in the UK & Europe, in support of the work of local and regional government in Ukraine.

Resolves to request that:

- TECC committee receives regular reports, so residents and councillors remain informed of ongoing work to support all refugees, as well as any capacity and resource needs affecting the local authority,
- Updates include public information on how community groups and individuals can assist, with reference to the new ‘Homes for Ukraine’ scheme set up by government.

98.3 The Mayor confirmed that the motion was agreed.

Brighton & Hove City Council

Tourism, Equalities, Communities, and Culture Committee

Agenda Item 6

Subject: **Petitions**

Date of meeting: **16 June 2022**

Report of: **Executive Director for Governance, People & Resources**

Contact Officer: **Name: Thomas Bald**
Email: thomas.bald@brighton-hove.gov.uk

Ward(s) affected: **All**

1. Purpose of the report and policy context

1.1 To receive any petitions submitted directly to Democratic Services or any e-Petition submitted via the council's website.

2. Recommendations

2.1 That the committee responds to the petition either by noting it or where it is considered more appropriate, calls for an officer report on the matter.

3. Context and background information

3.1 To receive the following petition signed by 81 people at the time of publication:

(1) Save Brighton and Hove's Green Fringe

We the undersigned petition Brighton & Hove Council to 1. Halt plans to develop all greenfield sites in Brighton and Hove's city fringe. Remove these sites from CPP2. 2. Engage in talks with the inhabitants of Coldean ARC to discuss the issues related to the development of site 21. 3. Instate a client nature in all planning decisions to represent the needs of the environment. This petition has come around after the creation of the Coldean ARC: "protesters are occupying the trees in Coldean in the corner of site 21 to demonstrate against the destruction of an ancient woodland site for housing, and call greater attention to the threat of development posed to priceless greenfield sites all across the fringe of Brighton and Hove city." The council must stop approving planning permission on incomplete plans! (as they did in Coldean despite uproar from the local community). Stop ignoring the voices of local communities and choosing development over the needs of local people and the environment. Tax empty properties and redact unused planning on brownfield - to protect greenfield from housing number demands! Protected and safe guarded the social and ecological value of the land surrounding site 21 in Coldean. The council must lead in facilitating a healthy relationship and conversation between local people, planning and client nature. Brighton's minimum housing target of 13,200 additional homes is achievable developing only the brownfield sites listed in City Plan 2. If we do not take a stand more precious wildlife sites will be lost unnecessarily, this is our land, it does not need to be destroyed. Nature deserves better.

Brighton & Hove City Council

Tourism, Equalities, Communities & Culture Committee

Agenda Item 7 (d)

Subject: **Black Rock Disabled Access**
Notice of Motion from the Conservative Group

Date of meeting: **16 June 2022**

Proposer: **Councillor Dee Simson**
Seconder: **Councillor Samer Bagaeen**

Ward(s) affected: **All**

This Committee:

1. Pays tribute to Stuart Strong who retired as Manager of Volk's Railway on Friday 18th March 2022 after 29 years of service; and to the tireless work of Volk's Electric Railway Association volunteers and supporters;

2. Recognises recent work to Madeira Drive; ongoing work at the Aquarium Terraces and Black Rock; and proposals for works to the Undercliff Walk;

3. Notes that the following Conservative Group Amendment to the Council's 2021 Budget received cross-party support:

   "Provide £0.100m capital investment to support towards the purchase of a disabled access carriage for the Volk's Railway. To be match funded from grant applications and alternative funding streams."

   and;

4. Calls for an Officer Report detailing options for grant applications with a view to expediting the matter.

Supporting Information:

Brighton & Hove City Council

Tourism, Equalities, Communities, and Culture Committee

Agenda Item 7 (b)

Subject: **Member Questions**

Date of meeting: **16 June 2022**

The question will be answered without discussion. The person who asked the question may ask one relevant supplementary question, which shall be put and answered without discussion. The person to whom a question, or supplementary question, has been put may decline to answer it.

The following written questions have been received from Members
This Committee:

(1) Councillor Bagaeen – Black Rock

Can the Chair provide an update on the status of proposals to replace the Brighton Centre with a new facility at Black Rock?

(2) Councillor Simson – Victoria Fountain

Can the Chair provide an update on the status of the repair works for Victoria Fountain?

(3) Councillor Simson – Funding Received for Community Safety

I refer to my written question 12 at the recent full council:

> *Councillor Simson*
> ***Funding received for Community Safety***
>
> *Please can you outline and provide a breakdown of the funding awarded to Brighton and Hove City Council for Community Safety from the Sussex Police and Crime Commissioner for 2022-23.*
>
> ***Reply from Councillor Osborne / Powell, Joint Chair of the Tourism, Equalities, Communities & Culture Committee***
>
> *The city council has recently been notified by the Office of the Sussex Police and Crime Commissioner of its finance award for 2022/23.*
>
> *In total the city council will receive £264,558.98.*
>
> *This is made up of £79,666.98 for the community safety partnership, £90,892 for youth offending services and £94,000 for drug interventions work.*

Can the Chair provide a further breakdown of how this funding is to be spent during the next financial year, including the projects they are to be spent on?

(4) Councillor Bagaeen – Anti-Racism Strategy

Recent statistics show 3.2 percent of the 2,702 Sussex Police officers declare BAME ethnicity.

How does the Council's anti-racism strategy support members of the city's BAME communities in their interaction with the police in order to raise their confidence in policing in the city?

TOURISM, EQUALITIES, COMMUNITIES AND CULTURE COMMITTEE	Agenda Item 8 Brighton & Hove City Council

Subject:		**Anti-racism pledge update**	
Date of Meeting:		**16th June 2022**	
Report of:		**Executive Director Housing, Neighbourhoods, Communities**	
Contact Officer:	**Name:**	**Jamarl Billy**	**Tel: 01273 292301**
	Email:	**Jamarl.billy@brighton-hove.gov.uk**	
Ward(s) affected:		**All**	

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

1.1 The initial report on actions being taken by the council towards becoming an anti-racist council was presented at TECC committee on 29th July 2020 and an update was presented on 19th November 2020. At this meeting officers were instructed to provide brief updates as a standing item at every TECC committee meeting. This report provides an update on actions since the progress report to the most recent TECC committee meeting.

2. RECOMMENDATIONS:

2.1 That committee note the report.

3. CONTEXT/ BACKGROUND INFORMATION

3.1 The report to TECC Committee on 10th March 2022 contains the full background and details of actions taken up to that date and this report should be read in that context.

3.2 Updates are noted where specific activities or progress has been made.

3.3 Anti Racism Strategy Document

3.3.1 Work has begun in writing the council's Anti Racist Strategy document. The aim of the strategy is to highlight the anti racism work already being done across the council, and to provide a clear action plan for the next steps to take. The strategy will use local data, national data and information gleaned from community engagement to support the reasoning as to why actions will be taken.

3.4 Engagement with Communities

3.4.1 The ninth meeting of the Anti Racism Community Advisory Group was held on 16th March. The meeting was with council officers from the Families, Children & Learning (FCL) directorate to discuss the council's anti-racism project on children

social work, fostering and adoption. There was also an update on the council's anti-racist schools strategy work.

3.4.2 The council's Equality, Diversity & Inclusion Officer leading with BME communities continues to maintain existing relationships with key voluntary sector stakeholders. Alongside direct outreach to community groups, the officer produces a monthly bulletin to BME groups in the city. The aims of the bulletin are to share information about the council with specific BME groups who may otherwise not be reached, share events and opportunities available in the city and facilitate networking between groups.

3.4.3 Funding has been granted to four community groups to enable community led discussions about their experiences of racism and racial inequality. Community groups will be bringing their members together to discuss how racism affects specific ethnicities differently and what the next steps are in tackling racism. The groups that have been funded are Black Anti Racism Community Organisation (BARCO), Bridging Change, Sussex Indian Punjabi Society (SIPS) and Socially Engaged Art Salon (SEAS). We aim to receive feedback from all groups involved in July.

3.4.4 Funding of £10,000 has been allocated to engage with BME communities around the topic of the covid vaccine, covid recovery and public health. This funding has been made available via the Department for Levelling Up Housing and Communities, and is part of a wider neighbourhoods engagement project. The aim of this engagement project is to learn about what information people from BME communities are using to make their decisions about whether to take the vaccine or not. We also aim to learn more about people's experiences in accessing public health information and services. The groups that have been funded are: Bridging Change, Sussex Indian Punjabi Society, the Old Boat Community Centre, Hangleton and Knoll Project Multicultural Women's Group and the Chinese educational development project. We will be running a feedback event that gathers all community group leaders involved in July.

3.5 BME Community and Voluntary Sector

3.5.1 The first application deadline for the Communities Fund, the council's annual CVS grants programme, passed on 6th May. In total 50 bids were received, with 10 applications from BME led community groups. This equates to 20% of overall applications received, which is in line with the 2011 census data that shows 20% of Brighton & Hove's residents are from BME backgrounds. Groups applied for a total of £353,848. Applications are currently being appraised and community groups will be informed of the outcome of their bids shortly.

3.5.2 £110,000 has been reallocated from The World Reimagined (TWR) funding to CETS team. The team will shortly begin discussions on how to best utilise this money to provide support for BME community groups. There is emphasis on and demand for greater infrastructure support for community voluntary sector groups and we aim to address that with this money.

3.6 Council Workforce & Fair & Inclusive Action Plan (FIAP)

3.6.1 The 6-month Diverse Talent Programme continues since it's launch in January 2022. 16 staff members who identify as Black or Racially Minoritised are on the programme which aims to support staff in their career progression. This initiative was established in response to council workforce data which shows that BME staff are under-represented in roles grades SO1/2 and above.

3.6.2 24 managers have taken part in specialist training for investigation managers for HR case work when there is an allegation of racism or race element. This is in line with the council's anti-racist priority of improving the way we record our staff's experience of racism, harassment and bullying, and ensure effective and efficient process of investigation into allegations of racism.

3.6.3 The HR Diversity Recruitment Consultant continues to run fortnightly inclusive recruitment surgeries to offer timely advice to recruitment managers such as developing inclusive shortlisting questions, promotion of roles on social media and inclusive advert writing.

3.7 **Our Legacy**

3.7.1 Following a thorough engagement process with community groups, primary schools and local residents, the council has officially renamed its new temporary accommodation on Hartington Road as Manoj House. Manoj House was chosen after local residents had the chance to submit their suggestions to a panel of school representatives, ward councillors, and other local residents. The panel made their final recommendation to the council after generating a shortlist. The next step is to celebrate the unveiling of the name and plans are underway for this event to be organised.

3.7.2 Discussions are taking place with community stakeholders about the next phase of engagement around the 'Our Legacy' project. The focus is ensuring community groups and BME residents are involved from the start in choosing the next piece of work to prioritise. An engagement event is planned for October to coincide with Black History Month.

3.8 **Emergency Food**

3.8.1 The council has allocated funding of £15,000 for an exploratory piece of research on the emergency foods access needs of Black, Asian and Minority ethnic communities and Refugee & Asylum Seekers. The commission aims to reduce inequality and address immediate concerns about malnutrition, health and well being. This funding has been granted to Brighton & Hove Food Partnership and Bridging Change, who will be collaborating to deliver the outcomes of the research. Together, these two community organisations will provide research and feedback about the different communities' access needs, best practice by providers in meeting needs, and recommendations on strengthening organisations providing support. This will supplement our current understanding of the city's food needs.

3.9 **Community Safety**

3.9.1 The council has partnered with the Racial Harassment Forum to launch a Third Party Reporting Centre. Launching in May 2022, this service has been commissioned in response to national and local feedback that informs us that

those from Black and Racially Minoritised backgrounds may be less likely to report racist incidents directly to the police or local authorities. Therefore, this new service ensures that Black and Racially Minoritised residents are able to report racism directly to a BME led community organisation.

3.10 **Education & Social Care**

3.10.1 An updated version of the anti racist school strategy and accompanying road map was shared with the children and young peoples skills committee in March. The Anti Racist Education Advisor continues to work closely with schools to inform anti racist best practice in education.

3.10.2 In Children's Safeguarding & Care, the Anti racist Project Board continues to meet on a monthly basis, after its establishment in late 2019. The project was set up to support meaningful change with an explicit focus on race and racism. The aims of the project are: to support the development of anti-racist organisational culture and anti-racist social work practise; to identify, challenge and tackle racism; to support an improvement in the experience of staff from Black and minoritised communities so that they feel that Brighton and Hove is a safe and supportive place to work; to improve social work practice with families from Black and minoritised communities, making sure that issues around race culture and ethnicity are considered when we are assessing, supporting and recording our work with families.

3.10.3 The anti-racist project board continues to work within the three workstreams that were established at the beginning: supporting staff, how we work with families, and the voices of children families and carers. This work is held to account by an action plan for each of the three workstreams.

3.10.4 So far actions include providing learning events such as webinars on anti-racist practise in collaboration with the University of Sussex; reviewing our training offer around anti-racist practise based on feedback from participants and challenge from practitioners; weekly practise discussions for all staff and taking steps to ensure engagement from all staff at these sessions.

3.10.5 This work feeds into the action plan for the Workforce Race Equality Standards for Social Care that Brighton & Hove City Council is a part of. The WRES is a pilot project involving 18 local authorities and holds services to account via a framework for collecting and analysing data and an action plan that is published and progress tracked.

3.10.6 As part of the WRES, a survey has been created to record staff experiences and will be completed on a regular basis. The aim of this survey is to ensure a more robust system is in place to record staff experiences of racism, harassment and bullying, whether that is from families, service users and the public, or from colleagues and managers.

3.10.7 Focus groups have been created specifically consider the workforce race equality standards and two of these have been held with staff from across social care. Feedback from these focus groups highlighted that staff want more sessions, that there is a lack of space in adult services to talk about race, that mentoring for Black

and minority staff is important, that a collaborative approach across Families, Children and Learning and Health and Adult Social Care Directorates is valued.

3.10.8 One example of how the WRES, and wider anti-racist practice, is starting to make a difference is that we have seen an increase in the diversity of staff in middle pay bands across both Directorates.

3.11 **Civic leadership**

3.11.1 Funding has been identified to support a Civic Leadership programme delivered by operation black vote. Officers are still in regular communication with the provider and have confirmed that the provider is still in a position to run the programme. £53,700 of funding has been confirmed for the Civic Leadership programme.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

4.1 The progress outlined above is on actions undertaken in response to the council's pledge to become an anti-racist council, anti-racism Notices of Motion and petitions accepted by full council/committees and previously Member agreed work under the Fair & Inclusive Action Plan.

5. COMMUNITY ENGAGEMENT & CONSULTATION

5.1 Engagement is as outlined above in Section 3.

6. CONCLUSION

6.1 TECC committee requested a standing item on every agenda updating on progress towards the council's anti-racism commitments.

6.2 This report updates on progress and the contents are for Members to note.

7. FINANCIAL & OTHER IMPLICATIONS

7.1 There are no financial implications arising from the recommendation made in this report, which is for noting.

Finance Officer Consulted: Michael Bentley Date: 24/05/22

8. LEGAL IMPLICATIONS

8.1 There are no legal implications arising from this report which is for noting. All of the actions proposed are in line with the Council's powers and duties, in particular under the Equality Act 2010.

Lawyer Consulted: Alice Rowland Date: 24/5/22

9. EQUALLITIES IMPLICATIONS

9.1 The intention of this work is to address identified racial inequalities and racism experienced by people who live in, work in and visit the city. The range of

engagement planned with people who share other characteristics in addition to their ethnicity will ensure that perspectives are heard from a wide range of people. This will enable the development of tailored and bespoke actions to address all forms of racism, where it is based on ethnicity, skin colour or any other attribute.

9.2 The work is central to the council's legal duties under the Equality Act 2010 to eliminate discrimination, advance equality of opportunity and foster good relations between communities, as well as to encourage civic engagement by under-represented groups. It also complements and supports the council's Fair & Inclusive Action Plan in addressing the findings of the review of race diversity by Global HPO.

10. SUSTAINABILITY IMPLICATIONS

10.1 No implications arising from this report.

11. SOCIAL VALUE & PROCUREMENT IMPLICATIONS

11.1 There are no direct social value and procurement implications that arise from this report

12. CRIME & DISORDER IMPLCATIONS

12.1 Crime & Disorder implications are covered in section 3.9 & above

13. PUBLC HEALTH IMPLICATIONS

13.1 As outlined in 3.4.4, engagement around the topic of the Covid-19 vaccine may provide us with clearer data on uptake of the vaccine. This will then inform all of our COVID and vaccination related actions going forward and may lead to changes in our current methods of making the vaccine accessible. In particular, the implications of this engagement may inform new mobile vaccination unit locations and the information shared about accessing general public health services.

14. OTHER IMPLICATIONS

14.1 There are no other implications that arise from this report.

TOURISM, EQUALITIES, COMMUNITIES & CULTURE COMMITTEE	Agenda Item 9 Brighton & Hove City Council

Subject:		**Domestic Abuse Act Strategy and Funding Award Options**
Date of Meeting:		**16 June 2022**
Report of:		**Executive Director Housing Neighbourhoods and Communities**
Contact Officer:	**Name:**	**Anne Clark** **Tel:**
	Email:	**Anne.Clark@brighton-hove.gov.uk**
Ward(s) affected:		**All**

FOR GENERAL RELEASE

1: PURPOSE OF REPORT AND POLICY CONTEXT

1.1 Part 4 of the Domestic Abuse Act 2021 (the Act) includes the new duty for Local Authorities to provide support to survivors of domestic abuse and their children in safe accommodation. This duty came into effect on 1 October 2021. DLUHC has allocated new burdens funding of £607,966 to BHCC for 2022 – 23 to deliver support in safe accommodation, which is an uplift of £1,966 from the allocation received in 2021- 22. The new burdens funding is additional to the existing budgets for the Council commissioned Domestic Abuse (DA) refuge and advice services agreed last year.

1.2.This paper seeks approval from the Tourism, Equalities, Communities & Culture Committee (TECC) to extend the funding term for the domestic abuse service provisions that were agreed at Committees in September and November 2021 where proposals for spending £606,288 were approved and March 2022 where proposals for the reprovision sum of £240,712 was agreed (see appendix A) for a further year and to consider the spending options for the remaining sum of £26,966.

2 RECOMMENDATIONS

2.1**.** That Committee agrees to allocate available funding as set out in paragraphs 4.1 to 4.3 of this report.

3 CONTEXT/ BACKGROUND INFORMATION

3.1. The aim of Part 4 of the Act is to transform the response to domestic abuse, by ensuring all survivors of domestic abuse and their children are supported in safe accommodation.

3.2. The overarching objective of the new duty is to improve outcomes for all survivors of domestic abuse and their children in safe accommodation. In October 2021, DLUHC

published its *Statutory Guidance for Delivery of support to victims of domestic abuse safe accommodation service* which clarified on what constitutes support in safe accommodation. Support includes:

- Support with day to day running of safe accommodation services
- Advocacy support
- Domestic Abuse prevention advice
- Specialist support for victims/survivors with protected characteristics
- Services specifically designed for victims/survivors with additional/complex need
- Children's Support
- Housing Related Support
- Advice service
- Counseling and therapy

3.3 In March, Committee were notified that the new burdens funding allocation for 2022/23 of £607,966 is similar to the 2021/22 allocation and it was agreed that officers report back to Committee on recommended spend in line with the Pan Sussex Strategy for Domestic Abuse and Support 2021-2024 (the Strategy) as soon as practicable.

4 PROPOSALS FOR THE DOMESTIC ABUSE ACT FUNDING ALLOCATION 2022- 23

4.1. This document outlines the proposals for the New Burdens Funding Allocation 2022-23. It is proposed that the sum of £607,966 is used to fund the administrative function and service provision previously agreed by Committee on meetings in September and November 2021 and March 2022 for a further year as set out below.

4.2. The details of the administration and services agreed at previous committees are contained in Table 1 below. All existing contracts listed below for extension can be extended under the provisions of the contracts.

Table 1. Agreed Spend New Burdens DA Act Support in Safe Accommodation Administration and Services

Service Provision	Delivered by	Funding Allocated	Continue Funding	Additional Information
Housing Independent Domestic Violence Advocate (IDVA)	RISE	£30,000	Yes	
Community Engagement Officer	East Sussex Council	£32,000	Yes	Pan Sussex role managed by East Sussex Council
Dispersed accommodation for LGBTQ	RISE	£99,962	Yes	Currently funded until September 2022.

clients experiencing domestic abuse.				
Interim Domestic Abuse, Sexual Violence and VAWG Commissioner	BHCC	£25,000	**No**	Successful recruitment to permanent post. Budget now included in base
Sanctuary Scheme	RISE	£70,000	Yes	Funding staff salaries and £40,000 for hardware
Floating Support Service to include:	RISE	£60,000	Yes	Floating Support, move on and resettlement support to work with families and individuals as they move to independent accommodation
Increased access to interpreters and BSL	BHCC	£30,000	Yes	
Flexible Fund	BHCC	£18,326	Yes	
Safe Accommodation Children and Young People Domestic Abuse Pathway.(Community Programme / CYPDVA (Children and Young Person Domestic Abuse /VAWG Outreach/Caseworker/ Pilot Group work for young people using violence in personal relationships who are also at risk of losing their accommodation	Pending Invitation to Quote (ITQ) process	£110,712	Yes	
Safe Accommodation Pathway: Domestic Abuse. Black Asian Minority Ethnic (BAME) Capacity Building Programme	To be determined by ITQ process	£60,000	Yes	

Safe Accommodation LGBTQ+ Domestic Abuse Caseworker.	To be determined by ITQ process	£40, 000	Yes	
Domestic Violence and Abuse Specialist Support Service (IDVA) Service)	Main contract	£30,000	Yes	
Safe Accommodation Multiple Complex Needs Casework Provision (see para.4.3 below)	New Proposal to be procured via ITQ	£26,966	Yes	The Pan Sussex Strategy for Domestic Abuse Accommodation and Support 2021- 2024 identified a gap in provision for those with Multiple Complex Needs across all areas of Sussex
Total funds to allocate		**£607,966**		

4.3. There is a sum of £26,966 yet to be allocated due to minor increase in funding and the savings from recruitment of an interim Commissioner. It is proposed that this funding is used to increase casework support provision for those with **Multiple Complex Needs.** The Pan Sussex Strategy for Domestic Abuse Accommodation and Support 2021- 2024 identified a gap in provision for those with Multiple Complex Needs across all areas of Sussex and is one of the commitments of the Strategy. This resource can be procured via an Invitation to quote process.

5 ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

5.1 An alternative option is for Brighton and Hove to wait for pan – Sussex proposals to develop but this might be a lengthy process which would mean interventions and support for some of the most vulnerable people in the community would be further delayed.

5.2 There is clear evidence of the need for funding for proposals in this report demonstrated by the findings of the needs assessment. A full commissioning process to determine spend options would inevitably cause gaps in the delivery of those services.

6. COMMUNITY ENGAGEMENT & CONSULTATION

6.1. The Pan Sussex Strategy for Domestic Abuse Accommodation and Support 2021- 2024 was widely consulted on with the public consultation running until December 2021. The needs assessment process engaged with a range of organisations. The needs assessment identified gaps in service provision and where the money should be spent to ensure that BHCC meets its duties under the new Act. The project team engaged with people with lived experience as part of the work to complete the needs assessment.

7. CONCLUSION

7.1 The Council has considered a wide range of options to meet the needs of victims and its duties under the terms of the Domestic Abuse Act. This report provides recommendations that the proposed spend meets the terms of the Act, strategic priorities of the Pan Sussex Strategy and local needs and is seeking a decision on how the award of the new burden funding allocution 2022- 23 and repurposed funds should be undertaken by officers.

8. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

8.1 DLUHC grant funding of £607,966 was received by BHCC on 8th April 2022. Local authorities are under a legal obligation to provide support within safe accommodation to meet the needs of survivors of domestic abuse in their areas, and report back to central government that they have met these obligations. The report recommends spending the grant funding as shown in Table 1 at section 4 and this is in line with the obligations.

Finance Officer Consulted: Michael Bentley Date: 24/5/22

Legal Implications:

The funding must be spent in accordance with the Statutory Guidance and in particular will need to be spent on those in 'relevant' (i.e. safe) accommodation. Officers have satisfied themselves that the proposed services meet DLUHC's requirements.

Lawyer Consulted: Alice Rowland Date: 07/06/22

Equalities Implications:

The proposals in this paper are likely to have positive impacts on a number of groups with protected characteristics. The work outlined here will focus on arrangements to facilitate improvements in accommodation and support all survivors of domestic abuse. By enhancing the service offer seeks to improve accessibility to services. Within both core services and any housing related offer equalities are actively considered to ensure services are available to all. It is recognised that Domestic Abuse disproportionately affects women and women with children. The findings of the needs assessment has informed the findings of Pan-Sussex Strategy for Domestic Abuse Accommodation and Support 2021-2024 which highlights equalities considerations for the region including those with other protected characteristics. A full equalities impact assessment was completed for BHCC prior to the publication of the final version of the strategy.

Sustainability Implications:

None

Appendix 1

A total spend of **£606,288** New Burdens Funding was allocated by DLUHC in 2021/22 to BHCC to support implementation of the Domestic Abuse Act 2021. The spend for these funds agreed by Committee in 2021/22 is detailed in Tables 2 and 3 below.

Table 2

.

DLUCH Support in Safe Accommodation Agreed Spend September 2021	
Reprovision of the refuge budget	£241,000
Housing Independent Domestic Violence Advocate (IDVA) This will allow those presenting as victims of domestic abuse to the housing service to be helped to access services and given support at the earliest opportunity.The needs assessment found that often survivors of domestic abuse may move out of a local authority area to a place of safety and the Act requires that those survivors are provided with ongoing support which will be provided via the Housing IDVA.	**£30,000**
Funding to East Sussex County Council to recruit a Community Engagement Officer to work across the Pan Sussex partnership area to set up a survivor lived experience board. This officer will provide training, support briefings and debriefings to representatives for the Pan Sussex partnership board. Officers will also appoint an independent chair for the Pan Sussex Partnership board. The board is a requirement of the Act.	**£32,000**
Money was also allocated to RISE to continue work providing dispersed accommodation for LGBTQ clients experiencing domestic abuse. This amounted to	**£99,962** until September 2022.
Interim Domestic Abuse, Sexual Violence and VAWG Commissioner	**£25,000**
Total	**£427,962**

Spend agreed by Committee in November 2021

Table 3

DLUCH Support in Safe Accommodation Agreed Spend November 2021	
Sanctuary Scheme option Funding staff salaries and £40,000 for hardware	£70,000
Floating Support Service to include: FS Move on and resettlement support to work with families and individuals as they move to independent accommodation Funding for staff salaries and management costs	£60,000
Interpreters (Increased access to interpreters and BSL)	£30,00
Flexible Fund	£18.326
Total	**£178,326**

Repurposed Funds. Table 1.

	Proposed Project	**Cost**
1	**Safe Accommodation Children and Young People Domestic Abuse Pathway.** This pathway consist of three elements: • **Community Programme** • **Safe Accommodation CYPDVA (Children and Young Person Domestic Abuse /VAWG Outreach/Caseworker-** • **Safe Accommodation Pilot Group work for young people using violence in personal relationships who are also at risk of losing their accommodation**	 **£20,712.** **£50,000** **£40,000**
2	**Safe Accommodation Pathway: Domestic Abuse. Black Asian Minority Ethnic (BAME) Capacity Building Programme**	**£60,000**
3	**Safe Accommodation LGBTQ+ Domestic Abuse Caseworker.**	**£40, 000**
4	**Domestic Violence and Abuse Specialist Support Service (includes Independent Domestic Violence Advocacy (IDVA) Service)**	**£30,000**
	Total	**£240,712**

Brighton & Hove City Council

Tourism, Equalities, Communities and Culture Committee

Agenda Item 10

Subject: **Adoption of Biodiversity and Nature Conservation Supplementary Planning Document**

Date of meeting: **Tourism, Equalities, Communities and Culture Committee**

Report of: **Executive Director Economy, Environment, & Culture**

Contact Officer: **Name: Helen Pennington**
Tel: 01273 292333
Email: helen.pennington@brighton-hove.gov.uk

Ward(s) affected: **All**

For general release

1. Purpose of the report and policy context

1.1 This report provides feedback from the consultation undertaken for the draft Biodiversity and Nature Conservation Supplementary Planning Document (SPD) approved for consultation purposes by this committee January 2022 and seeks Committee approval for the adoption of the final version of the SPD.

2. Recommendations

That the Tourism, Equalities, Communities and Culture Committee:

2.1 Notes the consultation that took place on the Draft Biodiversity and Nature Conservation SPD (Appendix 2) and the changes made to the Draft SPD as a result of consultation responses (Appendix 3); and

2.2 Agrees to adopt the Biodiversity and Nature Conservation SPD and Annexes (Appendix 1a and 1b) as part of the city's suite of planning documents, subject to any necessary minor grammatical and non-material text and illustrative amendments agreed by the Head of Planning in consultation with the Chair of TECC Committee.

3. Context and background information

3.1 Supplementary Planning Documents are formal documents used by the council to provide planning policy guidance and information to assist planning applicants in delivering planning policy as part of their development proposals. SPDs have a prescribed process for their preparation including engagement with local residents and stakeholders. Whilst SPDs provide policy guidance and can demonstrate best practice, they cannot make new or change existing planning policy.

3.2 The current Nature Conservation and Development SPD (SPD11) was adopted in 2010 and was prepared to support implementation of policies in the Brighton & Hove Local Plan 2005. Since this time, City Plan Part One (2016) has been adopted and City Plan Part Two has been submitted for independent examination with public hearing sessions undertaken November 2021 and recent consultation on proposed Main Modifications. Once adopted, City Plan Part Two will replace the saved policies in the 2005 Local Plan and sit alongside City Plan Part One to form part of the statutory Development Plan for the city.

3.3 Local priorities have also changed significantly since the 2010 SPD was adopted, with the need to address the climate crisis and reverse the decline in species and habitats recognised through the Climate and Biodiversity emergencies declared by the council in 2018. Government priorities (including the 25 year Environment Plan and recently enacted Environment Act) and national planning policy also give clearer and stronger guidance to achieving improvement for nature conservation and biodiversity.

3.4 An updated SPD is therefore considered timely and necessary to ensure it reflects recent legislation, national and local planning policies, and local priorities. An updated draft SPD was prepared in 2021 by ecological consultants working closely with officers in the Planning Policy and Sustainability teams as well as the County Ecologist. Following this Committee's approval on 13 January 2022, the draft was subject to a 6-week period of public consultation between February and March 2022.

3.5 The main purpose of the updated Biodiversity and Nature Conservation SPD is to assist planning applicants understand the importance of biodiversity, to meet legislative and policy requirements and set out how development can deliver biodiversity improvements and net gains. It will also support officers in providing pre-application advice and assist in determining planning applications. The SPD supports a range of policies within the adopted City Plan Part 1 (CPP1) and Submission City Plan Part 2 (CPP2). It will particularly support policies CP10 Biodiversity (CPP1) and DM37 Green Infrastructure and Nature Conservation (CPP2) both of which seek the protection of biodiversity and the achievement of biodiversity net gains.

3.6 The SPD includes:

- Introductory sections which outline the city's rich local biodiversity resource including important sites and areas designated for the presence of special habitats and the species they support.

- Identifies key legislation of relevance to biodiversity and sets out the national and local planning policy context and requirements.

- Explains the overarching biodiversity principles applicable to all development and identifies key biodiversity matters that need to be considered at various stages of the planning process. These include:
  - The Mitigation Hierarchy
  - Biodiversity Net Gain

- Protection of irreplaceable habitats
- Habitats Regulations Assessment
- Conservation of the marine environment
- Wildlife friendly lighting

- Provides guidance and best practice examples for integrating biodiversity into the design of new buildings and spaces, including measures that can be incorporated into the building design, such as bee bricks, swift bricks/boxes, living walls and roofs and hedgehog highways, as well as opportunities for biodiversity that arise through landscaping, such as wildlife friendly and productive planting.

- Includes a step-by-step guide of how and when biodiversity should be considered in the development process, from the very early design stages through to the construction and operational stages, clarifying the type of information that will be expected to support planning applications, such as ecological surveys.

- Includes several annexes which provide further information on habitats and species, ecological survey seasons, construction stage hazard-prevention, guidance on habitat creation and enhancement, and an updated Biodiversity Checklist which is anticipated to become a validation requirement for some applications.

4. Analysis and consideration of alternative options

4.1 Updating the Biodiversity and Nature Conservation SPD is one of the priority actions identified in the Carbon Neutral Programme and is considered necessary to ensure planning guidance reflects local and national planning policy and local priorities. The relevant Regulations require an SPD to be formally adopted. The alternative option of not adopting an updated SPD has been considered and dismissed for the above reasons.

5. Community engagement and consultation

5.1 A city-wide public consultation to obtain feedback on the draft version of the SPD was carried out between 7 February to 21 March 2022 in accordance with the Planning Service's Statement of Community Involvement (SCI). The general public as well as around 800 individuals and stakeholders registered in the Planning Policy consultation database, which includes developers, landowners, planning agents and environmental and amenity groups, were invited to comment.

5.2 The consultation included:

- 4 dedicated online events for stakeholders;
- A survey posted on the council's online Consultation Portal;
- Hard copies of the SPD placed in all city libraries and in Bartholomew's House Customer Service Centre; and

- Communication of consultation details including a press release posted on the council's website and alerts posted on the council's social media outlets.

5.3 The council received 19 responses in total. The detailed findings and summary of all responses received are set out in Appendix 2. A table demonstrating how comments informed the changes made to the final SPD is provided in Appendix 3.

5.4 Overall, there was broad support for most aspects of the guidance. In particular, the biodiversity resource and biodiversity matters sections were considered accurate, the good practice examples were considered helpful, and the step-by-step guide for applicants was considered clear. There was also support for the Biodiversity Checklist to be a validation requirement for relevant applications.

5.5 Some minor changes to the wording and images have been made to various sections in response to suggestions put forward by respondents. Some of the more major changes to the final version of the SPD include:

- Introduction amended to include clearer sign-posting to various sections of the SPD
- Biodiversity Matters amended to encompass a wider range of species
- Additional text to highlight the importance of maintenance and upkeep
- New case study added of the butterfly bank at Dorothy Stringer School
- Clarification that the mandatory 10% biodiversity net gain to be achieved is a minimum in accordance with the Environment Act.

6. Conclusion

6.1 The updated SPD reflects national and local planning policy as well as local priorities. It will ensure biodiversity is fully considered and integrated into the planning application and development process, contributing towards improved outcomes for nature conservation and biodiversity and the achievement of sustainable development.

7. Financial implications

7.1 There are no direct financial implications arising from this report. The cost of officer time, document production and consultation associated with the recommendations in this report will be funded from existing revenue budget within the Planning service. Any significant variations to budget will be reported as part of the council's monthly budget monitoring process.

Name of finance officer consulted: John Lack Date consulted 05/05/2022

8. Legal implications

8.1 The Town and Country Planning (Local Planning) (England) Regulations 2012 require that a draft SPD is subject to a period of at least four weeks' public consultation. Section 23 of the Planning and Compulsory Purchase Act 2004 provides that a SPD may be adopted either as originally prepared

or as modified to take account of any representations made in relation to the document or any other matter the LPA considers relevant.

Once adopted an SPD will be a material planning consideration in the determination of those planning applications to which it is relevant

Name of lawyer consulted: Hilary Woodward Date consulted 3/5/2022

9. Equalities implications

9.1 Equalities issues relevant to this SPD have been considered as part of the Health & Equalities Impact Assessment (HEQIA) undertaken for City Plan Parts 1 and 2 (CPP1 and 2) particularly those identified for policies CP10 Biodiversity (CPP1) and DM37 Green Infrastructure and Nature Conservation (CPP2). These assessments did not find any sensitive groups that were affected by these policies. Equalities groups that have signed up to the Planning Policy team's consultation database were contacted as part of the public consultation on the SPD.

10. Sustainability implications

10.1 The SPD is considered to have positive impacts on relevant sustainability themes on the Sustainability Implications Checklist. It should support provision of a healthy environment, supporting health and wellbeing; support sustainable water through encouragement of biodiverse sustainable drainage, and help protect and enhance biodiversity.

10.2 No mitigation is required.

11. Other Implications

Social Value and procurement implications

11.1 The social value of biodiversity includes recreational value, such as through access to nature, aesthetic value such as improved visual amenity, and cultural value. The protection and enhancement of biodiversity through the planning process recognises these social values and the contribution that biodiversity makes to the delivery of sustainable communities

11.2 There are no procurement implications.

Public health implications:

11.3 Evidence indicates that exposure and access to nature improves mental and physical wellbeing. Ecosystem services provided by biodiversity can also have benefits for health, for example through attenuation of noise and absorption of pollutants. The updated SPD could therefore have positive health implications.

Supporting Documentation

1. Appendices

1. Biodiversity and Nature Conservation SPD and Annexes
2. Consultation responses and officer responses
3. Summary of changes made to the draft SPD

2. Background Documents

1. City Plan Part 1 (2016)
2. Proposed Submission City Plan Part 2 (2020)
3. The Environment Act 2021

Appendix 3 Summary of changes to draft Biodiversity and Nature Conservation SPD

You Said…	We did…
Section 1 Introduction	
Links between climate change and biodiversity declines and reference to the climate and biodiversity declaration in paragraph 1.2 makes emotive political point rather than a scientific one. Although linked, biodiversity is a different issue affected by human actions, as well as natural climate change.	Section 1.2 amended to make it clear that biodiversity declines are not just associated with climate change.
Section 2 Biodiversity Resource	
Protecting residents' gardens would help local biodiversity. Increased parking permit costs resulting in an increase in paved gardens for parking use.	Text added to the SPD to encourage retention of front gardens, but this cannot be required where permitted development applies.
Local green spaces and parks within urban areas not adequately described. Development around green spaces could have negative impacts on pollinators and birds accessing these resources.	Text added to this section to acknowledge that the city's parks and green spaces, which are not designated nature conservation sites, also contribute towards biodiversity.
Provide more general context in the initial paragraph to highlight the 3 key types of environments found: the rural Downs, the urban environment and the coastal and marine environments. Strengthen reference to coastal and marine environments to ensure this environment is not overlooked.	Additional contextual information text about the 3 key environments will be added to the initial paragraph.
Section 4 Planning Policy and Strategies	
Reference to SPD15 Toads Hole Valley omitted.	A link to SPD15 added to section 4.2 – Supplementary Planning Documents, Planning Advice Notes and Other Guidance.
Clarification on process of identifying / including certain sites within BOAs required.	Explanation of how and when BOAs were identified in 2009 added to the SPD.
Section 5 Principles and Matters	
Draft Horsham District Nature Recovery Strategy published by Horsham District Council. SPD could reflect the need to take any opportunity to further connections and wildlife networks that are identified both within and beyond council's boundaries.	An amendment has been incorporated to the text to refer to the potential for off-site opportunities being within a Sussex Nature Recovery Network.
BNG presents an opportunity to improve and enhance biodiversity within the urban realm, however offsite BNG provides opportunity to improve key local sites, such as landscape scale restoration opportunities, chalk grassland, coastal & marine restoration.	An amendment has been incorporated to the text to refer to the potential for off-site opportunities being within a Sussex Nature Recovery Network.

Other European Protected species: Section on Great Crested News should be expanded to include a paragraph on other European Protected Species e.g. Hazel Dormice, which has the same legal protection.	Key Biodiversity Matter 7 amended to reflect Species Conservation Strategies of relevance locally.
Section 6 Integrating Biodiversity into Development	
Photograph of the biodiverse roof on Velo Café is disingenuous and does not reflect its current state. Consideration for provision of ongoing maintenance required.	A new paragraph highlighting the importance of maintenance added to this section.
Photograph of chalk grassland at Swanborough Drive is allocated for housing in CPP2.	Error is noted and the photograph deleted.
The need for planning long-term management of new features required throughout.	A new paragraph highlighting the importance of management and maintenance added to this section reflecting the requirement to manage mandatory BNG for a period of at least 30 years.
Emphasise use of native species or local provenance from suppliers such as the WildFlower Conservation Society or other reputable sources such as Emorsgate and the Millennium Seed Bank.	Additional references to encourage the use of native species of local provenance have been added, in addition to further cross-references to Annex 7.
Use of SuDS supported. Choice and design of SuDS must not cause adverse impact to the Brighton Chalk Block Aquifer. SPD should specify that only specific types of SuDS will be appropriate in some locations.	A reference to the need for SuDS to be appropriate to the location added to section 6.7, to ensure they do not have an adverse impact on groundwater quality.
SPD would benefit from more local case studies of mitigation measures, including mitigation that has been carried out well and mitigation which has failed to deliv.er	The Liz Williams Butterfly Haven, Dorothy Stringer added as a case study in section 6.
Section 7 Step by Step Guide to Biodiversity and the Development Management Process	
Include up to date information and reviews of latest research on value of mitigation measures.	Section 7 Stage D has been amended to refer to the need for mitigation and compensation measures to be delivered in accordance with best practice.
To ensure the SPD wording is consistent with the Defra Metric User Guide, the following amendment is suggested: "For major developments, the latest version of the Defra Biodiversity Metric should be used <u>as a tool to inform the assessment of</u> demonstrating biodiversity value and measurable mandatory net gain."	Text amended as suggested.
Other comments	
Glossary of definitions would be useful.	Further definitions provided

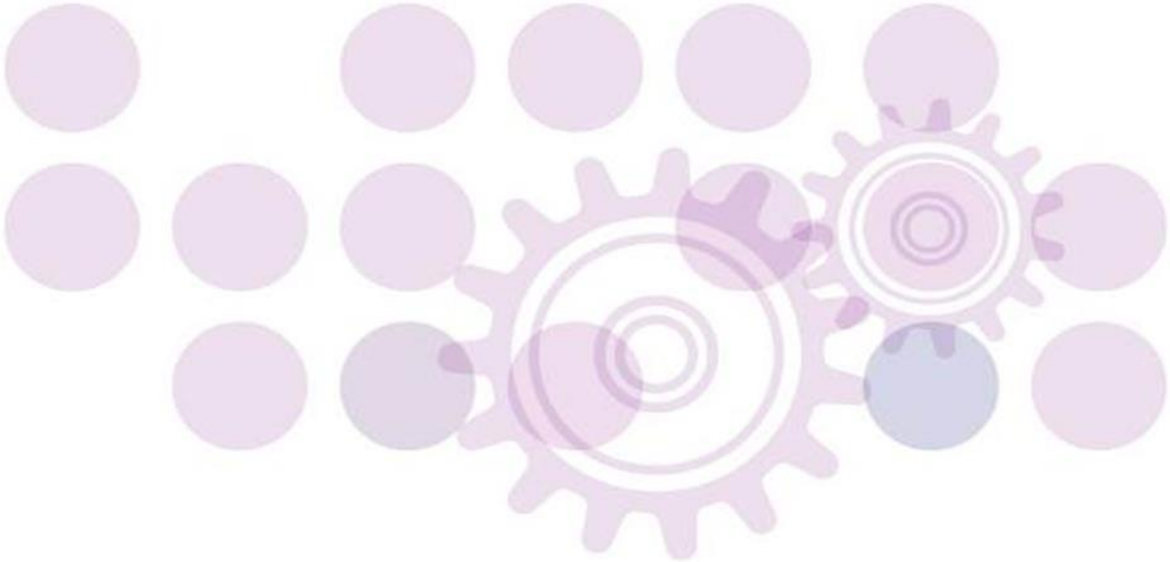
SPD should emphasise the 3 Tests that must be passed overriding public interest, no alternative, favourable conservation status) where a licence from Natural England is required before any building work can take place, for European Protected Species.	Further information added to the revised Biodiversity Matter on Species Conservation Strategies and Species Licenses.
SPD should set out that the 10% Biodiversity Net Gain is a legal minimum.	Section 5.2, table 3 and Section A5 updated to reflect that the mandatory requirement is to achieve a minimum 10% BNG.
SPD should consider the inter-relationship between conservation of heritage assets and historic landscape character and nature conservation and biodiversity where there are overlapping interests; e.g. Stanmer Park Registered Park and Garden where landscape restoration could have benefits to both biodiversity and heritage significance.	The multiple policy benefits from improving biodiversity are recognised in the SPD and through adopted and emerging local planning policies. A reference to the potential for landscape restoration to have benefits to both biodiversity and heritage added to section 6.1
Layout should ensure users do not feel overwhelmed/lost in the initial detail but understand the purpose of the document and the required steps they need to take. The information in section 7, especially Figure 6 and Table 3 should feature more prominently at an early stage in the document and provide links through to some of the more detailed information that is presented elsewhere.	The overview has been reviewed and a table added to provide signposting to certain sections of the SPD.
Annex 5 Biodiversity Checklist	
A typical householder would struggle with this checklist. Further explanations and definitions required e.g. what a European protected species is, what a woodland designated nature site is (and where they are).	Householder Checklist has been reviewed and amended where necessary. Some further clarification provided, including links back to the relevant sections of the SPD and further clarification on when survey is required. .
In Q7 there is a benefit in not asking whether the applicant is aware of protected species. Instead, ask if there is any record or sign of protected species. Developer unlikely to give positive answer to subjective question.	This question has been deleted from the checklist to reduce the risk of subjective response.
Checklist not considered to be of value for a typical existing residential building but will be of value for a new build or a redevelopment of a brownfield site.	The checklist has been reviewed to clarify further details, including when survey is required.

spd

supplementary planning document

Biodiversity and Nature Conservation SPD

June 2022



THE LIVING COAST

Brighton & Lewes Downs UNESCO World Biosphere Region

Brighton & Hove City Council

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This SPD has been co-produced by Brighton & Hove City Council, The Living Coast Biosphere, Place Services Essex County Council, and East Sussex County Council.

About this SPD

This Biodiversity and Nature Conservation Supplementary Planning Document (SPD) has been prepared to assist planning applicants and developers understand the importance of nature and how development can help deliver biodiversity improvements and net gains. The SPD provides detailed guidance aimed at ensuring that new development is designed sustainably so that it can meet the needs of our natural environment whilst complying with local, national and international policies and laws around planning, development and nature.

This document supports the council's objectives as set out in the Corporate Plan 2020 – 2023: A Fairer City with a Sustainable Future which includes key priorities for protecting, investing in, and improving the city's biodiversity. It supports the implementation of planning policies set out in key planning policy documents: Brighton & Hove City Plan (Parts One and Two), in particular City Plan Part One Policy CP10 Biodiversity and City Plan Part Two Policy DM37 Green Infrastructure and Nature Conservation.

The terms 'nature', 'natural environment' and 'biodiversity' are used interchangeably in this document to talk about living things such as plants, insects, animals, birds and fish that are interconnected and all part of our city, as well as the habitats and conditions that are required for all living things to thrive, such as healthy soils, fresh air and clean water, as well as open greenspace, grasslands, shrubs, woodland, aquatic, marine and coastal environments, which locally all form key elements of The Living Coast UNESCO Biosphere.

The SPD describes the biodiversity resource of the city, summarises key legislation and planning policies, provides examples for integrating biodiversity into development, and includes a step-by-step guide of the planning process in relation to the consideration of biodiversity.

The Annexes provide further details and information on Protected and Priority habitats and species, legislation, survey seasons, hazard prevention, habitat creation, and includes the 'Biodiversity Checklist' which will be a validation requirement for certain types of planning applications.

This SPD is aimed to be used by:

- planning applicants and their design team when designing new development and preparing planning applications;
- planning officers when offering pre-application advice and assessing applications;
- councillors when making planning decisions; and
- residents, amenity groups and other organisations commenting on planning applications.



Starling Murmuration, Brighton Seafront. © The Living Coast

How to use this SPD

The following table signposts to some key sections of the SPD.

What do you want to find out about?	**Relevant section**
Local biodiversity in Brighton & Hove	Section 2 and Annex 3
Relevant legislation and key requirements	Section 3 and Annex 1
Local planning policy requirements	Section 4 and Annex 2
Key considerations when designing a proposal	Section 5
The mitigation hierarchy	Section 5 and Section 7
Biodiversity Net Gain	Section 5 and Section 7
Examples and case studies of biodiversity measures that can be incorporated into development	Section 6
How to create and enhance habitats	Section 6 and Annex 7
The stages of the planning process and what is required at each stage	Section 7
How to carry out ecological assessments	Section 7
What is needed to validate an application	Section 7: Stage B; and Annex 5
When do I need to use the local biodiversity checklist	Section 7: Stage A1; and Annex 5
When to carry out ecological survey	Annex 4
How to prevent hazards during construction	Annex 6

1. Introduction

1.1 Local context

Biodiversity describes the variety of all life on Earth, in all its forms, interactions and interconnectedness. It incorporates all habitats and species, both rare and common, and includes genetic diversity. Biodiversity is our life support system, with nature providing all the essential and vital ecosystems services we need to be a healthy and thriving society.

Brighton and Hove is a vibrant biodiverse living landscape, rich in biodiversity from peregrines on tower blocks to rare leeks on the vegetated shingle beaches. The city is formed of the interconnected and interweaving urban areas, including the city's parks and greenspaces, coastal, marine and chalk downland habitats, allowing wildlife to move, migrate and thrive. Even seemingly sterile urban environments can provide a haven for wildlife, with buildings providing important nesting and roosting habitats for birds and bats, and street trees, churchyards and urban gardens supporting species such as hedgehogs, butterflies and fungi.

There are habitats and species of both global and local importance and rarity in Brighton and Hove, particularly in relation to our three key environments: the chalk downland; urban areas, and marine and coastal areas. In 2014, the value of the city and landscapes in the wider area was recognised through its global designation as The Living Coast Brighton and Lewes Downs UNESCO Biosphere Region. As well as recognising the area's rich biodiversity, the designation also focuses on innovation in sustainable socioeconomic development and environmental education from local councils, communities and other organisations. The Living Coast Biosphere is a living laboratory where projects and new approaches seeks to explore and understand how people and nature can flourish together both now and in the future.



Within this wider context and due to its popularity, the city also has a high demand for additional development to meet a range of citywide needs including a significant need for housing. However, the city has a very constrained land supply; competition for land is therefore high and sites have to work hard to ensure multiple policy objectives can be achieved.

1.2 Local priorities

Biodiversity is under increasing pressure at local, national and global levels with habitat loss, species decline and extinction a real threat exacerbating our changing and increasingly unstable climate. Climate change and biodiversity declines are attributed to human causes. Habitats and species once considered to be common in the city are facing increasing stresses with many at breaking point.

Recognising this pressure, the council declared a Climate and Biodiversity Emergency in 2018 to urgently address the climate crisis and the need to reverse the decline in natural habitats and wildlife.

The Corporate Plan 2020 sets out priorities to support the objective of becoming a Sustainable City including the commitment for the city to become carbon neutral by 2030; to create and improve public open spaces including investing in biodiversity within parks; and to promote and protect biodiversity including through habitat creation such as the Waterhall rewilding, tree planting and green corridors. The council has recently published its Carbon Neutral 2030 Programme setting out the actions required to reach the carbon neutral target and to address the climate and biodiversity emergency.

Corporately, it is recognised that planning has a key role to play in encouraging sustainable development in the city with a key objective being protection and enhancement of biodiversity throughout the development process.

1.3 Purpose, role and status of the SPD

The aim of this SPD is to set out guidance and best practice advice to ensure that development complies with the relevant legislation, the NPPF, and the requirements of local planning policy - principally the City Plan Parts 1 and 2 relating to the conservation and enhancement of biodiversity. This includes local requirements relating to biodiversity net gains, as well as the requirements relating to achieving mandatory measurable biodiversity net gain arising from the Environment Act 2021.[1]

The purpose of this SPD is to provide guidance to:

- ensure development is delivered in accordance with the mitigation hierarchy;
- ensure biodiversity is adequately protected and enhanced throughout the development process;
- support the provision of appropriate biodiversity net gains;
- describe how proposals can be designed with biodiversity embedded;
- describe how measures which improve biodiversity can support the achievement of multiple policy objectives;
- ensure proposals accord with relevant legislation, including the Environment Act 2021, national policy, government advice, and the British Standard BS42020:2013 Biodiversity – Code of practice for planning and development;
- explain terminology associated with biodiversity conservation;
- assist applicants to gain planning permission efficiently and effectively, informing them of the information required to support their planning applications.

Although not part of the development plan, SPDs can be accorded significant weight as a material consideration in the determination of planning applications. This SPD supersedes the Nature Conservation and Development SPD (2010).

[1] At the time of writing, Regulations and secondary legislation setting out the implementation of the requirements of the Environment Act are anticipated for late 2022.

2. The Biodiversity Resource in Brighton and Hove

Biodiversity underpins everything, exists everywhere and includes the abundant species as well as rarities. The city comprises three key environments: the rural downland; the urban areas, and the marine and coastal areas. Within these environments, numerous sites have been designated for their nature conservation value. Many other areas of the city and its surrounds also contribute to biodiversity including the many city parks and open spaces and even private gardens.

This section identifies and summarises designated sites, and the legally protected, notable and Priority habitats and species present, which need to be identified, protected and enhanced throughout the design and development process (inclusive of direct and indirect impacts). All such sites and species are material to planning decisions.

Detailed information about designated sites, Priority habitats, and existing records of protected, notable and Priority Species can be obtained through a data search from Sussex Biodiversity Record Centre.

2.1 Designated sites

Statutory designated sites

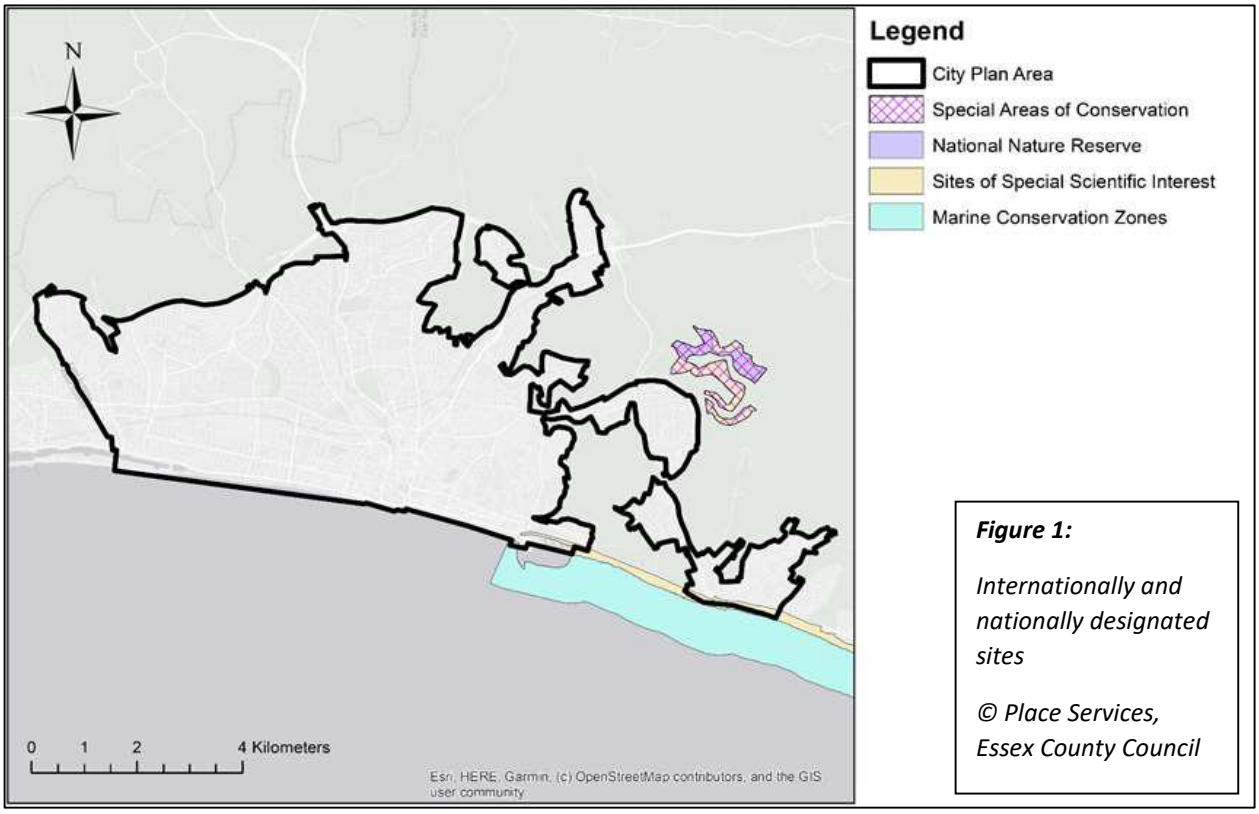


Figure 1:

Internationally and nationally designated sites

© Place Services, Essex County Council

2.11 Habitats (European) Sites (Figure 1)

Special Protection Areas (SPA) and Special Areas of Conservation (SAC) are sites of international importance which form the UK's national site network protected by The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations).

Ramsar Sites are wetlands of international importance that have been designated under the criteria of the international Ramsar Convention on Wetlands; these are also protected under the Habitats Regulations. Collectively, these sites are now known as Habitats Sites as defined by the NPPF.

There is one Habitats Site within the city's administrative area - Castle Hill SAC; this lies within the South Downs National Park (SDNP) and is therefore not directly within the Brighton and Hove Local Planning Authority (LPA) area (however does require indirect impacts to be assessed). A further four Habitats sites are within 20km of the council's administrative boundary and therefore any potential impacts of certain types of development may need to be considered (see Key Biodiversity Matter 2).

2.12 Sites of Special Scientific Interest (Figure 1)

Sites of Special Scientific Interest (SSSI) are designated due to the special interest of their flora, fauna, geological, geomorphological or physiographical features.

There are two SSSIs within the city's administrative area. Castle Hill SSSI is located entirely within the SDNP and the Brighton to Newhaven Cliffs is located partially within the Brighton and Hove LPA boundary.

- Castle Hill - designated for its chalk grassland habitat and the presence of rare plants and invertebrates. Part of the designation overlaps with the SAC designation; part of the site is a National Nature Reserve.
- Brighton to Newhaven Cliffs - designated primarily for geological reasons, but also for the presence of rare and uncommon plants in chalk grassland habitat, for its breeding seabirds and for invertebrates.

Further information on Habitats Sites and SSSIs can be obtained through the Multi-Agency Geographic Information for the Countryside including boundaries and links to site descriptions. (See Key Biodiversity Matter 3).

2.13 Biosphere Reserve (Figure 2)

UNESCO designated the Brighton and Lewes Downs Biosphere Reserve in 2014, covering the chalk block between the Adur Estuary in the west and the River Ouse in the east. The designation is based on a core area made up of SSSIs surrounded by a buffer zone and a transition area. The core area is to be protected, the buffer zone should only be used for activities compatible with sound ecological practices, and the transition area is where stakeholders should seek to manage and sustainably develop the area's resources. Most of the city falls within the transition area.

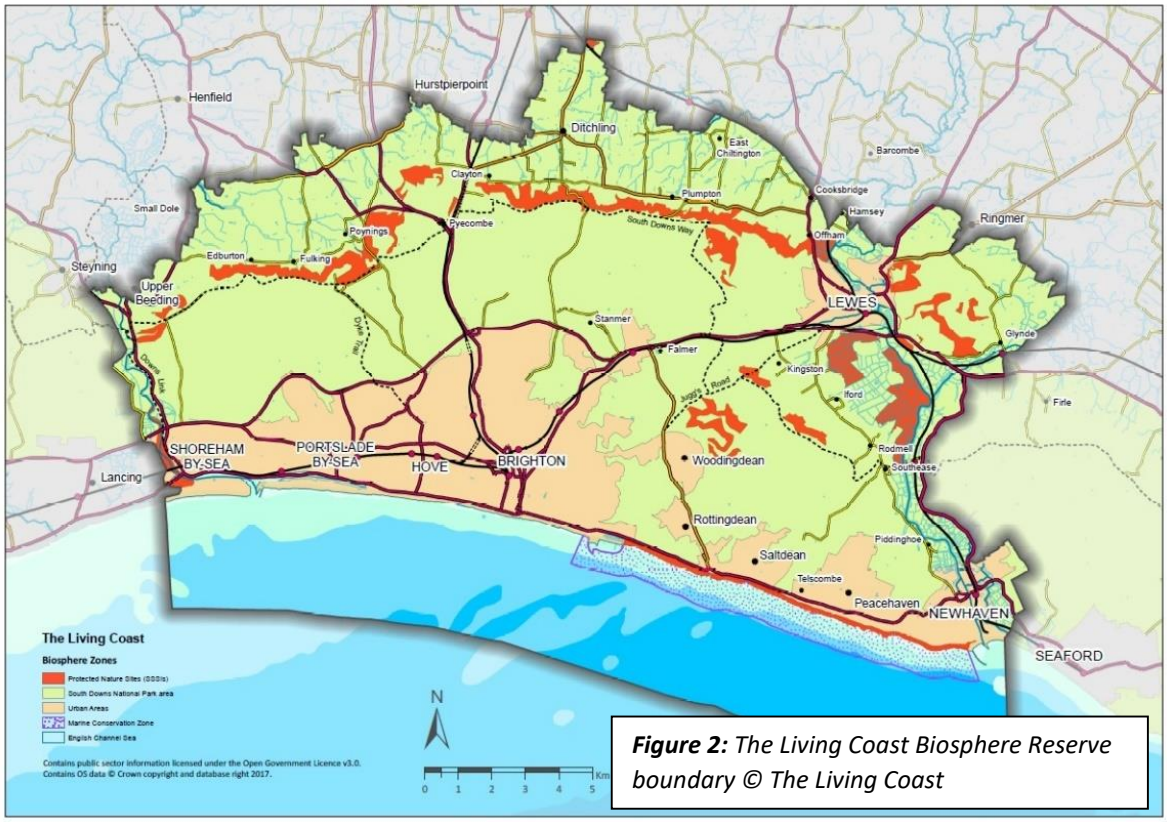


Figure 2: *The Living Coast Biosphere Reserve boundary © The Living Coast*

The council is the lead partner for The Living Coast Biosphere. Planning proposals can support the delivery of the Biosphere objectives. Key themes for our Biosphere Region are to connect people and nature by bringing the Downs into the towns through creating and enhancing areas of urban greenspace, increasing biodiversity and access to nature, utilising local downland flora to support pollinators and protecting and improving the quality of groundwater in the Brighton chalk aquifer.

2.14 Marine Conservation Zones (Figure 1)

The Beachy Head West Marine Conservation Zone (MCZ) covers an area of about a kilometre wide eastward from Brighton Marina to Beachy Head. It extends from the mean high-water line to half a nautical mile seaward. The site is designated for its marine chalk habitats, with the specialised communities of seaweeds and animals they support, and for the presence of Native Oyster and Short-snouted Seahorse. (See Key Biodiversity Matter 5).

2.15 National Nature Reserves (Figure 1)

National Nature Reserves (NNR) were established to protect some of our most important habitats, species and geology, and to provide 'outdoor laboratories' for research. There is one NNR within Brighton and Hove administrative area, situated entirely within the South Downs National Park: Castle Hill, part of which is also a SAC and SSSI. (See Key Biodiversity Matter 3)

2.16 Local Nature Reserves (Figure 3)

Local Nature Reserves (LNR) are statutorily protected local sites, designated by local authorities for their special natural interest, educational value and the access to nature that they offer. There are eight LNRs within Brighton and Hove; six are located either wholly or partially within the Brighton and Hove LPA boundary, and two are located entirely within the South Downs National Park. Site boundaries are mapped on Multi-Agency Geographic Information for the Countryside. (See Key Biodiversity Matter 3).

More information on individual NNRs and LNRs are available on the council website and Natural England Open Data Mapping.

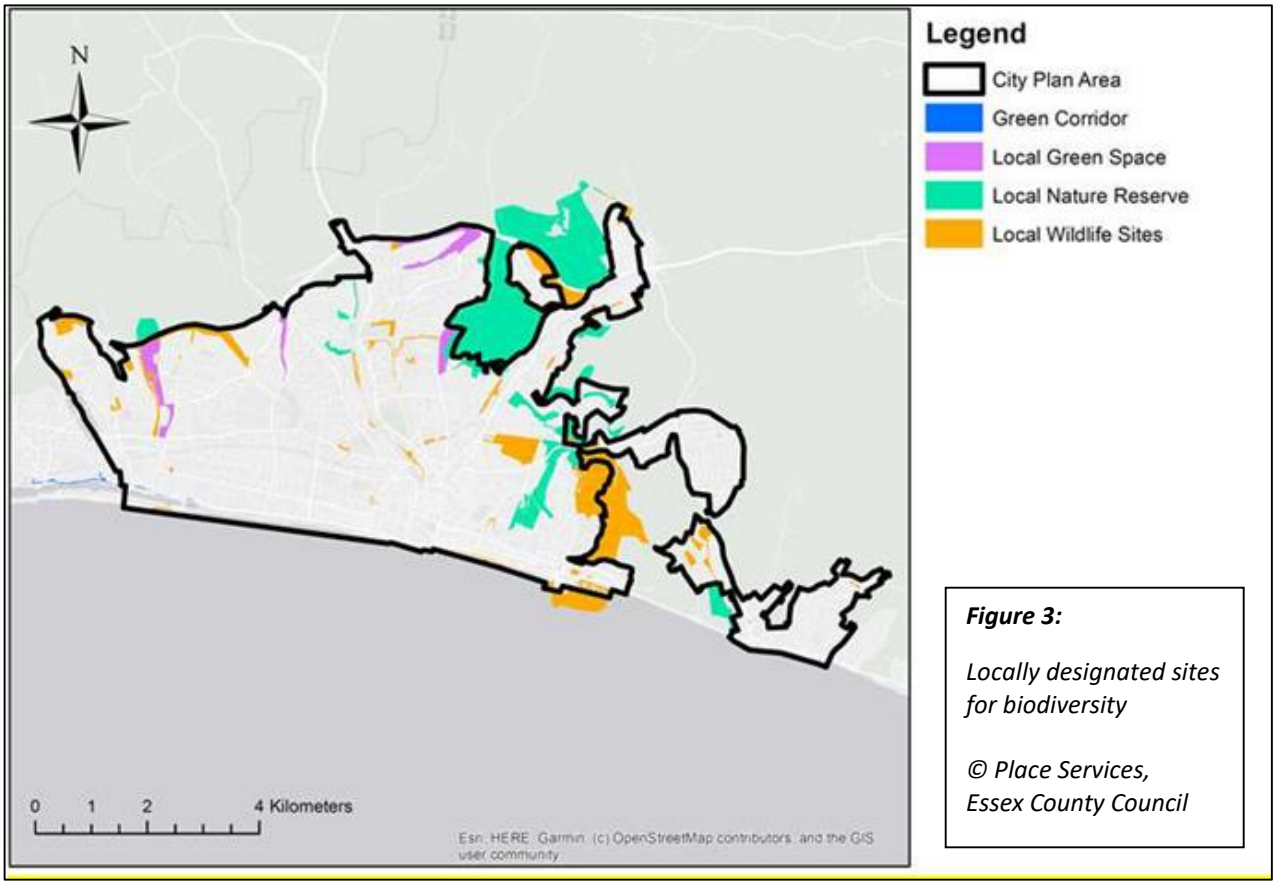


Figure 3:

Locally designated sites for biodiversity

© Place Services, Essex County Council

Non-statutory designated sites

2.17 Local Wildlife Sites

Local Wildlife Sites (LWS) are non-statutory sites designated for their importance for nature conservation. These are identified against a set of locally developed criteria covering both habitats and species. Some LWS may be of greater than county level importance. The NPPF requires these sites to be identified, mapped and safeguarded through the Local Plan system and acknowledges the role they play as part of wider ecological networks. As well as supporting Priority habitats within a given area, LWS may provide a focus for the appropriate location of habitat restoration or enhancement linked to the Local Nature Recovery Network, which is a requirement under the Environment Act.

2.18 Marine Sites of Nature Conservation Interest

Marine Sites of Nature Conservation Interest (SNCI) are identified for the special interest of their marine habitats, the fauna and flora, or for unusual geological and geomorphological features. Information on Marine SNCIs, including the Brighton Marina LWS, is available on the Sussex marine environment interactive map.

Information about the 51 Local Wildlife Sites designated within Brighton and Hove can be obtained from Sussex Biodiversity Record Centre. Their boundaries are also shown on the Brighton & Hove City Plan Policies Map.

2.2 Protected, notable and Priority Species and Habitats

2.21 Protected species

These species are protected by law. The presence of legally protected species and the extent to which they could be impacted is a material consideration in the determination of planning applications. Populations of many species are dynamic, therefore existing records can only be used as a guide to likely presence and should be tested by appropriate field survey work based on current best practice including expiration of validity. Local records of protected species are available from the Sussex Biodiversity Record Centre.

European Protected Species with known populations within the city are:

- 13 species of Bats with Serotine, Noctule, Common Pipistrelle and Brown Long-eared Bat species of bat known to breed in Brighton and Hove;
- Dormouse;
- Great Crested Newt;
- Floating Water Plantain and Early Gentian, and
- Long-finned Pilot Whale, Harbour Porpoise, Bottle-nosed Dolphin



Torpid Dormouse © Hamish Jackson



Female Slow worm © Kim Dawson

2.22 Priority Species

Priority species are those identified as being the most threatened and in need of conservation action. They are included within the Section 41 list prepared under the Natural Environment and Rural Communities Act. (See Annex 3 – Table 3.1)

Over 200 UK Priority Species are found in the city, including Common Toad, Skylark, House Sparrow, Starling, Brown Hare, Red Star-thistle, Hornet Robberfly and Hedgehog, alongside a range of lesser-known invertebrates and plants.

Sussex Biodiversity Record Centre provides records of Priority Species within its data search.



Hedgehog © Pixabay

Priority invertebrate species may be poorly recorded, but the identification of habitats and features of likely value to invertebrates, such as brownfield sites, will trigger the need for specialist survey.

A map of B-Lines has been created by Buglife, the national invertebrate conservation charity, as a strategic initiative to target habitat creation and connectivity for pollinators. This has also mapped Important Invertebrate Areas, landscapes of particular significance for invertebrate populations where a greater focus on impacts to favourable habitat may be required. Some parts of the city fall within the South Downs Important Invertebrate Area.

Brighton and Hove contains the National Elm Collection which includes large numbers of elm trees on streets as well as parks such as Preston Park and The Level. These sites include many species of elm trees including English, Jersey and Cornish Elms. They are also home to a colony of elm-dependent White-letter Hairstreak butterflies, a Priority Species which has declined in areas suffering with Elm Disease. This endangered species lives mainly in the treetops, relying on elm trees for food.



A green space in Brighton with Elm trees

© The Living Coast

2.23 Notable species

The term "notable" has a specific meaning relating to assessing and monitoring the distribution of species and is typically used to understand distribution trends with the use of additional criteria e.g., Red Data Book (Red List), providing status in a global or national context, and alongside the International Union for Conservation of Nature (IUCN) rarity levels.

Notable habitats and species are not legally protected but are considered to be of local importance and conservation concern of relevance for biodiversity consideration.

Notable species includes those identified as being of principal importance and are included within the Section 41 list prepared under the Natural Environment and Rural Communities Act, Priority species and those listed on the Sussex Rare Species Inventory. Sussex Biodiversity Record Centre has provided an indication of the status for each Priority or notable species known to occur in Brighton and Hove, and this is shown in the legal/policy protection columns in the tables within Annex 3.

Some notable species are not listed as Priority species. Notable species locally, that are not Priority species, include swift, house martin and glow-worm (See Annex 3 -Table 3.2).

2.24 Priority habitats

Priority habitats are those identified as being the most threatened and therefore in need of conservation action and are of principal importance for the conservation of biodiversity. These are included within the Section 41 list prepared under the Natural Environment and Rural Communities Act. (See Annex 3 – Table 3.3)

Lowland Calcareous Grassland is present on the downland to the north of the city and extends into it, largely in small parcels amongst agricultural and urban land uses. Scrub forms an important component of this habitat, especially for invertebrates. The downland areas also feature *Ponds, Hedgerows* and some *Lowland Mixed Deciduous Woodland*, which is mostly present in small blocks throughout the city. *Ancient Woodland* refers to a woodland which has existed continuously since at least 1600. Stanmer Park supports the majority of the city's *Ancient Woodland*, including *Veteran Trees*, although there are several other sites in outlying areas. *Veteran trees* can also be found across the city. *Arable Field Margins* is a significant Priority habitat on the downland, supporting rare arable weeds such as Shepherds Needle (*Scandix pecten-veneris*) and Cornflower (*Centaurea cyanus*).

Within the urban commons of the city *Open mosaic habitat on previously developed land Priority habitat* is likely to be present. Typically located on brownfield sites which have been previously disturbed and left for a period of time to revegetate, they can support a wide range of terrestrial and aquatic habitats, rare and scarce invertebrates as well as lichens, plants, birds, reptiles and amphibians of conservation concern.

There is also some limited representation of *Traditional Orchards* and *Wood Pasture and Parkland* in the city.

On the southern edge of the city is a complex of coastal and marine Priority habitats, including:

- *Maritime Cliff and Slopes* and some *Coastal Vegetated Shingle*
- *Saline Lagoons, Intertidal Mudflats, Intertidal Chalk and Intertidal Underboulder Communities*
- *Fragile Sponge and Anthozoan Communities on Subtidal Rocky Habitats, Sub-tidal Chalk, Sub-tidal Sands and Gravels,* and *Sheltered Muddy Gravels* below the low tide mark

Natural England maintains inventories of Priority habitats, which can be viewed on the Multi-Agency Geographic Information for the Countryside map. These inventories should only be viewed as provisional, with the presence or absence of Priority habitats to be confirmed by up-to-date field survey results, with reference to the published UK Priority habitat descriptions.

Sussex Biodiversity Record Centre also maintains an inventory of Priority habitat incorporating local knowledge and biological data. (See Key Biodiversity Matter 4).

2.3 Sussex rare species

The nature conservation status of species has been determined by the assessment of populations against threat and rarity criteria, often at local, national and international levels. Species with higher rarity and threat status are generally known as Red List species. Swift, greenfinch and house martin were added to Red Lists in December 2021. The Sussex Biodiversity Record Centre maintains the Sussex Rare Species Inventory, which includes all national Red List species along with those that are considered rare in Sussex according to stated criteria (see Annex 3 - Tables 3.1 and 3.2).

2.4 Invasive non-native species

Vigorous or invasive non-native plant species can impact negatively upon biodiversity by out-competing native flora, limiting the available feeding and cover areas and becoming monocultural habitat. Examples include Japanese knotweed, some cotoneaster species and Wilson's honeysuckle on the Downs.

Landscaping schemes should look to avoid invasive non-native species listed and known to be a local problem, opting to include locally appropriate and beneficial species of biodiversity value. Terrestrial species of particular concern include:

- Cotoneaster species
- Japanese Knotweed (*Fallopia japonica*),
- Indian Balsam (*Impatiens glandulifera*),
- Giant Hogweed (*Heracleum mantegazzianum*),

More information is available on the webpages of the GB Non-native Species Secretariat.

It is an offence to spread, or cause to grow, certain plant species listed on Schedule 9 of the Wildlife and Countryside Act, 1981 as amended. It should be noted that where proposals could result in the spread of non-native invasive plant species, suitable measures will need to be agreed and/or undertaken to control them.

3. Key legislation for biodiversity

Applicants must demonstrate that proposals are compliant with all relevant legislation regarding the protection of wildlife and habitats and should ensure that they receive the necessary professional advice to be able to do so. Key legislation is summarised in Table 1. Further detail is provided in Annex 1.

Table 1: Key legislation

Legislation	**Key Information**
Wildlife and Countryside Act 1981 (as amended)	The primary mechanism for the protection of all wildlife in the UK and includes schedules that set out those species with additional levels of protection. It also provides the basis for the identification of sites of national importance for nature conservation, Sites of Special Scientific Interest.
Natural Environment and Rural Communities Act 2006	Section 40 (as amended by the Environment Act) places a duty on public bodies in England to conserve and enhance biodiversity. It requires local authorities to have regard to the purpose of conserving and enhancing biodiversity in a manner that is consistent with the exercise of their normal functions such as policy and decision-making. Section 41 requires the Secretary of State to publish and maintain lists of species and types of habitats to be of "principal importance" for the purposes of conserving biodiversity, known as Priority habitats and species.
Conservation of Habitats and Species Regulations 2017 (as amended)	Often referred to as the Habitats Regulations, these provide protection for designated sites, habitats and species considered to be of international importance, including the designation of Habitats Sites and European Protected Species.
Environment Act 2021	Enacted in November 2021 with a target to halt a decline in the abundance of species. Schedule 14 makes provision for biodiversity gain to be a condition of planning permission setting out key requirements in relation to biodiversity and development management through amendments to the Town and Country Planning Act 1990 as: mandatory delivery of minimum 10% Biodiversity Net Gain (BNG) above the pre-development value of the site unless exempt; biodiversity value and BNG to be measured using the Defra Biodiversity Metric by a suitably qualified and experienced ecologist; submission of a Biodiversity Gain Plan with planning applications; BNG to be provided on-site, off-site or through a statutory biodiversity credit scheme; habitat secured for at least 30 years via planning obligations or conservation covenants. It is anticipated there will be a transition period of two years before the requirements for BNG become mandatory. Full details of all requirements will be provided through secondary legislation.
Protection of Badgers Act 1992	This Act refers specifically to Badgers, making it an offence to kill, injure or take a Badger, or to damage or interfere with a sett unless a licence is obtained from a statutory authority.
Hedgerow Regulations 1997	Although outside of the development management process, these Regulations provide a convenient framework for the identification of hedgerows with importance for wildlife, landscape and heritage. For projects that do not require planning consent, the requirements of the Regulations need to be met to permit the removal of any hedgerow or hedgerow section, except if it forms a curtilage to a property.
Crime and Disorder Act 1998	Section 17 states that all relevant authorities, including city, town and parish councils, have a duty to consider the impact of all their functions and decisions on crime and disorder in their local area. To prevent wildlife crime, planning decisions, including permitted development and listed building consents, need to consider how to avoid any action which contravenes current legislation governing the protection of wild animals and plants.

4. Planning Policy and Strategies

The following sections outline and summarise current national and local planning policy in relation to conserving and enhancing biodiversity.

4.1 National policy and guidance

The National Planning Policy Framework (NPPF) promotes sustainable, well-designed development. Within this aim, it seeks to conserve and enhance the natural environment and ensure that biodiversity and appropriate landscaping are fully integrated into new developments to create accessible green spaces for wildlife and people, to contribute to a high quality natural and built environment, and to contribute to a better quality of life. Table 2 summarises the key paragraphs.

Table 2: NPPF requirements

Paragraph 153	Plans should take a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for flood risk, coastal change, water supply, biodiversity and landscapes, and the risk of overheating from rising temperatures.
Paragraph 174	Planning policies should contribute to and enhance the natural and local environment by, amongst other things: • protecting and enhancing sites of biodiversity value in a manner commensurate with their statutory status or identified quality in the development plan; • minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
Paragraph 175	To protect and enhance biodiversity and geodiversity, plans should: • Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping-stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and promote the conservation, restoration and enhancement of Priority habitats, ecological networks and the protection and recovery of Priority species; and • identify and pursue opportunities for securing measurable net gains for biodiversity.
Paragraph 180	Sets out the mitigation hierarchy for decision making: • in making planning decisions, a hierarchical approach should be followed, so that significant harm should be avoided, but if it can't be avoided must be adequately mitigated, or as a last resort compensated for.
Paragraph 180	Includes advice on irreplaceable habitats, such that development resulting in their loss or deterioration should be refused unless there are exceptional circumstances and where a suitable compensation strategy has been produced.

Additional guidance on biodiversity and planning is provided on the Government's Planning Practice Guidance webpages, including links to Natural England's standing advice on protected sites and species.

Government Circular 06/2005 Biodiversity and geological conservation

This provides further guidance on the law relating to planning and nature conservation. It clarifies the need for information submitted in support of planning applications to be sufficient to provide LPAs with certainty of likely impacts including whether mitigation measures can be secured, prior to determination. It gives weight to the conservation of biodiversity within the planning process to avoid decisions being challenged.

4.2 Local planning policy framework

4.21 City Plan Parts 1 and 2

City Plan Parts 1 and 2 contain many policies relevant to biodiversity and nature conservation (see Annex 2). The key policies are CPP1 CP10 Biodiversity and CPP2 DM37 Green Infrastructure and Nature Conservation.

Policy CP10 Biodiversity

This policy sets the overarching strategy relating to the conservation, protection and enhancement of biodiversity. The policy takes a strategic approach to improving biodiversity within the South Downs Way Ahead Nature Improvement Area (NIA) in the city; this incorporates the Brighton and Hove Green Network and is designated on the City Plan Policies Map. The policy also seeks to ensure all development conserves existing biodiversity, provides biodiversity net gains wherever possible, and contributes towards ecosystem services.

Policy DM37 Green Infrastructure and Nature Conservation

This policy requires development to contribute towards the network of green infrastructure, avoid adverse impacts on biodiversity, and seeks to conserve and enhance biodiversity and nature conservation features. The policy also seeks to ensure development achieves measurable biodiversity net gains. All proposals must accord with the mitigation hierarchy and include measures to avoid or prevent harmful effects where required.

The policy requires the following assessments for designated sites:

- International Sites - Habitats Regulations Assessment (HRA) screening/Appropriate Assessment
- National Sites - Environmental Impact Assessment (EIA) screening/EIA; and/or MCZ assessment
- Local sites - Ecological Impact Assessment

4.22 East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan

The Waste & Minerals Plan sets out the vision, objectives and strategy for sustainable waste development and minerals production in the area. The policy relating to biodiversity is Policy WMP27 Environment and Environmental Enhancement. The Plan is currently under review and this policy is proposed to be replaced by Policy RD1; this replacement policy proposes to add a reference to biodiversity net gain.

4.23 Area Action Plans and Neighbourhood Plans

Policies in the Shoreham Harbour Joint Area Action Plan are applicable to development within the Shoreham Harbour area of the city alongside the City Plan policies referred to above. Policy SH7 Natural Environment, Biodiversity and Green Infrastructure is the key policy of relevance to biodiversity.

There are currently five neighbourhood areas designated in Brighton and Hove; all are at various stages of preparation. Information about the areas designated for Neighbourhood Planning and the status of the plans can be found on the council website.

4.24 Supplementary Planning Documents, Planning Advice Notes and Special Guidance

Other SPDs should be read alongside this SPD to ensure cross compliance and integration. The most relevant are SPD06 Trees and Development Sites; SPD15 Toad's Hole Valley; SPD16 Sustainable Drainage; and SPD17 Urban Design Framework, In addition, the council also has PAN06 Food Growing and Development and has produced Special Guidance A: Swift Boxes and Bricks for New Developments.

4.25 Marine Plan for the South East

The Marine Management Organisation has prepared a Marine Plan for the south coast of England which seeks to manage the sustainable development of marine industries such as wind farms, shipping, marine aggregates and fishing alongside the need to conserve and protect marine species and habitats.

4.3 Local Biodiversity Strategies

4.31 The Living Coast Biosphere Management Strategy

The Living Coast Management Strategy sets out how The Living Coast Partnership will deliver core themes to support the objectives of the global biosphere programme: to conserve nature and culture; support sustainable socio-economic development; and enable environmental engagement, research and learning.

4.32 Future Local Nature Recovery Strategy

The council is working with the Sussex Nature Partnership (SxNP) to develop local habitat maps which will, in due course, form the basis of a Local Nature Recovery Strategy (LNRS) and local Nature Recovery Network (NRN). The council will also work to identify strategic and other sites for the off-site delivery of biodiversity net gain and nature-based solutions, which will help deliver the nature recovery strategy.

Biodiversity Opportunity Areas (BOAs) are likely to form the basis of the future local NRN. BOAs were identified in 2009 by the Sussex Biodiversity Partnership. BOAs represent areas where habitat enhancement, restoration and creation will have the most benefit in enhancing connectivity and improving the resilience of species populations. They may also be target areas for nature recovery and off-site biodiversity net gain where it can't be achieved on site. BOAs have already been identified across Sussex; one is situated entirely within the city and four are partly within the city (Figure 4). BOAs take in concentrations of designated sites, along with associated Priority habitats.

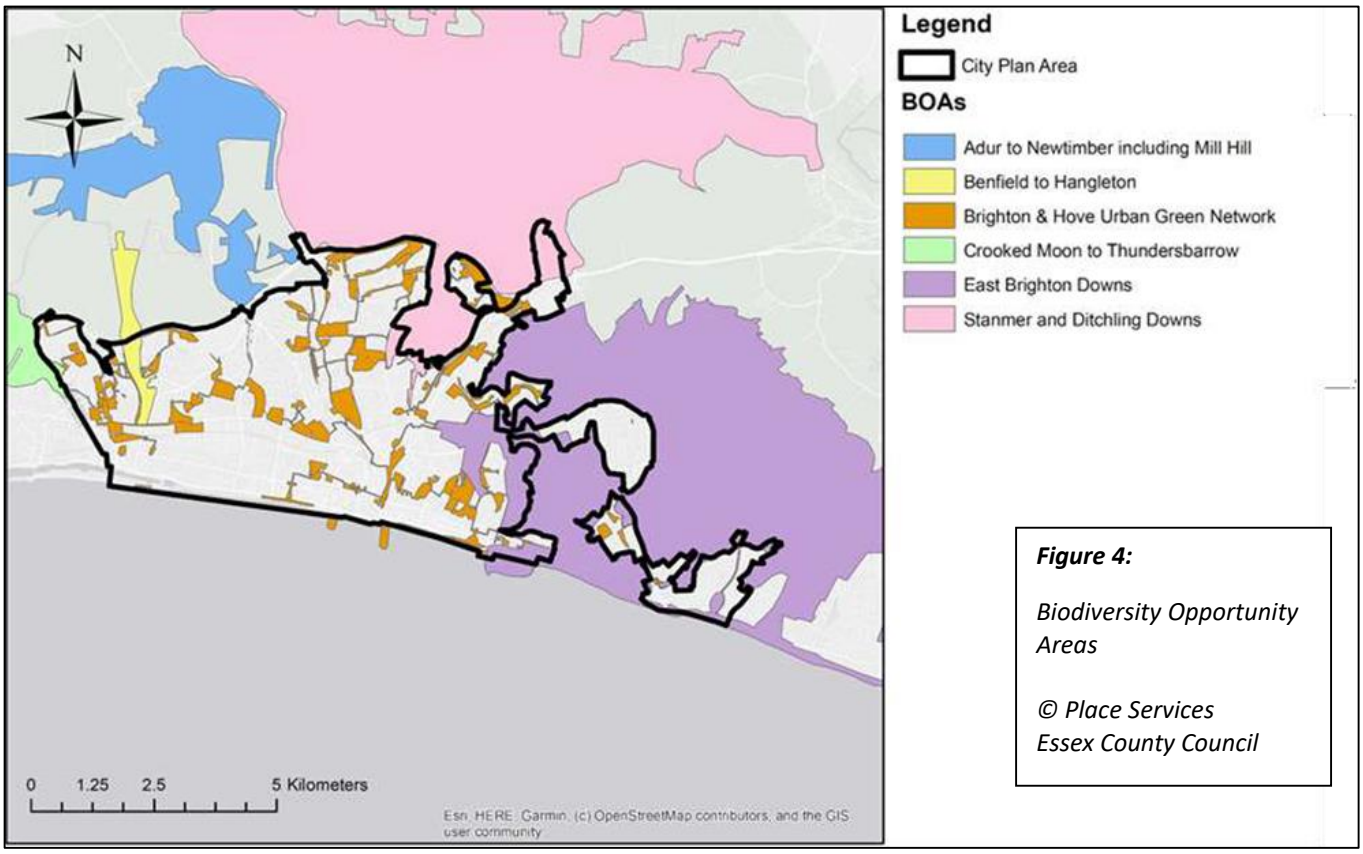


Figure 4:

Biodiversity Opportunity Areas

© Place Services
Essex County Council

The main habitat characteristics of the five local BOAs are indicated in the table below.

Adur to Newtimber including Mill Hill	Chalk grassland, floodplain, grassland, and woodland
Brighton and Hove Urban Green Network	Chalk grassland, woodland and parkland
Benfield to Hangleton	Chalk grassland and woodland
Stanmer and Ditchling Downs	Chalk grassland, heath, orchards, woodland and parkland
East Brighton Downs	Chalk grassland, acid grassland, orchards, woodland, parkland and coastal habitats

4.33 Natural Capital Investment Strategy

The Sussex Nature Partnership have produced the Natural Capital Investment Strategy (2019) and associated asset and risk register and *Environmental Benefits from Nature* tool. The Strategy sets out the approach to directing investment in nature and sets out the rationale for using a natural capital approach. These documents promote the use of landscape carbon metrics (outside of woodland creation) and assessment of ecosystem services of developments in Sussex including Brighton and Hove.

Natural Capital at Risk in Sussex comprises habitats that are not adequately protected under existing mechanisms; are fragile or vulnerable and/or already highly fragmented; may be of particular significance in a Sussex context; or are irreplaceable or not easily re-created. The habitat types that fall into this category in Brighton and Hove are: vegetated shingle, woodland and species-rich grassland.



Round headed Rampion on Beacon Hill Nature Reserve © The Living Coast

5. Overarching principles and local biodiversity matters

The overarching aims of ecological work used to inform the planning process are to minimise harm and to maximise benefits for biodiversity resulting from development enabling effective decision-making compliant with legislative and policy drivers. The generally accepted way of doing this, now embedded within the planning and legal systems, is to follow the "mitigation hierarchy" and to achieve a mandatory minimum 10% biodiversity net gains. These key principles and priorities are detailed below.

5.1 The Mitigation Hierarchy

The mitigation hierarchy, as set out in the NPPF paragraph 180 and ecological best practice guidance (BS42020:2013), aims to prevent harm and conserve and enhance biodiversity. In accordance with the NPPF, if significant harm to biodiversity cannot be avoided, adequately mitigated, or as a last resort, compensated for, the NPPF states that planning permission should be refused.

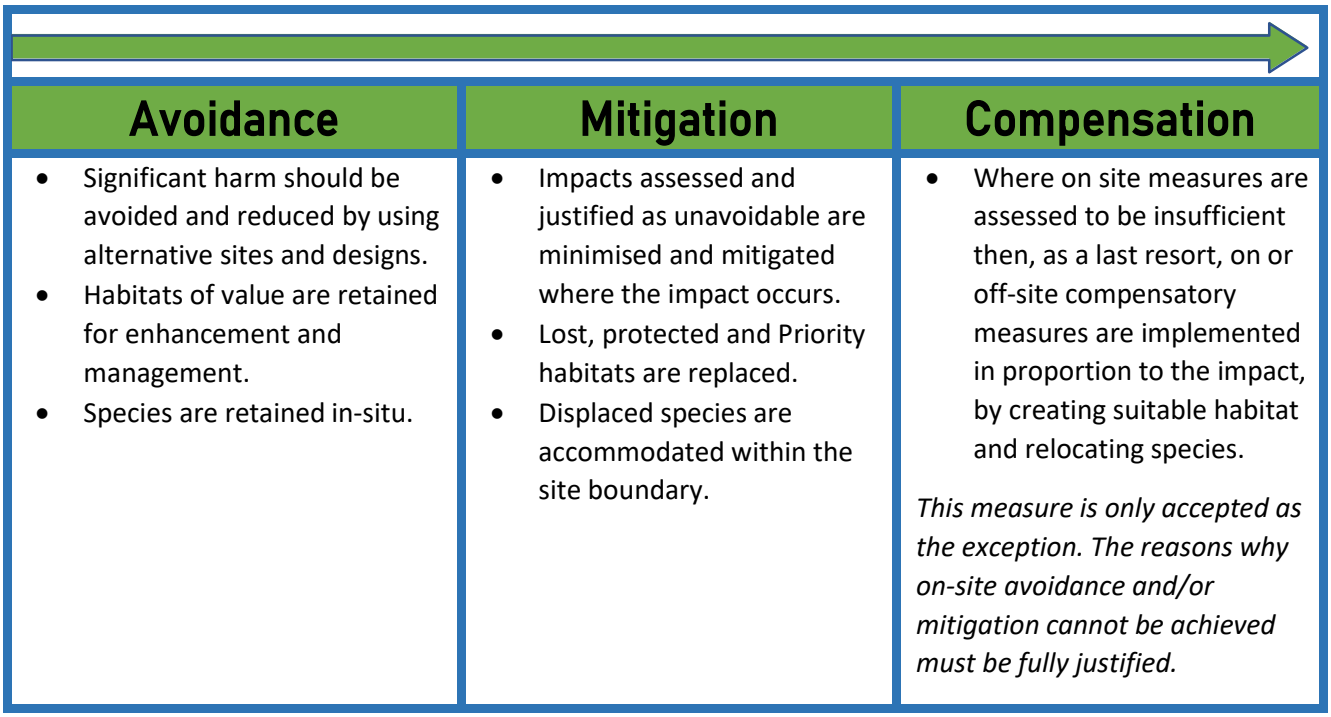


Figure 5: *The Mitigation Hierarchy*

Applicants must demonstrate that the design of their proposals complies with the mitigation hierarchy. The approach to following the mitigation hierarchy should be informed by up-to-date survey and assessment of the ecological value of the habitats and species likely to be affected, aligned to best practice standards as set out in BS42020:2013 Biodiversity – Code of practice for planning and development. This standard identifies the ecological data required and considerations for its assessment, and its use in the design of mitigation measures. (See Section 7 for further details).

Compliance with this standard is important to demonstrate the validity of the ecological information submitted with a planning application. Any deviations from this British Standard will need to be fully justified and may be challenged by the council or external consultees, potentially leading to delays in determination and / or refusal.

5.2 Biodiversity Net Gain

Biodiversity Net Gain (BNG) is an approach to development that aims to leave the natural environment in a measurably better state than it was beforehand. NPPF paragraphs 174d and 180d refer to providing or securing net gains for biodiversity through development; the Environment Act 2021 mandates measurable net gain of at least 10%; and Policies CP10 and DM37 seek to ensure all development provides net gains where possible, with DM37 requiring these to be measurable.

BNG does not replace existing protections, for example, for statutory designated sites and protected species, and does not apply to irreplaceable habitats. In addition, the introduction of BNG does not replace or undermine the mitigation hierarchy as the primary principle for the consideration of biodiversity within development. BNG is additional to the mitigation hierarchy and only applies once impacts to biodiversity have been avoided, mitigated and compensated for (Figure 6). Where there are no anticipated impacts, development should still secure BNG.

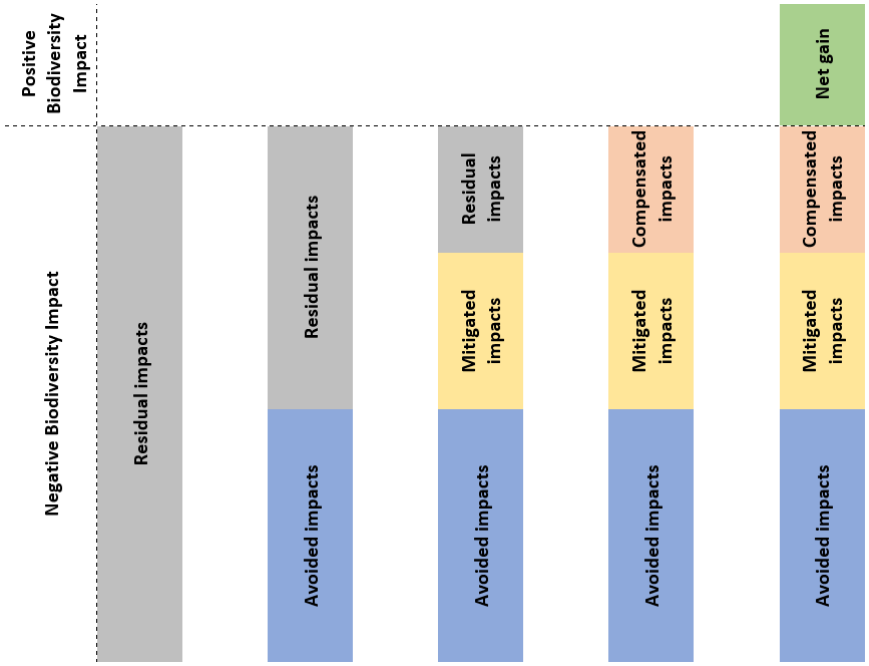


Figure 6: *Relationship between the Mitigation Hierarchy and BNG*

Demonstrating BNG

Demonstrating BNG requires an approach to measuring biodiversity. A **Biodiversity Metric** has been produced by Defra as a tool to measure biodiversity. This is a habitat-based approach to determining a proxy biodiversity value and enables the assessment of changes in biodiversity value (losses or gains) brought about by development. (See Section 7 for further details).

Pre-development biodiversity value must be calculated before any site clearance or other habitat management work has taken place.

Achieving BNG

Opportunities are likely to exist within most development proposals to retain, create and manage habitats for biodiversity and provide BNG on-site. For example, wildlife habitats within landscaping or open space, or the inclusion of street trees within developments.

BNG should ideally be achieved on-site with retained and enhanced habitats, appropriate buffers and creation of habitats to increase connectivity for wildlife. Where BNG cannot be fully achieved on-site, off-site BNG can be explored having regard to any emerging Local Nature Recovery Strategy and provided in local strategic sites wherever possible, preferably within Brighton and Hove or within a Sussex Nature Recovery Network.

5.3 Local biodiversity matters

This section identifies a range of key biodiversity matters and describes how these need to be considered when identifying sites for development and developing design proposals.

Key Biodiversity Matter 1 – Protection of irreplaceable habitats

Irreplaceable habitats are defined in the NPPF as "habitats which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity." The loss of these habitats cannot be compensated for by gains elsewhere and therefore, as set out in the NPPF, development should avoid any loss or deterioration of such habitats. Examples of irreplaceable habitats within the city include ancient woodland and veteran trees.

Key Biodiversity Matter 2 - Habitats Regulations Assessment

Where a Habitats Site, such as Castle Hill Special Area of Conservation, could be affected either directly or indirectly by development, a Habitats Regulations Assessment screening must be undertaken by the council as the competent authority. If the HRA screening does not rule out likely significant effects on the site, either alone or in combination with other projects, prior to the consideration of mitigation measures, then an Appropriate Assessment must be undertaken. The Appropriate Assessment identifies the interest features of the site (such as birds, plants or habitats), how these could be impacted, assesses whether the proposed project could have an adverse effect on the integrity of the Habitats Site (either alone or in-combination with other projects), and finally how this could be mitigated to meet the Habitats Regulations "integrity" test. If a development is likely to have an adverse effect on the integrity of a Habitats Site, then it can only go ahead for imperative reasons of over-riding public interest (IROPI).

Any Habitats Regulations Assessments undertaken by the council are sent to Natural England for a formal consultation response before any decision can be issued. It is expected that applicants should provide sufficient information to inform a Habitats Regulations Assessment.

Key Biodiversity Matter 3 – Recreational pressure on designated sites including SSSIs

Housing development located in proximity to any designated site of nature conservation value has potential to have recreational impacts, such as disturbance to wildlife or vegetation trampling, arising from increased visitation, dog-walking and use. Recreational pressure can, to some degree, be mitigated through appropriate alternative open space provision or improvements.

In accordance with the NPPF, development should avoid impacts on SSSIs, including recreational impacts. Impact Risk Zones have been developed by Natural England to make an initial assessment of the potential risks to SSSIs, available on the Multi-Agency Geographic Information for the Countryside. Where a development has the potential to result in recreational impacts on an SSSI, developers may need to provide an assessment of recreational pressure effects. Developers in this situation should seek further advice on this issue from Natural England's Discretionary Advice Service.

Natural England are a statutory consultee for all development likely to have an impact on SSSIs. Where there is potential for a development to have an impact on a SSSI, an Environmental Impact Assessment (EIA) screening will be required.

Key Biodiversity Matter 4 – Priority habitats

Proposals that contain or may affect a Priority habitat are required to include avoidance measures to protect any existing value and, where possible, improve their condition by appropriate enhancement or management measures. Management will need to be sustainable for the long-term, with clear objectives guided by the site's existing habitat features and species, as appropriate to the location and environmental conditions.

Key Biodiversity Matter 5 - Conservation of the marine environment

The biodiversity of the city also extends to the marine environment. The inner harbour at Brighton Marina is designated as the Brighton Marina Local Wildlife Site, a saline lagoon (Priority habitat) with characteristic saline lagoon species; the Beachy Head West Marine Conservation Zone covers an area of sea eastward from Brighton Marina to Beachy Head, designated for marine chalk habitats and the species they support.



Surfers near Brighton Marina © Living Coast

Planning applications for activities that are capable of affecting the features of the MCZ, directly or indirectly, will need to include a consideration of the significance of that risk. Developments which may result in adverse impacts on the MCZ, such as a coastal defence project or SuDS scheme releasing wastewater into the marine environment, will need to provide sufficient information to the council so that a MCZ Assessment can be undertaken. This assesses the likely impacts on the designated features and conservation objectives of the MCZ and is integrated into the marine licence decision making procedures by the Marine Management Organisation.

Key Biodiversity Matter 6 – Wildlife sensitive lighting

Many species are sensitive to light pollution including birds, dormice, insects, bats and badgers. The introduction of artificial light might therefore mean such species are disturbed and/or discouraged from using their breeding and resting places, established flyways or foraging areas. Such disturbance can constitute an offence under relevant wildlife legislation. The design of external lighting schemes therefore needs to be sensitive to the needs of wildlife in the city, be designed to avoid impacts on any sensitive receptors identified, and retain dark corridors for habitats on, adjacent to or near the development site.

Where species are likely to be present and affected, the council will use a condition to secure a wildlife sensitive lighting scheme. This will identify those features on site that are particularly sensitive, e.g. important tree lines or hedgerows which could be used by foraging species and should identify whether light spillage could cause disturbance to these routes, and show how and where external lighting will be installed so that it can be clearly demonstrated that lit areas will not disturb or prevent wildlife from using these features. Guidance Note 08/18 Bats and artificial lighting in the UK (Institute of Lighting Professionals, 2018) provides useful information for sensitive wildlife.

Key Biodiversity Matter 7 – Species Conservation Strategies and Species Licenses

Species Conservation Strategies
Species Conservation Strategies are a new mechanism being introduced through the Environment Act to safeguard the future of particular species at risk. They will provide a strategic approach to protecting species and find better ways to comply with existing legal obligations to protect species at risk. The strategy builds on the district level licensing approach for great crested newts with other Species Conservation Strategies likely to include species of relevance locally such as Dormouse and bats.

Developers will need to be able to demonstrate that a Species Conservation Strategy has been taken into account, where relevant.

Species Licenses and District-Licensing
Developers have a legal duty to protect various species. A license may be required from Natural England or Defra if a development will result in disturbance or removal of certain species or habitats that would otherwise be unlawful. To obtain a license for European Protected Species, an applicant will need to clearly demonstrate there are imperative reasons of overriding public interest; there are no alternatives; and that a favourable conservation status of the species will be maintained.

Species with known populations locally that would require a license include Badgers, Dormouse, Bats and Great Crested Newts.

Where ponds and therefore Great Crested Newts are likely to be present on or within 500m of a site**,** applicants will need to consider their approach to avoiding impacts to meet their legal requirements. For Great Crested Newts, an alternative option to an individual site-based ecological survey and assessment is available through the District Licensing Scheme; this provides a year-round option for applicants to mitigate predicted impacts on Great Crested Newt populations and can provide certainty of costs and timescales. If an applicant joins the District Licensing scheme, they do not need to carry out their own surveys or plan and carry out mitigation work for Great Crested Newt. However, evidence of enrolment in the scheme must be submitted with the planning application. The District Licensing Scheme is available to all developments in Brighton and Hove where Great Crested Newt impacts are likely and is delivered by NatureSpace on behalf of the council. Full details of the scheme are available on the NatureSpace website. Figure 7 shows impact risk zones based on habitat suitability for Great Crested Newt.

If developers do not enter the NatureSpace scheme, proposals will need to meet the Government's Standing Advice for Great Crested Newt. Mitigation, such as a precautionary approach to site clearance will still be required for all developments, including those supported by the Great Crested Newt District Licensing scheme.

Other district licensing schemes may come forward in the future for other species.

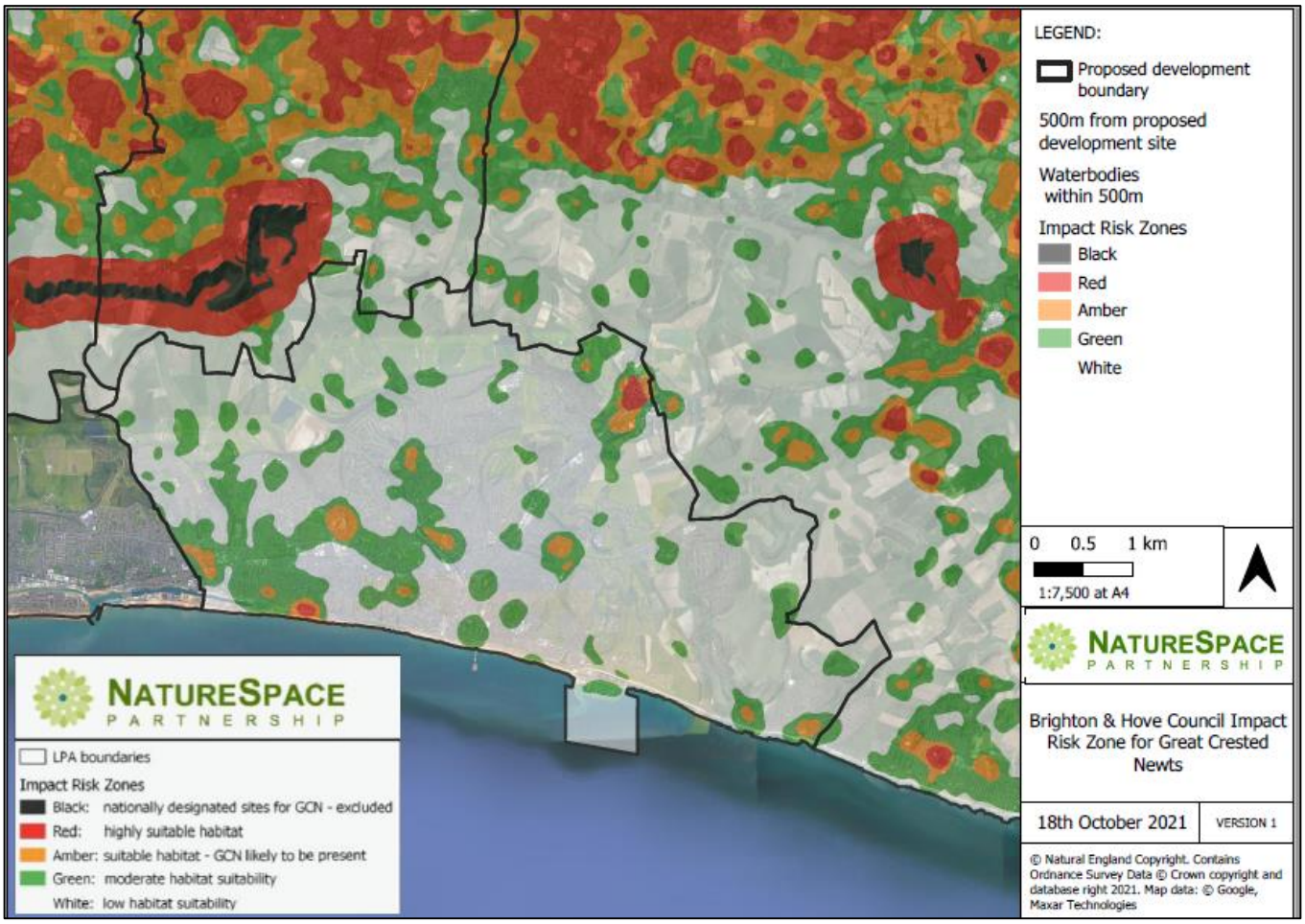


Figure 7: *Brighton & Hove City Council Impact Risk Zone for Great Crested Newts, NatureSpace Partnership*

6. Integrating biodiversity into development

Most development sites, even very small sites or those with limited landscaping, can provide opportunities for biodiversity enhancement through careful and well thought out design and species selection.

6.1 Landscaping

Landscape design in new development, including small scale and some types of householder development, should seek to retain, enhance and create habitats of value to biodiversity wherever possible. The retention of front gardens in householder development is encouraged as they can provide multiple environmental benefits. Landscape elements can include boundary hedgerows, trees, wildflower grassland / flowering lawns and ponds. Where these are already present on site these can provide the framework for the setting of the scheme layout. New landscaping features can help to achieve biodiversity net gains, as well as contribute to the post development network for nature, allowing wildlife to move safely and easily. The use of native species of local provenance is encouraged as they generally offer more benefits to local wildlife than non-native species, as well as enhanced biosecurity. Examples of wildlife friendly tree, shrub and perennial species considered suitable for landscaping are found in Annex 7.



Biodiverse and ecological productive landscaping, Kidbrooke Village, London © Nick White

Landscape design, both in garden spaces and in the wider public realm, should enhance existing habitats wherever possible and link them to new habitats created within the development, such as linking up defunct hedgerows and tree corridors on and off site. As an example, the use of low nutrient status soils to create chalk grassland that will have low maintenance requirements is encouraged as a more sustainable approach to management and is locally appropriate.

Applications within the B-Lines identified by Buglife should include sustainable landscaping features of value to invertebrates, especially pollinators, including flowering lawns / wildflower grasslands, pollen and nectar-rich plants, shrubs and trees.

Butterfly and bee banks

Butterfly and bee banks can be easily created from mounds of chalk planted with wildflower species which thrive on chalk such as ox-eye daisy, field scabious, betony and kidney vetch. Low-lying species that do not have a particularly high sward are of particular value to invertebrates, as are areas of bare ground and chalk.

Relatively small banks can be created in sunny aspects and connected to the wider landscape as part of a landscaping scheme and will attract a range of pollinating insects such as bees and butterflies, as well as providing habitat for many other invertebrates.



Preparation of a butterfly bank © Dr Dan Danahar



Ox-eye daisy & horse-shoe vetch © The Living Coast

Information on the creation of butterfly banks has been produced by Cambridge Conservation Initiative

Case Study: Liz Williams Butterfly Haven, Dorothy Stringer School

At Dorothy Stringer School, Brighton, an experimental reserve was created on amenity grassland within the school grounds. Three linear tiers were constructed on a chalk slope, sown with a native wildflower seed mix of local provenance and planted with 5,500 locally sourced wildflower plugs.

When surveyed after its first year, 97 wildflower species and 10 grass species were recorded along with various invertebrates including those of national rarity. Since its creation in 2007, 33 butterfly species have been recorded on site, 15 of which have been observed breeding.

The site has demonstrated that the low nutrient concentrations and relatively high pH of chalk, its drainage capacity and varying aspects provide suitable growing conditions for a range of wildflower species and invertebrates of significantly high biodiversity value.

Lessons learnt from the creation of this first butterfly bank have resulted in a different construction on subsequent banks throughout the city. At Varndean School, curvi-linear banks were created to expose the substrate to multiple aspects and create a wider range of microhabitats.

Subsequent banks have been created entirely from chalk to prevent a denser and higher sward associated with more nutrient-rich soil conditions from colonising the banks; and seeds have been sown in clusters to leave areas of bare chalk, supporting the various life stages of certain invertebrates.



A further bank at Dorothy Stringer School, created as mitigation for the football pitch, was seeded with only chalk downland wildflower species, resulting in a richly biodiverse feature (see image) and was complemented by planting of Elms, providing habitat for the White Letter Hairstreak butterfly.

Butterfly bank © Dorothy Stringer School

Bug-hotels and log piles

Inclusion of landscaping features that mimic natural insect habitats specifically dead wood piles and stands for beetles such as stag beetle, and nesting sites for solitary bees and wasps (*Aculeate hymenopterra*), when combined with biodiverse planting, provide easy-wins for local wildlife including shelter and foraging opportunities for birds and bats and other mammals such as hedgehog. Features can be as small as a few logs piled in the corner linking to boundary hedges, or bug hotels comprising of wood drilled with small holes located in a sunny spot. If development requires vegetation or tree removal, then the arisings can be used to create instant habitat features on the site without the need to bring in outside materials and with no added costs.



Juvenile Common Lizard © Kim Dawson



Bee hotel © Sue Hooton

Ponds

Small and large ponds add value for biodiversity and wildlife. Pond creation or features that collect water during wet spells provide perfect habitats for aquatic insect life and amphibian species and link nicely with Sustainable Drainage Systems (SuDS) helping alleviate surface water flooding.



Common Frog © Kim Dawson

Wider benefits of landscaping

Landscaping features can also provide opportunities to create habitats that will address environmental challenges arising from climate change by providing ecosystem services.

Green roofs can provide multiple benefits including reducing run-off and the urban heat island effect. Similarly, trees can create a cooling effect and provide opportunities for shade; tree planting systems specifically designed for built environments can provide an opportunity to capture and disperse excess surface water; trees and planting can improve air quality by absorbing and trapping pollutants and particulates. Permeable surfaces should be used around any trees retained within paved areas and new tree planting should be carried out in a way that ensures that the trees have access to sufficient soil and water to achieve maturity and maintain their health.

Landscape restoration can be also beneficial to both biodiversity and heritage assets, for example where located within heritage assets such as Registered Parks and Gardens.

The use of food producing plants in landscaping has benefits including biodiversity enhancement, climate change adaptation, local amenity, and health and wellbeing. Opportunities include fruit producing trees in traditional or scattered orchards; fruit bushes and edible plants instead of ornamental plants; and communal allotment or beds.

Further information is available in the council's PAN06 Food Growing and Development.



Saunders Park Edible Garden incorporating edible hedging with rosemary, red, black and white currants © Rosie Linford

6.2 Boundaries

The arrangement of garden spaces within a development should aim to form a connected network, with links to surrounding green space and the wider landscape including Priority habitats and designated sites, thus forming part of a nature recovery network, rather than creating isolated pockets or islands within the built landscape.

Boundaries should be designed to facilitate the movement of wildlife between properties within a development. Native species rich hedgerows are the preferred boundary treatment. Fencing should be hedgehog friendly and hedgehog highways should be incorporated throughout the development.



Hedgehog friendly fencing © Hamish Jackson

6.3 Swift bricks

New build development of 5m or greater in height are required to incorporate swift bricks/boxes, with regard to the council's Guidance note for provision of swift bricks. As recommended in the guidance, internal swift bricks that are integrated into the walls are preferred to external boxes, where feasible. Swift bricks/boxes should be secured at the following rate:

- Minor residential development should provide a minimum of 3 swift bricks, or two per residential unit, whichever is the greater;
- Minor commercial development should provide 3 swift boxes, or one per 50sqm of floorspace, whichever is the greater; and
- Major developments should seek to secure similar provision and will be recommended by the council's ecology advisor.

Householder extensions should also have regard to the Swift Guidance and provide a swift brick/box on any suitable development greater than 5m in height.

6.4 Bee bricks

All new build development and extensions to existing buildings are required to incorporate bee bricks at a rate of one bee brick per dwelling. Different requirements may be recommended for major applications. Bee bricks are integrated into the external walls of the development, in place of a standard brick. Complimentary planting, including nectar-rich species, should be provided within the landscaping to attract the bees and provide a food-source.

6.5 Integrated boxes

In addition, other measures such as companion landscape planting, which provides a food-source and supports the various stages of the lifecycle for numerous species, and integrated boxes, which can be a combination of bird, bat and insect boxes, can be provided to support other species. These should target Priority species and species of local conservation concern such as insects, house sparrow, starling and bats. High quality durable boxes may be acceptable on retained trees within the public realm. An appropriate amount is suggested as follows:

- Major development – 50% of dwellings to incorporate an integrated unit
- Minor development – 1 integrated unit per dwelling or 100sqm of floorspace
- Householders – 1 integrated unit



Example of a bee brick © Robert Nemeth



Integrated boxes © Neil Harvey

6.6 Biodiverse roofs and walls

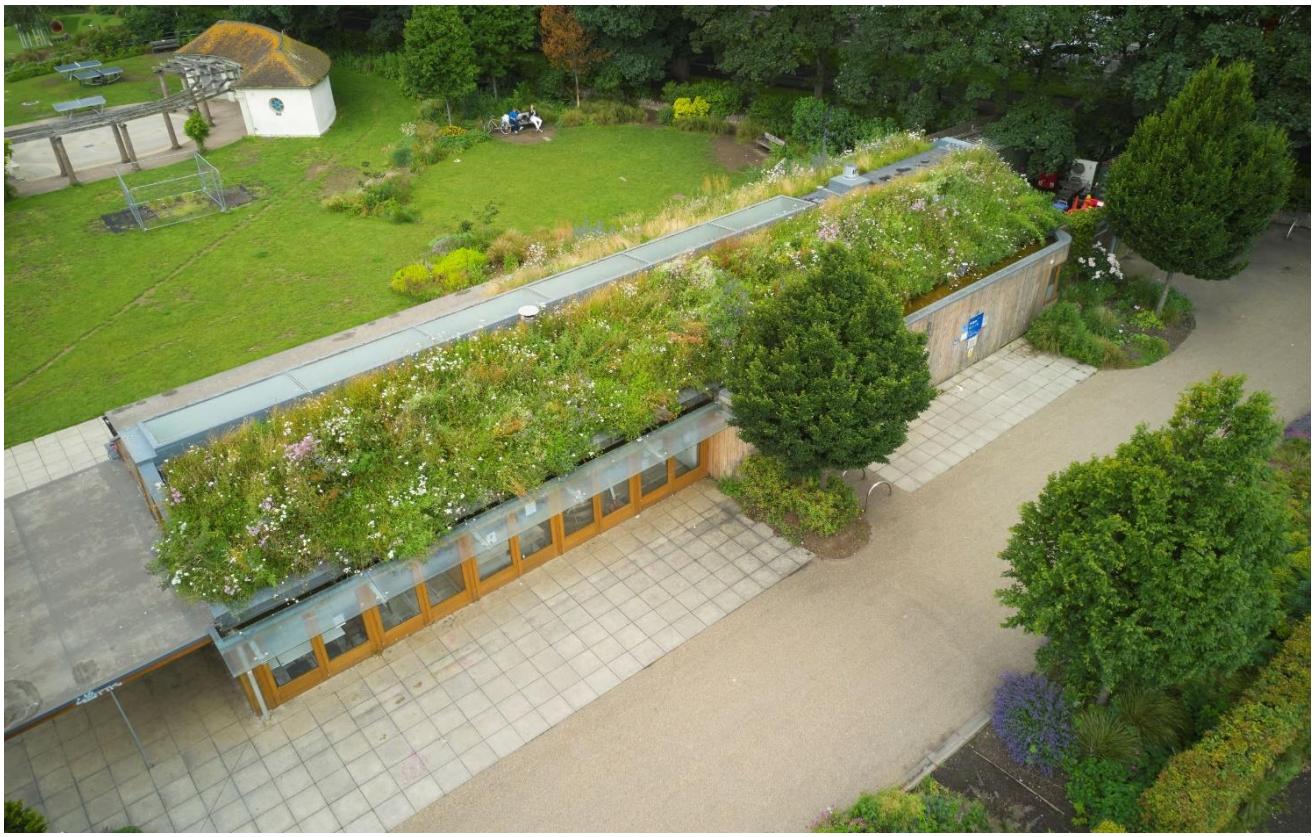
Biodiverse, living or green roofs and walls can provide valuable habitat on sites particularly where space for new habitat creation is constrained and are therefore good options for highly urban developments. They can play an important role in providing new habitat for species displaced by the development, for invertebrates and wildlife species that already live in the city and gardens and for connecting up the wider landscape. In addition to ecological and aesthetic improvements, biodiverse roofs can provide a range of other benefits, such as slowing storm runoff, reducing flood risk, cooling urban areas and increasing energy efficiency. There is also evidence that green roofs increase the efficiency of photo voltaics.

Intensive living roofs, with soil depths of over 350mm can support trees, shrubs and even water features. Intensive roofs add a significant additional load to the roof structure and may require substantial maintenance.

Extensive living roofs have substrate depths of between 25mm and 125mm and add much lower loading to the roof structure than intensive roofs. These can support a range of plants and growing mediums and can be planted with a range of native chalk grassland plants, using locally sourced growing mediums.

Biodiverse roofs are constructed from layers of impermeable membrane, cushioning and a growth medium to provide a habitat for vegetation. Habitat design and species mix should be selected to support diverse habitats of local relevance, such as chalk grassland species, rather than sedum monocultures which have immediate aesthetic appeal but limited value to biodiversity. The use of native species of local provenance is encouraged. Thin substrate sedum systems do not maximize the biodiversity potential of green roofs and would not merit Good condition within the Defra Biodiversity Metric.

Brown roofs, landscaped with exposed substrates and a varied topography, supporting nectar and pollen rich flowering plants, are also a good alternative and can provide new habitat for invertebrates and other wildlife species such as birds.



Biodiverse roof on Velo Café, The Level, Brighton. © Organic Roofs

Biodiverse walls normally incorporate permanent trellis work, spaced off the masonry, to support non-clinging climbers. They can be designed to avoid structures, gutters and downpipes, confining climbing vegetation to the wall itself. Climbing plants should be planted at least 40cm away from the wall in an irrigated plant pit stocked with nutrient-rich topsoil. Biodiverse walls have also been combined with trickle irrigation systems and growing media to support non-climbing plants directly on the walls themselves.

Biodiverse walls protect masonry from extreme temperatures, air pollution and rainfall. They can also provide nesting and feeding habitat for birds (particularly Wren, Robin and Blackbird) and other wildlife. Native plant species suited to creating climbing green walls include Honeysuckle (*Lonicera periclymenum*), Hop (*Humulus lupulus*), Traveller's Joy (*Clematis vitalba*), and Ivy *(Hedera helix*). Non-native climbing species can also provide nature conservation benefits if known to be pollen and nectar-rich.

6.7 Sustainable drainage systems (SuDS)

SuDS can include permanent water features, such as ponds, as well as features such as rain gardens and swales that fill up during rainfall events to manage surface water run-off, helping to ensure water quality is not adversely affected by development. SuDS have the potential to improve biodiversity by enhancing existing and creating new wildlife habitats and can deliver BNG if designed to provide natural habitats, particularly using locally native species. The Royal Society for the Protection of Birds and the Wildfowl and Wetlands Trust have produced guidance to maximising the benefits to biodiversity from SuDS alongside other functions. SuDS can also provide additional benefits such as improved air quality, noise mitigation and access to nature.

Inclusion of SuDS within a site is the preferred approach to managing rainfall and surface water runoff. It is essential that the management of water is considered at the earliest stage of a development and built into the design, although SuDs can also be retrofitted. The choice and design of SuDS must be appropriate to the site to ensure there is no adverse impact on groundwater quality. The council's Sustainable Drainage SPD provides further guidance.



Lockshill Garden Rain Garden Pilot © The Living Coast

In relation to the development site location and layout, developers should check details of Registered Toad crossings and advice listed by Froglife. This will help avoid direct impacts on known toad breeding populations from the discharge of the sustainable drainage systems constructed for the development, alongside considered design of raised kerbs and drains/gully pots within the development which can cause fragmentation of commuting routes, and trap and kill amphibious species.

SuDS can attract breeding amphibians and future migrations routes should be considered to avoid creating new road or drain fatality hotspots. Measures such as avoiding gully pots or offsetting them from the edge of the kerb, using dropped kerbs where appropriate, and installing amphibian ladders in existing gully pots can help to protect and conserve amphibious and other species.

Darcey Drive Case Study

At Darcey Drive, Brighton, a short-mown grassland verge was identified as suitable for the retrofit of a SUDS scheme to alleviate surface water flooding and pollution problems. The infiltration basins and swales were designed with the aim of satisfying all four pillars of SUDS – managing water quantity, improving water quality, providing amenity for people, and enhancing biodiversity.

Planted coir pallets with native wetland plant species provides instant wetland habitat that traps silt and pollutants from road runoff in an impermeable interceptor basin. Clean water overflows into a series of infiltration basins - seeded with native meadow grassland from where it drains away, and these basins provide capacity during heavy rain.

Native wildflower grassland and aquatic plants enhance biodiversity, notably providing habitats for pollinating insects, birds, bats and hedgehogs, alongside providing visual interest through colour, texture and greater vegetative structure for local residents.



6.8 Maintenance and management

To ensure long-term benefits for biodiversity are maximised, any measures incorporated within a development must be maintained and appropriately managed. Where measures provide mandatory biodiversity net gain, these must be maintained and managed for a minimum period of 30 years, as required by the Environment Act. Maintenance and management may be secured by planning condition or obligation.

7. Step by step guide to biodiversity and the development management process

Embedding biodiversity at project inception stage and ensuring proposals are supported with appropriate evidence, where relevant, is necessary and will help enable efficient and effective decision-making.

Biodiversity is a material consideration for planning and needs to be considered at every stage in the planning application process, as summarised below in Figure 6.

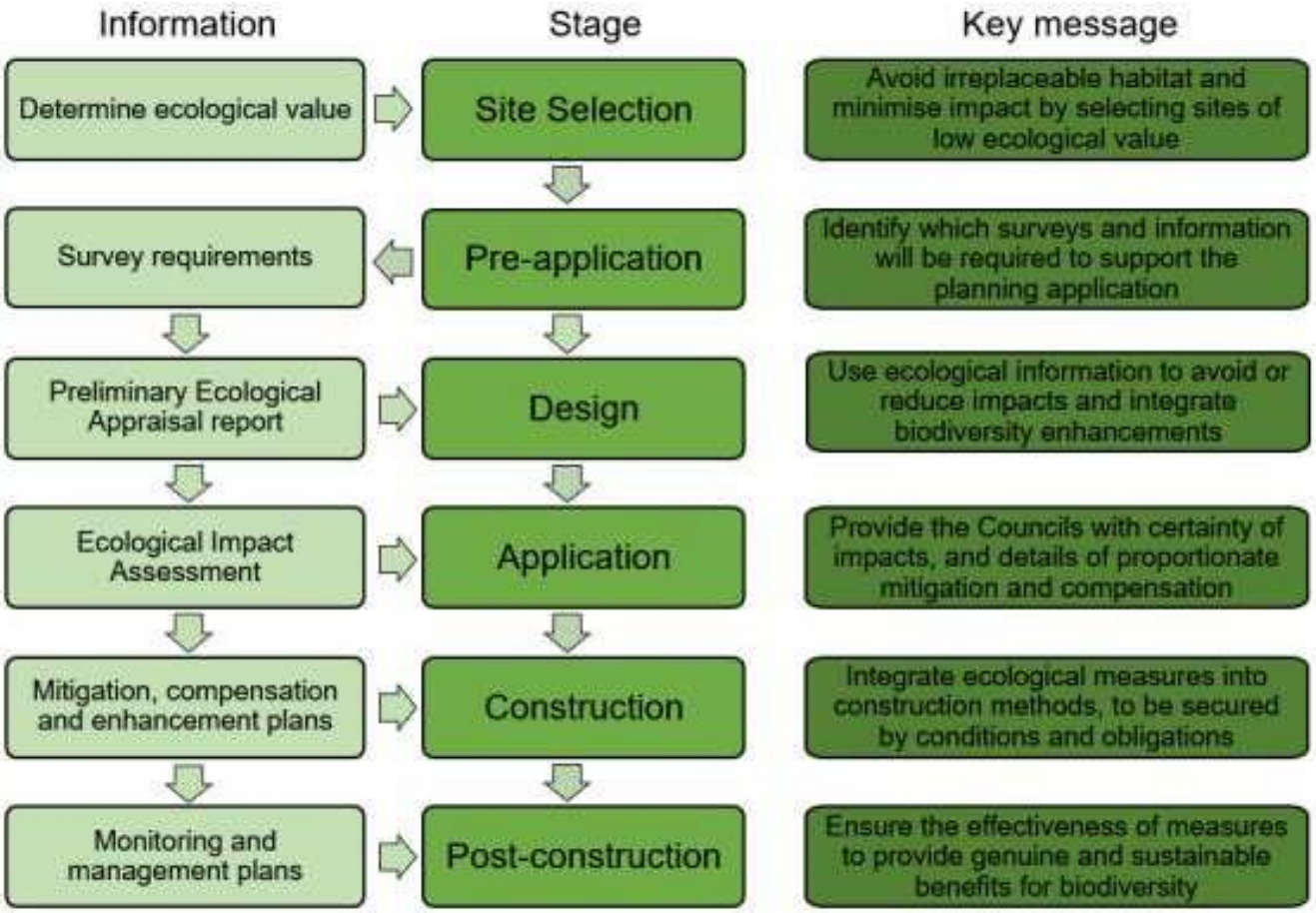


Figure 6: *Stages within the Development Management process (Place Services)*

Step by step guide to the planning process

Table 3 summarises the main steps at each stage of the planning process to ensure development is in accordance with the mitigation hierarchy, provides appropriate and measurable biodiversity net gains, and that adequate information on biodiversity is provided. Adopting this approach ensures best practice for integrating biodiversity into the design of development is achieved. Each section is explained in full.

Table 3 Summary of step-by-step process

Step	Key considerations/actions	Outputs	Principles and biodiversity matters
Stage A - Pre-application and design stage			
A1: First Impressions Survey (Biodiversity Checklist)	Check whether biodiversity features are present and likely to be affected.	Biodiversity Checklist. Preliminary Ecological Appraisal (PEA) including Ecological Constraints and Opportunities Plan (ECOP). Pre-Application Advice.	Principle 1: Mitigation Hierarchy. Biodiversity Matters 1-7.
A2: Pre-application advice	Option to seek pre-application advice to ensure policy requirements are fully understood and to clarify the scope of any information likely to be required in further assessments.		
A3: Ecological survey and assessment; BNG baseline assessment	Appropriate surveys and assessment carried out by suitably qualified ecologist. BNG habitat baseline assessment carried out using the relevant Defra Biodiversity Metric.	Ecological Impact Assessment with information from all ecological surveys including PEA / ECOP, and habitats and species surveys. Baseline Defra Metric.	Principle 1: Mitigation Hierarchy. Principle 2: BNG.
A4: Avoidance, mitigation and compensation	Scheme design and layout to avoid harm / impacts wherever possible; minimise impacts to identified features, firstly through adequate mitigation then compensation as a last resort.		Principle 1: Mitigation Hierarchy. Biodiversity Matters 1-7.
A5: Biodiversity Net Gain	Design to incorporate enhancements to deliver net gains. Defra Biodiversity Metric completed, where relevant, to reflect design.	Completed Defra Metric. Biodiversity Net Gain Report.	Principle 2: BNG. Integrating biodiversity into development.
Stage B – Application and Validation			
Submission of planning application and accompanying information	Ensure the application includes: biodiversity checklist; PEA report and ECOP if no additional surveys required, or EcIA incorporating protected species survey results, ECOP, assessment and mitigation where relevant; BNG Report including Biodiversity Metric calculations. Ensure all assessments undertaken in accordance with specified standards by suitably qualified professionals.	Biodiversity Checklist Ecological Surveys and Impact Assessment (where relevant) including EcIA / PEA / ECOP BNG Report	
Stage C – Planning permission granted – construction			
Construction	Discharge any relevant planning conditions, such as Construction Environmental Management Plan (CEMP) and Landscape and Ecology Management Plan (LEMP). Ensure good practice is followed during construction and CEMP adhered to, where relevant.	Construction Environmental Management Plan (CEMP) and/or Landscape and Ecology Management Plan (LEMP)	
Stage D – Post-construction – management and monitoring			
Operation	Ensure adequate provision is made for ongoing management and monitoring of biodiversity habitats retained or created including any requirements relating to a LEMP, where relevant.	LEMP – Landscape and Ecology Management Plan	

Stage A: Pre-application and design stage

A1: First impressions survey (Biodiversity Checklist)

Once a site has been selected, a first impressions survey using the Biodiversity Checklist should be carried out for certain applications (see Annex 5). The Checklist helps to identify developments which may have an impact on certain habitats and species. If the Checklist indicates that development could have a potential impact on protected or Priority habitats or species such as a designated site, further ecological survey and assessment will be required, as described under Stage A3.

The Checklist is **not required** for the following types of planning applications: advertisement applications, air conditioning units/air source heat pumps (and similar), changes of use, conversion to flats (if not affecting the roof), crossovers (where no hard standing needs to be created), extract ducting, fences, removal of fire escapes, roller blinds/shutters, satellite dishes, shop fronts, walls and gates, windows and doors.

All other types of development proposal must include a completed biodiversity checklist for the application to be validated. This includes householder applications where the development requires a planning application (not permitted development); listed building consents where the roof will be affected including roof lights, solar panels or floodlighting of churches or trees; full planning applications including single/two storey extensions and residential/commercial new build; and outline planning applications. A checklist may be required for variations.

If the checklist flags up a potential impact on a protected or Priority habitat or species, seeking the early advice and input from a suitably qualified and experienced ecologist, and the undertaking of a Preliminary Ecological Appraisal can help to ensure biodiversity is considered throughout the design of the development and ensure that any sensitivities are identified at an early stage, in order to avoid impacts and manage ecological constraints and opportunities in a more transparent, efficient and cost-effective way.

A2: Pre-application advice

The council offers a paid pre-application advice service. This may help to ensure that policy requirements are fully understood at an early stage; and that potential biodiversity sensitivities are identified, and discussions held at an early stage, in order to seek advice and avoid impacts. The pre-application service may be particularly valuable to householders and those who are not regularly involved in development, who may not routinely seek professional ecological support, or be aware of all the relevant legislative requirements or issues.

Applicants wishing to seek advice on recreational pressure impacts and mitigation relating to Sites of Special Scientific Interest should refer to Natural England's Discretionary Advice Service.

Choosing a Consultant

Homeowners and developers will often require an ecologist to undertake ecological surveys and reporting to meet the council's requirements for providing adequate ecological information. Contracting a member of a professional institute, such as the Chartered Institute of Ecology and Environmental Management (CIEEM) means that you are engaging a professional who is working to high standards; there is also a complaints procedure if anything goes wrong. Applicants needing to find an ecological consultant can use the find-a-consultant tool on the CIEEM website. The CIEEM website also provides further information on ecological surveys and their purpose, which describes the different types of reports that you may be asked for by the council and includes a householder's guide to engaging an ecologist.

A3: Ecological survey and assessment and BNG baseline assessment.

Where appropriate, planning applications will need to be supported by adequate ecological information, using up to date desk studies and site assessment to inform survey methodologies sufficient in scope to allow the impact of a proposal to be appropriately assessed to enable the council to demonstrate in the exercise of planning functions how it is fulfilling the duty to have regard to the conservation and enhancement of biodiversity. This includes householders and developers of small sites where there may be risks of impacts to habitats and species.

Baseline Information

Biodiversity baseline information from the Sussex Biodiversity Record Centre is needed within all ecological reports to identify the presence of designated sites and existing records of protected and priority habitats and species that could be affected by development within the appropriate and sufficient zone of influence[2]. The data generated through a desk study should be properly analysed and interpreted, with the results used to inform the development proposal design including implementation of the mitigation hierarchy and required survey work and assessment to support a planning application.

Data search requests should be for a minimum 1 km buffer from the red line boundary for protected and Priority species and 2 km for all designated sites, extending further where for example mobile species, such as bats and birds could be affected whilst passing through the project site.

While older data may be less relevant in some cases, it may provide the only baseline available for a site and so should not be discounted.

An absence of records does not mean a record of absence and ecological consultants need to use their professional judgment to ensure that biodiversity features are not overlooked. Survey and assessment of all species likely to be present on and adjacent to the development site and any which could be affected indirectly should be covered.

Provision of this data within submitted ecological reports needs to be presented in accordance with the terms and conditions of Sussex Biodiversity Record Centre and any sensitive records should only be shown at 10km resolution.

Preliminary Ecological Appraisal (PEA)

A PEA is a rapid assessment, carried out by ecologists, of the ecological features present or potentially present within a site and its surrounding area (zone of influence) and typically comprises a desk study and a walkover survey. It is an initial means of recording the habitats and condition of a site and predicting the likely ecological constraints and opportunities that might arise if the site is developed (see ECOP section below).

PEAs should be commissioned at the earliest stages of design, and their results used to inform the developer's design team, influence the layout and form of the proposals and as an evidence-base to show the implementation of the mitigation hierarchy. Identifying important ecological features at the outset and avoiding impacts will limit the loss of biodiversity and reduce the need for mitigation and compensation measures.

Where relevant, these reports will include recommendations for further survey, particularly in relation to protected and Priority species where habitats likely to support such species are recorded and are to be impacted by the development.

[2]The area(s) over which ecological features may be affected by the biophysical changes caused by a proposed development project and associated activities.

A PEA should only be submitted as part of a planning application where it can be demonstrated that the project would have no significant ecological effects, no mitigation is required, and no further surveys are necessary. Where these cannot be demonstrated, the PEA should be superseded by an Ecological Impact Assessment (EcIA) report.

A PEA is unlikely to be sufficient where designated sites and/or protected and priority habitats and species are likely to be affected and further surveys will be required. Development affecting non-designated sites and some householder applications may need a PEA.

Ecological Impact Assessment (EcIA)
Where the Biodiversity Checklist/PEA identifies likely development impacts on biodiversity and / or the need for further ecological survey work, the results of such surveys must be submitted with the planning application, clearly assessing the impacts of the proposed development on such ecological features, identifying any significant effects as well as impacts on any designated sites or protected species, and detailing both the mitigation measures required, and how these will be secured. The findings of an assessment will help the council understand the project's ecological constraints and requirements and provide assurance that effective and deliverable mitigation can be secured. Surveys must be carried out during the appropriate season (see Annex 4) and in accordance with published standards.

An EcIA should be produced in accordance with best practice guidance (BS42020:2013) and should contain all necessary survey results and a full assessment of ecological impacts. It should include reporting on all biodiversity features within the development site and wider area (zone of influence), proportionate and fully detailed mitigation and compensation measures that can be secured by condition or obligation, or by appropriate species licensing, and contain evidence that it has informed the design and has recommendations that have been embedded into the design.

Surveys and reports have a finite lifespan due to the response of habitats to environmental factors and changes in management and the dynamic nature of species populations. CIEEM guidance highlights issues with lifespan and the validity of reports in different circumstances. Outline or phased developments are likely to require conditions for further surveys to keep the survey information up to date.

In addition to the information within BS42020:2013, CIEEM provides detailed guidance about expectations in the reporting of biodiversity information in support of planning applications. Applicants are encouraged to choose professional ecologists that will comply with these expectations and can demonstrate their suitability for the role. Full details of those involved in survey work and reporting should be included in all reports with a summary of their experience and competence.

Where ecological information on species and habitats does not follow the mitigation hierarchy or is inadequate in the EcIA, further ecological surveys will be required and should be provided prior to determination. Further surveys will not be secured through planning conditions, unless in exceptional circumstances, as identified in paragraph 9.2.4 of BS42020:2013. An ecological report needs to be fit for purpose as this will reduce the risk of delay, cost and/or uncertainty associated with determination. All ecological reports need to be clear and unambiguous as to what measures will be implemented.

The council expects that all biodiversity records obtained during surveys to be submitted to Sussex Biodiversity Record Centre, as required by CIEEM's code of professional conduct. Applicants must not seek to restrict their ecological consultants from submitting biodiversity records.

Ecological constraints and opportunities plan (ECOP)
An Ecological Constraints and Opportunities Plan (ECOP) is a useful tool/drawing, submitted as part of the required ecology reports, used to present or 'traffic light' ecological information to other professionals and can assist with gaining the best outcomes for biodiversity. It has three main roles:

- at the pre-application stage, an ECOP may be used as an iterative tool within the design team to inform the overall design process;
- at the decision-making stage, it may be used to provide summary information for the decision-maker showing graphically how the mitigation hierarchy has been applied in practice – as such, it is an opportunity to show what and where the key biodiversity constraints and opportunities are associated with the proposed development described in the planning application; and
- at the implementation stage, it may be used to provide an overview, showing how and where biodiversity is to be addressed during the actual development works or aftercare period (e.g. as a summary drawing forming part of a construction environmental management plan)

An ECOP should be prepared using the results from ecological surveys, and initial identification of sensitive features and potential impacts, along with an assessment of their condition in relation to their potential for enhancement.

The level of detail in the ECOP should be proportionate to the nature and scale of the proposed development and should be used to inform the site design and layout, with biodiversity balanced against other competing needs, e.g. the need for amenity space.

An ECOP should be submitted as part of an EcIA where potential ecological impacts are predicted and to evidence-base implementation of the mitigation hierarchy.

BNG baseline assessment
A BNG baseline assessment is required to enable the post-development biodiversity value (BNG) of the site to be demonstrated upon application (see stage A5). As required by the Environment Act, pre-development biodiversity value must be calculated before any site clearance or other habitat management work has been undertaken. However, if this is known to have happened, the condition of the site on or after 30th January 2020 will be taken as the baseline of the habitat as stated in Schedule 14 Part 1 paragraph 6 of the Environment Act. An earlier baseline may be required where activity has reduced the biodiversity value of a site. Where previous surveys are not available, this will be established through best available evidence including Sussex Biodiversity Record Centre records and habitat areas identified through aerial photographs.

Habitat mapping methodologies need to be appropriate to their purpose. For BNG calculations, UK Habitats Classification is required to populate the Defra Biodiversity Metric.

Applications should be supported by the full Metric calculations, and not simply the headline results.

Other types of assessment
The consultant ecologist should determine whether the site falls within a SSSI Impact Risk Zone, as shown on the Multi Agency Geographic Information for the Countryside map, which would indicate that the development could result in indirect impacts that require consultation with Natural England.

Policy DM37 also requires the following to be undertaken in relation to developing affecting designated sites:

- International Sites - HRA screening/Appropriate Assessment
- National Sites - EIA screening/EIA; Marine Conservation Zone assessment
- Local sites - Ecological Impact Assessment

Where EIA screening scopes in the need for ecological assessment, all the necessary survey and impact assessment work should be provided within a separate ecology chapter of the EIA Report.

A4: Avoidance, mitigation and compensation

The results of any ecological surveys and assessment should feed into the initial design process, as should the ECOP. These will help ensure the layout and design of the development avoids wherever possible and minimises impacts to the features identified in steps A1 and A3, thus ensuring design is in accordance with the mitigation hierarchy. Design in accordance with the mitigation hierarchy should be considered as a sequential process, with each step in the hierarchy being considered in turn and incorporated into the design, before the next step is considered.

(See Principle 1: Mitigation Hierarchy and Biodiversity Matters 1-7)

A5: Biodiversity Net Gain

BNG or biodiversity enhancements are additional to any measures necessary to deal with impacts from the development and should not be used to provide either mitigation or compensation. To meet national and local policy requirements ahead of mandatory measurable net gain, applicants should ensure that biodiversity enhancements are included in a development to secure measurable net gains. Creating new habitat, enhancing existing habitat or providing new features all contribute towards biodiversity enhancement and BNG (see Section 6: Integrating biodiversity into development). All BNG should conform to Biodiversity Net Gain - Good Practice Principles for Development.

BNG for small sites and householder applications[3]

For small sites[4] and any relevant householder applications, BNG measures should be clearly identified in supporting information and illustrated on the relevant plans. The measures should be proportionate to the scale and type of development, should be appropriate to the site's location and surroundings, and should be focussed on supporting recognised nature conservation priorities.

For small sites, the Defra small sites Biodiversity Metric is available in a beta version and should be used to demonstrate biodiversity value and net gain. However, the small sites metric cannot be used if a priority habitat is present on site. Guidance has been published by Natural England on how to use the metric.

BNG for larger applications[3]

For larger[5] developments, or where a priority habitat is present on site, the latest version of the Defra Biodiversity Metric should be used as a tool to inform the assessment of demonstrating biodiversity value and measurable mandatory net gain of at least 10%. Guidance has been published by Natural England on how to use the metric.

A Biodiversity Net Gain report should also be submitted. It is anticipated that the government will provide further guidance on the content of a BNG report, however prior to this being released, a Biodiversity Net Gain report in line with Biodiversity Net Gain Report and Audit Templates (CIEEM, 2021) should be submitted with planning applications. For outline applications, a Biodiversity Net Gain Feasibility Assessment report should

[3] Forthcoming government regulations will identify certain developments that will be exempt from the mandatory measurable BNG requirements of the Environment Act and will provide clarity on which Biodiversity Metric should be used.

[4] For the purposes of BNG, small sites include residential development providing between 1 and 9 dwellings on a site of less than 1ha; residential development where the number is unknown on a site less than 0.5ha; other development where the site area is less than 0.5ha or provides less than 5,000sqm floorspace.

[5] This applies to any development falling outside the parameters of the small sites metric, or development where a priority habitat is present on site.

be submitted, and for full and reserved matters applications, a Biodiversity Net Gain Design Stage report should be submitted. This should include:

- Steps taken to avoid adverse impacts to biodiversity
- Pre-development and post-development biodiversity value
- Additional information to explain and justify the approach to delivering net gain, including notes on the existing and target habitat condition and any assumptions made.

The council will verify the accuracy of the biodiversity value calculations and consider the merits of any on or off-site BNG measures. Any scheme for BNG must include a mechanism for delivery of the target habitats, management, and monitoring of their condition, and an approach to remediation in the event of targets not being met. Schemes for the delivery of BNG should be developed with regards to BS8683:2021 "Process for designing and implementing biodiversity net gain – Specification".

Planning conditions will be used to secure delivery of BNG measures and their long-term management. Obligations, such as Section 106 agreements may be used where BNG is on land outside the applicant's control.

(See Principle 2: Biodiversity Net Gain)

Stage B: Application and validation stage

Planning applications must be accompanied by all necessary and relevant ecological information in order for it to be validated and determined. This will vary between applications and will depend on the proposal and the site itself. Information required could include:

- Biodiversity Checklist (validation requirement for certain applications)
- Preliminary Ecological Appraisal
- Ecological Impact Assessment
- Ecological Constraints and Opportunities Plan
- Defra Biodiversity Metric
- Biodiversity Net Gain Report

Protected species information is key to supporting determination. Validation of an application does not necessarily mean there is sufficient information to allow for determination. The submitted EcIA has to provide the council with certainty of all likely ecological impacts on designated sites and protected or Priority species and demonstrate that effective and deliverable mitigation can be secured either by condition or mitigation licence from Natural England.

If insufficient ecological information is provided the council may suggest the application is withdrawn, decline to validate the application, or refuse it on grounds that there is insufficient information to make a lawful determination.

Stage C: Planning permission granted – construction

The construction process may involve demolition or clearance of vegetation which has the potential for impacts on biodiversity. Even where development does not involve demolition or site clearance, wildlife can still suffer from disturbance. Annex 6, the Hazard Prevention Checklist, identifies a range of hazards associated with the construction stage.

Practical measures which may be appropriate depending on the scale of development include:

- Sensitive siting and timing of construction activities including works compounds
- Fencing to protect sensitive features
- Wildlife exclusion barriers
- Sensitive construction lighting
- Provision of temporary shelters
- Containment and control of invasive species

A precautionary approach to site clearance will be required for all development to ensure reckless actions are avoided and wildlife crime is prevented. All protected and Priority species on site will need to be moved to a place of safety. This may include supervision of any habitat works by an Ecological Clerk of Works, who will undertake a fingertip search.

A Construction Environment Management Plan: Biodiversity may be required by condition for some developments. This will need to include details of all necessary ecological mitigation measures, including protection measures for retained habitats and species and any requirement for ecological supervision during works on site using a suitably experienced Ecological Clerk of Works. Where mitigation or compensatory measures are sought, these must be delivered in accordance with best practice.

Stage D: Post-construction – management and monitoring

Where habitats are retained within a development site boundary, the council will seek to secure their long-term management via condition requiring relevant details to be provided within a Landscape and Ecological Management Plan.

Where species are predicted to be affected by proposals and habitat to support their population is retained or created on or off site, such as receptor sites for translocated animals, the council will seek to include monitoring of the effectiveness of mitigation. This will be separate from any legal requirement attached to a licence approved by Natural England and will be secured by condition. Additional monitoring may be required for novel mitigation solutions.

All management plans should include appropriate monitoring to ensure effectiveness and should include a process for remediation and review for any measures that have not been effective. The results of such monitoring should be reported to the council for review of management aligned to the LEMP.

Monitoring Biodiversity Net Gain

To deliver genuine Biodiversity Net Gain on-site will require careful design, zoning and management to ensure there are no recreational conflicts with the proposed areas for habitat creation that might prevent objectives from being achieved.

The Environment Act requires mandatory BNG habitat to be secured for at least 30 years via planning obligations or conservation covenants. More details of how BNG should be monitored is expected through secondary legislation.

Glossary

Acronyms

BNG	Biodiversity Net Gain
BOA	Biodiversity Opportunity Areas
CPP1	City Plan Part One
CPP2	City Plan Part Two
EcIA	Ecological Impact Assessment
ECOP	Ecological Constraints and Opportunities Plan
EIA	Environmental Impact Assessment
HRA	Habitats Regulations Assessment
LNP	Local Nature Partnership
LNR	Local Nature Reserve
LNRS	Local Nature Recovery Strategy
LWS	Local Wildlife Site
MCZ	Marine Conservation Zone
NNR	National Nature Reserve
NRN	Nature Recovery Network
PEA	Preliminary Ecological Appraisal
SAC	Special Area of Conservation
SSSI	Site of Special Scientific Interest
SuDS	Sustainable Urban Drainage Systems
UNESCO	United Nations Educational, Scientific and Cultural Organization

Definitions

Ancient or veteran tree: A tree which, because of its age, size and condition, is of exceptional biodiversity, cultural or heritage value. All ancient trees are veteran trees. Not all veteran trees are old enough to be ancient, but are old relative to other trees of the same species. Very few trees of any species reach the ancient life-stage.

Ancient woodland: An area (with ancient soil ecology) that has been wooded continuously since at least 1600 AD. It includes ancient semi-natural woodland and plantations on ancient woodland sites. Soils are a vital component of ancient woodlands due to the time (centuries or millennia) taken to form and their relative lack of disturbance means they are hugely complex and diverse.

Biodiversity baseline: Assessment of existing / current biodiversity conditions to provide a starting point (e.g. pre-project condition of biodiversity) against which comparisons can be made (e.g. post-impact condition of biodiversity), allowing the change in biodiversity to be quantified.

Biodiversity Gain Plan: A document detailing how a project has followed the mitigation hierarchy and also then achieved BNG (additional to any / all required mitigation).

Biodiversity metric: A Biodiversity metric has been developed by Defra. It is a tool used to measure and quantify biodiversity and assess changes (losses and gains) in biodiversity associated with development. The current metric (Version 3.1 was published on the 21.04.2022) only measures habitats and does not take species into consideration.

Biodiversity Net Gain (BNG): Where the natural environment is left in a measurable better condition after development than before. Gains in biodiversity must be greater than any losses in biodiversity following the

implementation of a development to achieve biodiversity net gain (BNG). The Environment Act 2021 seeks mandatory measurable BNG for development that qualifies.

Biodiversity Units: The unit of measurement used by the Biodiversity Metric. The units come in three types: area, riverine and hedgerow/line of trees.

Conservation covenants: are private, voluntary agreements between a landowner and a "responsible body", such as a conservation charity or government body. The covenant binds the initial landowner and subsequent landowners to ensure long-term conservation and environmental benefits on net gain sites (Environment Act)]

Ecological Impact Assessment (EcIA): The process of identifying, quantifying and evaluating the potential effects of development-related impacts or other proposed actions on habitats, species and ecosystems.

Ecological networks: An ecological network is a network generally made up of 5 components:

- Core areas of high nature conservation value which contain rare or important habitats or ecosystem services. They include protected wildlife sites and other semi-natural areas of high ecological quality.
- Corridors and 'stepping stones' enabling species to move between core areas. These can be made up of a number of small sites acting as 'stepping stones' or a mosaic of habitats that allows species to move and supports ecosystem functions.
- Restoration areas, where strategies are put in place to create high value areas (the 'core areas' of the future), restoring ecological functions and wildlife.
- Buffer zones that protect core areas, restoration areas, and 'stepping stones' from adverse impacts in the wider environment.
- Sustainable use areas, areas of surrounding land that are managed in a sustainable and wildlife friendly way. The ecological networks for different species work at varying scales: some species need a large area, others a much smaller area.

Environmental impact assessment: A procedure to be followed for certain types of project to ensure that decisions are made in full knowledge of any likely significant effects on the environment. The ecological information can form the ecology chapter as part of the process.

European site: Defined in the Regulation 8 of the Conservation of Habitats and Species Regulations 2017 as: Special Areas of Conservation, Sites of Community Importance, candidate Special Areas of Conservation and Special Protection Areas.

Habitat Creation: Habitat creation involves the creation of a habitat where is does not currently exist. For example: establishment of a species rich grassland on land previously used as a car park.

Habitat Restoration: Involves remediation of a habitat to a condition higher than its current state or that was likely to exist in the recent past.

Habitats Banks: Sites where habitat is created in advance, prior to any loss occurring. This habitat will need to be secured and managed long-term.

Habitats site: Used in the NPPF to define any site which would be included within the definition at Regulation 8 of the Conservation of Habitats and Species Regulations 2017. Includes: European sites and European Marine sites defined above. In addition, for the purposes of the NPPF potential Special Protection Areas, possible Special Areas of Conservation, listed or proposed Ramsar sites and sites identified, or required, as compensatory measures for adverse effects on habitats sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.

Important Hedgerows: Hedgerows which meet the criteria listed in the Hedgerow Regulations 1997 will be considered to be 'Important Hedgerows'.

International, national and locally designated sites of importance for biodiversity: All international sites (Special Areas of Conservation, Special Protection Areas, and Ramsar sites), national sites (Sites of Special Scientific Interest) and locally designated sites including Local Wildlife Sites.

Irreplaceable habitat: Habitats which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity. They include ancient woodland, ancient and veteran trees, blanket bog, limestone pavement, sand dunes, salt marsh and lowland fen. (Definition taken from the NPPF)

Local Nature Recovery Strategies (LNRS): will set out locally agreed priorities and opportunities for nature recovery in written and mapped form.

Marine Conservation Zone: Areas created to protect a range of nationally important marine wildlife, habitats, geology and geomorphology under the Marine and Coastal Access Act 2009.

Material Consideration: A material consideration is a matter that should be taken into account in deciding a planning application or on an appeal against a planning decision. Can include (but not limited to) nature conservation, government policy and previous planning decisions.

Mitigation Hierarchy: The principle that environmental harm resulting from a development should be avoided as a priority, adequately mitigated, or, as a last resort, compensated for (NPPF, 2021).

Natural Capital: Can be defined as the world's stocks of natural assets which include geology, soil, air, water and all living things (biodiversity).

Nature Recovery Network: An expanding, increasingly connected, network of wildlife rich habitats supporting species recovery, alongside wider benefits such as carbon capture, water quality improvements, natural flood risk management and recreation. It is likely to include and expand upon the existing ecological networks including protected sites, other wildlife rich habitats (priority habitats),
as well as landscape or catchment scale recovery areas and corridors where there is coordinated action for species and habitats.

Priority habitats and species: Commonly used term for Species and Habitats of Principal Importance included in the England Biodiversity List published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006.

Special Areas of Conservation: Areas defined by regulation 3 of the Conservation of Habitats and Species Regulations 2017 which have been given special protection as important conservation sites

Species and Habitats of Principal Importance: Habitats and species included in the England Biodiversity List published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006.

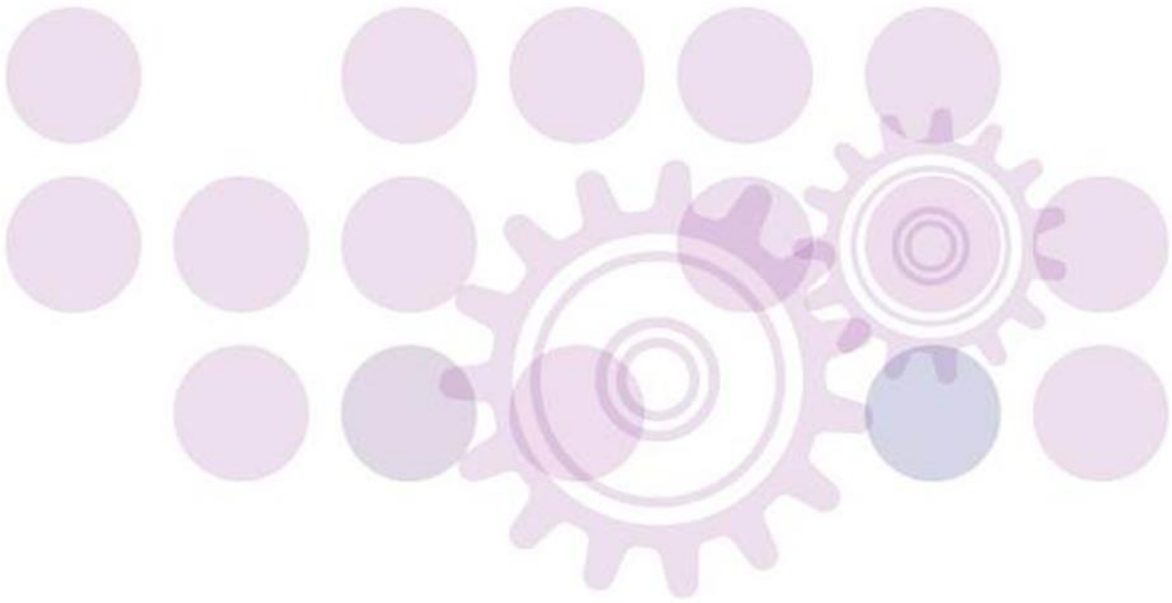
Wildlife corridor: Areas of habitat connecting wildlife populations or habitats of importance together.

spd

supplementary planning document

Biodiversity and Nature Conservation SPD Annexes

June 2022



THE LIVING COAST

Brighton & Lewes Downs UNESCO World Biosphere Region

Brighton & Hove City Council

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ANNEX 1 UK legislation and international conventions

UK legislation

Conservation of Habitats and Species Regulations 2017 (as amended)	Local Planning Authorities have the duty, by virtue of being defined as 'competent authorities' under the Habitats Regulations, to ensure that planning application decisions comply with the Habitats Regulations. If the requirements of the Habitats Regulations are not met and impacts (direct and indirect) on Habitats Sites are not avoided or mitigated, then development must not be permitted. The aim of the Habitats Regulations Assessment process is to maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of the National Network of sites. Regulations 9 (1) and 9 (5) of Conservation of Habitats & Species Regulations 2017 (as amended) state that nothing in these Regulations is to be construed as excluding the application of the provisions of Part 1 of the Wildlife & Countryside Act 1981 (wildlife) in relation to animals or plants also protected under Part 3, 4 or 5 of these Regulations. The Regulations establish the process for identifying, designating and conserving Special Areas of Conservation (SACs) such as Castle Hill SAC, north of Woodingdean. Detailed guidance for development proposals which may affect SACs is provided in Part 1 of ODPM Circular 06/2005 Where a Habitats site could be affected by a plan, such as a Local Plan, or any project, such as a new development, then Habitats Regulations Assessment screening must be undertaken. If this cannot rule out any possible likely significant effect on a Habitats site, either alone or in combination with other plans & projects, prior to the consideration of mitigation measures, then an Appropriate Assessment must then be undertaken. The Appropriate Assessment identifies the interest features of the site (such as birds, plants or coastal habitats), how these could be harmed, assesses whether the proposed plan or project could have an adverse effect on the integrity of the Habitats site (either alone or in-combination), and finally how this could be mitigated to meet the Stage 2 Habitats Regulations Assessment "integrity" test. Natural England must be formally consulted on all Appropriate Assessments and no decision issued until their comments have been considered. Where species are of international importance (listed in the Habitats Regulations as European Protected Species), they have additional protection. For any development which could impact on European Protected Species e.g. demolition of a structure or works which cut into a roof where bats could be roosting, the Local Planning Authority requires certainty of likely impacts & that mitigation can be secured either by a condition of any consent or a mitigation licence from Natural England, before making a decision.
Wildlife and Countryside Act 1981 (as amended)	The Wildlife and Countryside Act 1981 includes Schedules of protected animals (1 & 5) and plants (Schedule 8) and invasive species (Schedule 9). Annex 1 of this SPD includes the species listed in Schedules 1, 5 and 8 of the Wildlife & Countryside Act which could occur on development sites in Brighton and Hove.

	The following offences are of relevance to development control: • Subject to exceptions, it is a criminal offence to intentionally kill, injure, or take any wild bird or their eggs or nests. Special penalties are available for offences related to birds listed on Schedule 1, for which there are additional offences of intentionally or recklessly disturbing these birds at their nests, or their dependent young. • Subject to exceptions, it is a criminal offence to intentionally or recklessly kill, injure, or take, possess, or trade in any wild animal listed in Schedule 5. The Act also prohibits interference with places used by them for shelter or protection and intentional or reckless disturbance to animals occupying such places. • Subject to exceptions, to pick, uproot, or possess (for the purposes of trade) any wild plant listed in Schedule 8. The Act also prohibits the unauthorised intentional uprooting of such plants. The Act also contains measures for preventing the establishment of non-native species which may be detrimental to native wildlife, including prohibition of the release of animals and the introduction of a plant to the wild or to otherwise cause it to grow or spread the plants listed in Schedule 9. A species of particular concern in the Brighton and Hove context is Japanese Knotweed (*Fallopia japonica / Polygonum cuspidatum*). Applicants will be expected to demonstrate that they have taken all reasonable steps and exercised all due diligence to ensure Schedule 9 species are not permitted to grow as part of the implementation of planning permission and are not included in landscaping schemes e.g. cotoneaster species (*Cotoneaster* spp). Planning conditions and obligations can be used to ensure adequate measures are taken.
Natural Environment and Rural Communities Act 2006	Section 40 of the Natural Environments and Rural Communities (NERC) Act Part 1 (as amended by the Environment Act, 2021) requires all public bodies including Local Planning Authorities, in exercising its functions, to have regard, as far as is consistent with the proper exercise of those functions, to the purpose of conserving and enhancing biodiversity. The Environment Act strengthens this general biodiversity duty to include enhancement in addition to conservation. The amendment will require public authorities to actively carry out strategic assessments of the actions they can take to conserve and enhance biodiversity. Designated public authorities will also be required to produce a five-yearly report on the actions taken to comply with the new duty.
Environment Act 2021	The Environment Act sets out to deliver long-term targets to improve air quality, biodiversity, water, and waste reduction and resource efficiency and includes a target to halt the decline of nature by 2030 in line with PART 6 Nature and biodiversity. Mandatory biodiversity net gain is set out in the Schedule 14 of the Act through the provision for biodiversity gain to be a condition of planning permission in England by amending the Town & Country Planning Act (TCPA) and will become law in 2023. The Act sets out the following key components to mandatory BNG: • Minimum 10% gain required calculated using Biodiversity Metric & approval of net gain plan

	• Habitat secured for at least 30 years via obligations/ conservation covenant • Habitat can be delivered on-site, off-site or via statutory biodiversity credits • There will be a national register for net gain delivery sites • The mitigation hierarchy still applies of avoidance, mitigation and compensation for biodiversity loss • Will apply to Nationally Significant Infrastructure Projects (NSIPs) • Does not apply to marine development • Does not change existing legal environmental and wildlife protections Part 6 Nature and Biodiversity Clause 102 strengthens the NERC biodiversity duty by adding the word 'enhance'. Clause 103 requires a public authority to publish biodiversity reports. The Act also introduces a new system of spatial plans aiming to boost biodiversity and protect valuable habitats. Local Nature Recovery Strategies (LNRSs) are spatial strategies for nature, and will cover the whole of England. 'Responsible Authorities' will be appointed by the government and will be responsible for mapping the most valuable existing habitat for nature, mapping specific proposals for creating or improving habitat, and agree priorities for nature's recovery.
Countryside and Rights of Way Act 2000 (CRoW)	Amongst other things, the CRoW Act strengthens the protection afforded to Sites of Special Scientific Interest, including greater powers for Natural England to be able to secure their appropriate management and a requirement for Local Authorities to further their conservation and enhancement under Schedule 9. There are two SSSIs in Brighton and Hove; Castle Hill (also a SAC) and Brighton to Newhaven Cliffs. Schedule 12 of the Act strengthens the legal protection for threatened species. This includes making certain offences 'arrestable', and creating an offence of reckless disturbance.
Town and Country Planning (Tree Preservation) (England) Regulations 2012	These regulations set out the procedures for making Tree Preservation Orders (TPOs) and the activities that are prohibited in relation to trees protected by these orders. Tree Preservation Orders can be made for trees or groups of trees because of their nature conservation value, as well as for their amenity value.
Protection of Badgers Act 1992	The Act makes it an offence to interfere with a badger sett, whether by obstructing the entrance, destroying the sett or in any way disturbing the occupant. The 1992 Act defines a badger sett as: "any structure or place which displays signs indicating current use by a badger". The onus is on the defendant to prove they were not attempting to kill, injure or take the badger, rather than on the police to prove that they were.
Crime & Disorder Act 1998	Section 17 of the Act states the duty for local authorities to consider crime and disorder implications when exercising its various functions with due regard to the likely effect and the need to do all that it reasonably can to prevent crime & disorder in its area.
Land Drainage Act 1991	Section 23 consent is a legal requirement for any works which will affect the flow of water or cross-sectional area of an ordinary watercourse i.e. not main river. This includes proposed culverting or piping of water and discharge of water into an ordinary watercourse.

International Conventions for biodiversity

Bonn Convention	The Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention or CMS) was adopted in Bonn, Germany in 1979 and came into force in 1983. As a signatory since 1985, the UK Government works with others to conserve migratory species and their habitats by providing strict protection for endangered migratory species. The legal requirement for the strict protection of Appendix I species is provided by the Wildlife & Countryside Act (1981 as amended). In addition, the Countryside and Rights of Way Act 2000 (CRoW) enacted in England and Wales, strengthens the protection of certain species by increasing penalties and enforcement powers; and strengthened the protection of sites from damage caused by third parties.
Bern Convention	The Convention on the Conservation of European Wildlife and Natural Habitats (the Bern Convention) was adopted in Bern, Switzerland in 1979, and came into force in 1982. As the UK Government a signatory, this is a binding international legal instrument for nature conservation. The principal aims of this Convention are to ensure conservation and protection of wild plant and animal species and their natural habitats (listed in Appendices I and II of the Convention), to increase co-operation between contracting parties, and to regulate the exploitation of migratory species listed in Appendix III. To this end the Convention imposes legal obligations on contracting parties, protecting over 500 wild plant species and more than 1,000 wild animal species.
Ramsar Convention	The Convention on Wetlands of International Importance especially as Waterfowl Habitat ('Ramsar Convention' or 'Wetlands Convention') was adopted in Ramsar, Iran in February 1971 and came into force in December 1975. It provides the only international mechanism for protecting sites of global importance and is thus of key conservation significance.

ANNEX 2: City Plan policies supported by this SPD

The policies from the City Plan Part 1 and Part 2 that include an aim to conserve and enhance biodiversity are set out below. Full wording of these policies is available on the Council website.

Brighton & Hove City Plan Part 1	Brighton & Hove City Plan Part 2
SS1 Presumption in Favour of Sustainable Development DA1 Brighton Centre and Churchill Square Area DA2 Brighton Marina, Gas Works and Black Rock Area DA3 Lewes Road DA4 New England Quarter and London Road Area DA5 Eastern Road and Edward Street DA6 Hove Station Area DA7 Toad's Hole Valley SA1 The Seafront SA3 Valley Gardens SA4 Urban Fringe SA6 Sustainable Neighbourhoods SA5 The Setting of the South Downs National Park CP8 Sustainable Buildings CP10 Biodiversity CP11 Flood Risk CP12 Urban Design CP13 Public Streets and Spaces	DM18 High Quality Design and Places DM22 Landscape Design and Trees DM32 The Royal Pavilion Estate DM37 Green Infrastructure and Nature Conservation DM38 Local Green Spaces DM40 Protection of the Environment and Health – Pollution and Nuisance DM42 Protecting the Water Environment DM43 Sustainable Drainage SA7 Benfield Valley SSA1 Brighton General Hospital Site, Elm Grove, Freshfield Road SSA2 Combined Engineering Depot, New England Road SSA3 Land at Lyon Close, Hove SSA4 Sackville Trading Estate and Coal Yard SSA5 Madeira Terrace and Madeira Drive SSA6 Former Peter Pan leisure site (adjacent Yellow Wave), Madeira Drive SSA7 Land Adjacent to American Express Community Stadium, Village Way H2 Housing Sites – Urban Fringe

ANNEX 3: Priority habitats and species in Brighton and Hove

The tables in this Annex list Priority habitats and species which are known to occur in Brighton and Hove. It can be used as a useful resource to help assess the biodiversity value of a development site and whether any habitats or species are likely to be present and therefore may be affected by a development proposal.

'NERC Section 41' refers to Section 41 of the Act 2006. This Section of the Natural Environments and Rural Communities Act requires the Secretary of State to publish a list of the living organisms and types of habitat which in the Secretary of State's opinion are of principal importance for the purpose of conserving biodiversity in England. The species and habitats with a 'Y' in this column are included in those lists.

Tables 3.1 and 3.2 relate to species and Tables 3.3 and 3.4 list habitats, including several urban habitat types which may not have specific recognition by the national list of Priority habitats as listed in Section 41 of the Natural Environment & Rural Communities Act (2006). Some have particular value in the context of Brighton and Hove and should therefore be considered for retention wherever possible.

The tables should not be regarded as comprehensive for the purposes of development control. For example, a variety of biodiversity features can occur, such as particularly large, old trees, which are not listed below but may support bats so should nevertheless be conserved where possible as part of development proposals and surveyed if likely to be affected.

Table 3.1 Priority species

English name	Latin name	Legal / policy protection	NERC Section41	Sussex BAP	Brighton & Hove BAP
Adder	*Vipera berus*	W&C Act Schedule 5 Killing & injuring S.9(1) (part); sale S.9(5)	Y		Y
Adonis Blue butterfly	*Lysandra bellargus*	W&C Act Schedule 5 (Sale only S.9(5))	Y		
Aquatic Warbler	*Acrocephalus paludicola*	Red List Bird Global post 2001 Vulnerable status	Y		
Balearic Shearwater	*Puffinus mauretanicus*	Red List Bird Global post 2001 Critically Endangered, Red list Bird of conservation concern	Y		
Basil Thyme	*Clinopodium acinos*	Red List GB post 2001 Vulnerable, Red List ENG post 2001 Vulnerable	Y		
Bats – all species	*Vespertilionidae and Rhinolophidae*	W&C Act Schedule 5, (full protection) Habitats Regs Sch. 2; Barbastelle & Bechstein's Appendix II Bern and Bonn Conventions	Soprano Pipistrelle, Brown Long-eared, Barbastelle, Bechstein's & Lesser horseshoe.	Pipistrelle	Y

English name	Latin name	Legal / policy protection	NERC Section41	Sussex BAP	Brighton & Hove BAP
Beaded Chestnut (moth)	*Agrochola lychnidis*	For national research purposes only	Y		
Bewick's Swan	*Cygnus columbianus bewickii*	W&C Act Schedule 1; Amber list Bird of conservation concern	Y		
Bittern	*Botaurus stellaris*	W&C Act Schedule 1; Amber list Bird of conservation concern, Notable Bird	Y		
Black-headed Mason Wasp	*Odynerus melanocephalus*	Notable A	Y		
Blood-vein (moth)	*Timandra comae*	For national research purposes only	Y		
Bordered Gothic	*Sideridis reticulata*		Y		
Bottle-nosed Dolphin	*Tursiops truncatus*		Y		
Brindled Beauty	*Lycia hirtaria*	For national research purposes only	Y		
Broom Moth	*Ceramica pisi*	For national research purposes only	Y		
Brown-banded Carder-bee	*Bombus humilis*	Sussex Rare	Y		Y
Brown Galingale	*Cyperus fuscus*	Red List GB post 2001 Vulnerable, Red List ENG post 2001 Vulnerable, Nationally Rare	Y		
Brown Hairstreak	*Thecla betulae*	W&C Act Schedule 5 (Sale only S.9(5); Red List GB post 2001 Vulnerable, Sussex Rare	Y		
Brown Hare	*Lepus europaeus*		Y	Y	
Brown-spot Pinion (moth)	*Agrochola litura*	For national research purposes only	Y		
Buff Ermine	*Spilosoma lutea*	For national research purposes only	Y		
Bullfinch	*Pyrrhula pyrrhula*	Amber list Bird of conservation concern, Notable Bird	Y		
Burnt Orchid	*Neotinea ustulata*	Red List GB post 2001 Endangered, Red List ENG post 2001 Endangered, Nationally Scarce, Sussex Rare	Y		
Centre-barred Sallow	*Atethmia centrago*	For national research purposes only	Y		
Chalk Carpet	*Scotopteryx bipunctaria*		Y		
Chalk-hill Lance-wing	*Epermenia insecurella*		Y		
Chalk Planthopper	*Eurysanoides douglasi*	Notable A, Sussex Rare	Y		
Chamomile	*Chamaemelum nobile*	Red List GB post 2001 Vulnerable, Red List ENG post 2001	Y		

English name	Latin name	Legal / policy protection	NERC Section41	Sussex BAP	Brighton & Hove BAP
		Vulnerable, Sussex Rare			
Cinnabar	*Tyria jacobaeae*	For national research purposes only	Y		
Cirl Bunting	*Emberiza cirlus*	Red list Bird of conservation concern, Notable Bird	Y		
Cod	*Gadus morhua*	Brighton Marina	Y		
Common Lizard	*Lacerta vivipara*	WCA Sch5 s9.1/s9.1 kill/s9.5a	Y		
Common Porpoise	*Phocoena phocoena*	Habs Regs Sch2, W&C Act Sch5 s9.4a/s9.5a; Sussex Rare	Y		
Common Reed Bunting	*Emberiza schoeniclus*	Amber list Bird of conservation concern, Notable Bird	Y		
Common Redpoll	*Acanthis flammea*	Amber list Bird of conservation concern	Y		
Common Sandpiper	*Actitis hypoleucos*	Amber list Bird of conservation concern, Notable Bird	Y		
Common Seal	*Phoca vitulina*		Y		
Common Scoter	*Melanitta nigra*	Red list Bird of conservation concern	Y		
Common Toad	*Bufo bufo*	W&C Act Schedule 5 sale S.9(5)a	Y		
Corn Bunting	*Miliaria calandra*	Red list Bird of conservation concern, Notable Bird	Y		
Corn Buttercup	*Ranunculus arvensis*	Red List GB post 2001 Critically Endangered, Red List ENG post 2001 Endangered, Sussex Rare	Y		
Corn Cleavers	*Galium tricornutum*	Red List GB post 2001 Critically Endangered, Red List ENG post 2001 Critically Endangered, Nationally Rare, Sussex Rare	Y		
Corn Flower	*Centaurea cyanus*	Sussex Rare	Y		
Crescent (moth)	*Helotropha leucostigma*	Sussex Rare	Y		
Crested Cow-wheat	*Melampyrum cristatum*	Red List GB post 2001 Endangered, Red List ENG post 2001 Endangered, Nationally Rare	Y		
Cuckoo	*Cuculus canorus*	Red list Bird of conservation concern, Notable Bird	Y		
Curlew	*Numenius arquata*	Red List Global post 2001 Near Threatened, Red List Bird of conservation concern, Notable Bird	Y		
Dark-barred Twin-spot Carpet	*Xanthorhoe ferrugata*	For national research purposes only	Y		
Dark Crimson Underwing	*Catocala sponsa*	Red List GB Pre94 Rare	Y		
Deep-brown Dart	*Aporophyla lutulenta*	For national research purposes only	Y		
Deptford Pink	*Dianthus armeria*	Red List GB post 2001 Endangered, Red List ENG post	Y		

English name	Latin name	Legal / policy protection	NERC Section41	Sussex BAP	Brighton & Hove BAP
		2001 Endangered, Nationally Scarce, Sussex Rare			
Dingy Skipper	*Erynnis tages*	Red List GB post 2001 Vulnerable	Y		Y
Divided Sedge	*Carex divisa*	Red List GB post 2001 Vulnerable, Nationally Scarce, Sussex Rare	Y		
Dot Moth	*Melanchra persicariae*	For national research purposes only	Y		
Dunnock	*Prunella modularis*	Amber list Bird of conservation concern, Notable Bird	Y		
Dusky Dart (moth)	*Euxoa tritici*		Y		
Dusky-lemon Sallow	*Cirrhia gilvago*	Sussex Rare	Y		
Dusky Thorn (moth)	*Ennomos fuscantaria*	For national research purposes only	Y		
Dusty Brocade	*Apamea remissa*	For national research purposes only	Y		
Ear Moth	*Amphipoea oculea*	For national research purposes only	Y		
Early Gentian	*Gentianella anglica*	Sussex Rare	Y		
European Eel	*Anguilla anguilla*	Red List Global post 2001 Critically Endangered	Y		
Eyebright	*Euphrasia pseudokerneri*	Red List GB post 2001 Endangered, Red List ENG post 2001 Vulnerable, Nationally Scarce, Sussex Rare	Y		
Feathered Gothic	*Tholera decimalis*	For national research purposes only	Y		
Field Fleawort	*Tephroseris integrifolia subsp. integrifolia*	Red List GB post 2001 Vulnerable, Red List ENG post 2001 Vulnerable, Nationally Scarce, Sussex Rare	Y		
Field Gentian	*Gentianella campestris*	Red List GB post 2001 Vulnerable, Red List ENG post 2001 Endangered, Sussex Rare	Y		
Floating Water-plantain	*Luronium natans*	Red List ENG post 2001 Near Threatened, Nationally Scarce	Y		
Fly Orchid	*Ophrys insectifera*	Red List GB post 2001 Vulnerable, Red List ENG post 2001 Vulnerable	Y		
Forester (moth)	*Adscita statices*	Sussex Rare	Y		
Four-spotted	*Tyta luctuosa*	Red List GB Pre94 Vulnerable	Y		
Frog orchid	*Coeloglossum viride*	Red List GB post 2001 Vulnerable, Red List ENG post 2001 Vulnerable	Y		
Galium Carpet (moth)	*Epirrhoe galiata*	For national research purposes only	Y		
Garden Dart (moth)	*Euxoa nigricans*	For national research purposes only	Y		
Garden Tiger (moth)	*Arctia caja*	For national research purposes only	Y		

English name	Latin name	Legal / policy protection	NERC Section41	Sussex BAP	Brighton & Hove BAP
Ghost Moth	*Hepialus humuli*	For national research purposes only	Y		
Grape Hyacinth	*Muscari neglectum*	Nationally Rare	Y		
Grasshopper Warbler	*Locustella naevia*	Red List Bird of conservation concern, Notable Bird	Y		
Grass Rivulet	*Perizoma albulata albulata*	Sussex Rare	Y		
Grass Snake	*Natrix natrix*	W&C Act Schedule 5 Killing & injuring S.9(1) (part); sale S.9(5)a	Y	Y	
Grayling (butterfly)	*Hipparchia semele*	Red List GB post 2001 Vulnerable, Sussex Rare	Y		
Great Crested Newt	*Triturus cristatus*	W&C Act Schedule 5 (full protection), Habitats Regs S.2	Y	Y	
Green-brindled Chestnut (moth)	*Allophyes oxyacanthae*	For national research purposes only	Y		
Grey Dagger (moth)	*Acronicta psi*	For national research purposes only	Y		
Grey-headed Wagtail	*Motacilla flava thunbergi*	Red list Bird of conservation concern, Notable Bird	Y		
Grey Partridge	*Perdix perdix*	Red list Bird of conservation concern, Notable Bird	Y		
Grizzled Skipper	*Pyrgus malvae*	Red List GB post 2001 Vulnerable	Y		
Harvest Mouse	*Micromys minutus*	Red List GB post 2001 Near Threatened	Y		
Hawfinch	*Coccothraustes coccothraustes*	Red list Bird of conservation concern, Notable Bird	Y		
Hazel Dormouse	*Muscardinus avellanarius*	Habs Regs Sch2, W&C Act Sch5 s9.4b/s9.4c /s9.5a; Red List GB post 2001 Vulnerable	Y		Y
Hedgehog	*Erinaceus europaeus*	Red List GB post 2001 Vulnerable	Y		
Hedge Rustic	*Tholera cespitis*		Y		
Hen Harrier	*Circus cyaneus*	W&C Act Schedule 1; Red list Bird of conservation concern, Notable Bird	Y		
Herring Gull	*Larus argentatus argentatus*	Red list Bird of conservation concern, Notable Bird	Y		Y
Hornet Robberfly	*Asilus crabroniformis*	Notable, Sussex Rare	Y		Y
House Sparrow	*Passer domesticus*	Red list Bird of conservation concern; Notable Bird	Y		
Juniper	*Juniperus communis*	Red List Endangered post 2001 Near Threatened, Sussex Rare	Y		
Knot Grass (moth)	*Acronicta rumicis*	For national research purposes only	Y		
Lackey	*Malacosoma neustria*		Y		
Lapwing	*Vanellus vanellus*	Red list Bird of conservation concern; Notable Bird	Y		

English name	Latin name	Legal / policy protection	NERC Section41	Sussex BAP	Brighton & Hove BAP
Large Wainscot	*Rhizedra lutosa*		Y		
Latticed Heath	*Chiasmia clathrata*		Y		
Lesser Redpoll	*Acanthis cabaret*	Red list Bird of conservation concern, Notable Bird	Y		
Lesser Spotted Woodpecker	*Dryobates minor*	Red list Bird of conservation concern, Notable Bird	Y		
Linnet	*Carduelis cannabina*	Red list Bird of conservation concern, Notable Bird	Y		
Long-finned Pilot Whale	*Globicephala melas*	Red List Global post2001 Data Deficient: Habs Regs Sch2, W&C Act Sch5 s9.1/s9.1 kill/s9.1 take/s9.4a/s9.4b/s9.4c/s9.5a;	Y		
Mackerel	*Scomber scombrus*		Y		
Marsh Tit	*Poecile palustris*	Red list Bird of conservation concern, Notable Bird	Y		
Marsh Warbler	*Acrocephalus palustris*	W&C Act Schedule 1; Red List Bird of conservation concern, Notable Bird	Y		
Minor Shoulder-knot	*Brachylomia viminalis*	For national research purposes only	Y		
Moss Carder-bee	*Bombus muscorum*		Y		
Mouse Moth	*Amphipyra tragopoginis*	For national research purposes only	Y		
Mottled Rustic	*Caradrina morpheus*	For national research purposes only	Y		
Mullein Wave	*Scopula marginepunctata*	For national research purposes only	Y		
Musk Orchid	*Herminium monorchis*	Red List GB post 2001 Vulnerable, Red List ENG post 2001 Endangered, Nationally Scarce, Sussex Rare	Y		
Narrow-leaved Helleborine	*Cephalanthera longifolia*	Red List GB post 2001 Vulnerable, Red List ENG post 2001 Endangered, Nationally Scarce, Sussex Rare	Y		
Nightjar	*Caprimulgus europaeus*	Amber list Bird of conservation concern, Notable Bird	Y		
Oak Hook-tip	*Watsonalla binaria*	For national research purposes only	Y		
Oblique Carpet	*Orthonama vittata*	Sussex Rare	Y		
Pennyroyal	*Mentha pulegium*	W&C Act Schedule 8; Red List GB post 2001 Endangered, Red List ENG post 2001 Critically Endangered, Nationally Scarce, Sussex Rare	Y		
Phantom Hoverfly	*Doros profuges*		Y		
Pheasant's-eye	*Adonis annua*	Red List GB post 2001 Endangered, Red List England post 2001 Endangered, Nationally Scarce, Sussex Rare	Y		Y (Arable Plants)

English name	Latin name	Legal / policy protection	NERC Section41	Sussex BAP	Brighton & Hove BAP
Plaice	*Pleuronectes platessa*	Brighton Marina Outer Harbour	Y		
Pretty Chalk Carpet	*Melanthia procellata*	For national research purposes only	Y		
Prickly Salt-wort	*Salsola kali subsp. kali*	Red List GB post 2001 Vulnerable, Sussex Rare	Y		
Powdered Quaker	*Orthosia gracilis*	For national research purposes only	Y		
Red Hemp-nettle	*Galeopsis angustifolia*	Red List GB post 2001 Critically Endangered, Red List ENG post 2001 Critically Endangered, Nationally Scarce, Sussex Rare	Y		
Red-shanked Carder-bee	*Bombus ruderarius*		Y		
Red Star-thistle	*Centaurea calcitrapa*	Red List GB post 2001 Endangered, Red List ENG post 2001 Endangered, Nat Rare, Sussex Rare	Y		Y
Rest Harrow (moth)	*Aplasta ononaria*	Red List GB Pre94 Rare, Sussex Rare	Y		
Ring Ouzel	*Turdus torquatus*	Red list Bird of conservation concern	Y		
Rock-Rose	*Helianthemum oelandicum subsp. levigatum*	Red List GB post 2001 Vulnerable, Red List ENG post 2001 Vulnerable, Nationally Rare	Y		
Roseate Tern	*Sterna dougallii*	Amber list Bird of conservation concern, Notable Bird	Y		
Rosy Minor	Litoligia literosa	For national research purposes only	Y		
Rosy Rustic	*Hydraecia micacea*	For national research purposes only	Y		
Rugged Oil-beetle	*Meloe rugosus*	Nationally Scarce	Y		
Rustic (moth)	Hoplodrina blanda	For national research purposes only	Y		
Sallow (moth)	*Cirrhia icteritia*	For national research purposes only	Y		
Scaup	*Aythya marila*	Red list Bird of conservation concern	Y		

English name	Latin name	Legal / policy protection	NERC Section41	Sussex BAP	Brighton & Hove BAP
Sea Barley	*Hordeum marinum*	Red List GB post 2001 Vulnerable, Red List ENG post 2001 Vulnerable, Nationally Scarce, Sussex Rare	Y		
September Thorn	*Ennomos erosaria*	For national research purposes only	Y		
Shaded Broad-bar	*Scotopteryx chenopodiata*	For national research purposes only	Y		
Shepherd's Needle	*Scandix pecten-veneris*	Red List GB post 2001 Critically Endangered, Red List ENG post 2001 Endangered, Sussex Rare	Y		Y (Arable Plants)
Short-snouted Seahorse	*Hippocampus hippocampus*	W&C Act S9, CITES, Red List Global post 2001 Data Deficient. Feature of Conservation Importance for which Beachy Head Marine Conservation Zone is designated.	Y		Y
Shoulder-striped Wainscot	*Leucania comma*	For national research purposes only	Y		
Skylark	*Alauda arvensis*	Red list Bird of conservation concern, Notable Bird	Y	Y	
Slender Bedstraw	*Galium pumilum*	Red List GB post 2001 Data Deficient, Red List GB post 2001 Endangered, Nationally Rare,	Y		
Slow Worm	*Anguis fragilis*	W&C Act Schedule 5 Killing & injuring S.9(1) (part); sale S.9(5)	Y	Y	
Small Blue	*Cupido minimus*	W&C Act Sch 5 sale S 9 (5)a; List GB post 2001 Near Threatened	Y		
Small Emerald	*Hemistola chrysoprasaria*	For national research purposes only	Y		
Small Heath	*Coenonympha pamphilus*	Red List GB post 2001 Near Threatened	Y		
Small Phoenix	*Ecliptopera silaceata*	For national research purposes only	Y		
Small Square-spot	*Diarsia rubi*	For national research purposes only	Y		
Song Thrush	*Turdus philomelos*	Red list Bird of conservation concern, Notable Bird	Y	Y	
Spinach (moth)	*Eulithis mellinata*	For national research purposes only	Y		
Sprawler (moth)	*Asteroscopus sphinx*	For national research purposes only	Y		
Spreading Hedge-parsley	*Torilis arvensis*	Red List ENG post 2001 Endangered, Nationally Scarce, Sussex Rare	Y		Y (Arable Plants)
Spotted Flycatcher	*Muscicapa striata*	Red list Bird of conservation concern, Notable Bird	Y		
Stag Beetle	*Lucanus cervus*	W&C Act Sch 5 sale s9 (5)a; Nationally Scarce, Notable B,	Y	Y	

English name	Latin name	Legal / policy protection	NERC Section41	Sussex BAP	Brighton & Hove BAP
		Sussex Rare			
Starling	*Sturnus vulgaris*	Red list Bird of conservation concern, Notable Bird	Y	Y	Y
Sterile Beardless -moss	*Weissia sterilis*	Sussex Rare	Y		
Stone Curlew	*Burhinus oedicnemus*	Amber list Bird of conservation concern, Notable Bird	Y		
Straw Belle (moth)	*Aspitates gilvaria gilvaria*	Sussex Rare	Y		
Tall Fescue Planthopper	*Ribautodelphax imitans*	Red List GB Pre94 Insufficient data, Sussex Rare	Y		
Thorow-wax	*Bupleurum rotundifolium*	Red List GB post 2001 Critically Endangered, Red List ENG post 2001 Critically Endangered, Nationally Rare, Sussex Rare	Y		
Toadflax Brocade moth	*Calophasia lunula*		Y		
Tree Pipit	*Anthus trivialis*	Red list Bird of conservation concern, Notable Bird	Y		
Tree Sparrow	*Passer montanus*	Red list Bird of conservation concern, Notable Bird	Y		
True Fox-sedge	*Carex vulpina*	Red List GB post 2001 Vulnerable, Red List ENG post 2001 Vulnerable, Nationally Rare, Sussex Rare	Y		
Twite	*Linaria flavirostris*	Red list Bird of conservation concern	Y		
Turtle Dove	*Streptopelia turtur*	Red list Bird of conservation concern, Notable Bird	Y		
Wall (butterfly)	*Lasiommata megera*	Red List GB post 2001 Near Threatened	Y		
Wart-biter	*Decticus verrucivorus*	W&C Act Sch5 s9.1/s9.1 kill/s9.1 take/s9.4a/ s9.4b/s9.4c/Sale s9.5a; Red List GB post 2001 Endangered, Nationally Rare, Sussex Rare	Y		
White Admiral	*Limenitis camilla*	Red List GB pos t2001 Vulnerable	Y		
White Ermine	*Spilosoma lubricipeda*	For national research purposes only	Y		
White-fronted Goose	*Anser albifrons*	Red List Bird of conservation concern,	Y		
White Helleborine	*Cephalanthera damasonium*	Red List GB post 2001 Vulnerable, Red List ENG post 2001 Vulnerable	Y		Y
White-lettered Hairstreak	*Satyrium w-album*	WCA Sch 5 sale s9 (5(a); Red List GB post 2001 Endangered	Y		Y
Whiting	*Merlangius merlangus*	Red List Global post2001 Data Deficient	Y		

English name	Latin name	Legal / policy protection	NERC Section41	Sussex BAP	Brighton & Hove BAP
Willow Tit	*Poecile montanus*	Red list Bird of conservation concern, Notable Bird	Y		
Wood Calamint	*Clinopodium menthifolium*	Red List GB post 2001 Vulnerable, Red List ENG post 2001 Vulnerable, Nationally Rare	Y		
Woodlark	*Lullula arborea*	Notable Bird	Y		
Wood Warbler	*Phylloscopus sibilatrix*	Red list Bird of conservation concern, Notable Bird	Y		
Yellowhammer	*Emberiza citrinella*	Red list Bird of conservation concern, Notable Bird	Y	?	
Yellow Wagtail	*Motacilla flava*	Red list Bird of conservation concern, Notable Bird	Y		

Table 3.2 Additional locally important species requiring conservation action not listed as Priority species

English name	*Latin name*	Legal / policy protection	Sussex BAP	Brighton & Hove BAP
A bee	*Halictus eurygnathus*	RDB1		Y
A leafhopper	*Ulopa trivia*	Nationally Notable b		Y
A lichen	*Physcia clementei*	Locally Notable; Nationally Scarce		Y
Badger	*Meles meles*	Protection of Badgers Act 1992		Y
Barn Owl	*Tyto alba*	W&C Act Schedule 1	Y	Y
Black Redstart	*Phoenicurus ochruros*	W&C Act Schedule 1		Y
Broadleaved Spurge	*Euphorbia platyphyllos*			Y (Arable Plants)
Common Frog	*Rana temporaria*	W&C Act Schedule 5 sale S.9(5)a		Y
Corn Gromwell	*Lithospermum arvense*			Y (Arable Plants)
Corn Parsley	*Petroselinum segetum*			Y (Arable Plants)
Dense-flowered Fumitory	*Fumaria densiflora*			Y (Arable Plants)
Early Spider Orchid	*Ophrys sphegodes*	W&C Act Schedule 8		Y
English Elm	*Ulmus procera*	Brighton holds the National Collection of Elms		Y
Fine-leaved Fumitory	*Fumaria parviflora*			Y (Arable Plants)
Firecrest	*Regulus ignicapillus*	W&C Act Schedule 1		Y
Frosted Arache	*Atriplex laciniata*	Locally Notable		Y
Glow Worm	*Lampyris noctiluca*	Locally Notable	Y	Y
Hoary Stock	*Matthiola incana*	IUCN Pre 1994 Rare. Locally Notable Nationally Scarce		Y
House Martin	*Delichon urbica*	Red list Bird of conservation concern, Notable Bird, Locally Notable	Y	
Light Feathered Rustic	*Agrotis cinerea*	Locally Notable		Y
Meadow Clary	*Salvia pratensis*	W&C Act Schedule 8 Amber List plant – Vulnerable and Near Threatened		Y
Narrow-fruited Cornsalad	*Valerianella dentata*			Y (Arable Plants)
Nottingham Catchfly	*Silene nutans*			Y (Arable Plants)
Palmate Newt	*Lissotriton helveticus*	W&C Act Schedule 5 sale S.9(5)a		Y
Peregrine	*Falco peregrinus*	W&C Act Schedule 1		Y
Prickly Poppy	*Papaver argemone*			Y (Arable Plants)
Rough Poppy	*Papaver hybridum*			Y (Arable Plants)
Sea Bindweed	*Calystegia soldanella*	Locally Notable		Y
Sea Heath	*Frankenia laevis*	Nationally Scarce		Y
Sea Knotgrass	*Polygonum maritimum*	W&C Act Schedule 8		Y

English name	*Latin name*	Legal / policy protection	Sussex BAP	Brighton & Hove BAP
Sea Rocket	*Cakile maritima*	Locally Notable		Y
Smooth Newt	*Lissotriton vulgaris*	W&C Act Schedule 5 sale S.9(5)a		Y
Swift	*Apus apus*	Red list Bird of conservation concern, Notable Bird, Locally Notable	Y	Y
Swallow	*Hirundo rustica*	Locally Notable	Y	Y
Toadflax Brocade moth	*Calophasia lunula*	Locally Notable		
Venus's Looking Glass	*Legousia hybrida*			Y (Arable Plants)
Weasel's Snout	*Misopates orontium*			Y (Arable Plants)
Wild birds (most species)	-	W&C Act		Y

Table 3.3 Priority habitats present in Brighton and Hove

Feature habitat	Legal / policy protection	NERC Section 41*	RegionalBAP+	Sussex BAP	Brighton & Hove BAP
Arable field margins *(incorporated in Farmland in Brighton & Hove BAP)*		Y	Y	Y	Y
Coastal vegetated shingle		Y	Y	Y	Y
Fragile Sponge and Anthozoan Communities on Subtidal Rocky habitats	Included in MCZ	Y			Y
Hedgerows		Y		Y	Y
Intertidal Chalk	Included in MCZ	Y			Y
Intertidal Underboulder Communities	Included in MCZ	Y			Y
Lowland calcareous (chalk) grassland Land *(incorporating chalk scrub and wax caps colonies in Brighton & Hove BAP)*		Y	Y	Y	Y
Lowland mixed broadleaved woodland		Y	Y	Y	Y
Lowland Wood-Pasture and Parkland		Y	Y	Y	Y
Maritime cliff and slopes		Y	Y	Y	Y
Open Mosaic Habitats on Previously Developed Land *(incorporating Urban Commons in Brighton & Hove BAP)*		Y			Y
Ponds		Y	Y		Y
Sheltered Muddy Gravels – subtidal sediments	Included in MCZ	Y			Y
Subtidal Chalk	Included in MCZ	Y			Y
Subtidal sands and gravels	Included in MCZ	Y			Y
Traditional orchards		Y		Y	Y

Table 3.4 Additional habitats & features which are locally important not listed as Priority habitats

Feature habitat	Legal / policy protection	Regional BAP+	Sussex BAP	Brighton & Hove BAP
Arable land			Y	Y
Ancient woodland and 'veteran' trees	NPPF irreplaceable			Y
Mosaic habitats				Y
Road verges			Y	Y
School grounds				Y
Scrub communities				Y
Standing fresh water (including ponds of all types)		Y		Y
The Downs			Y	Y
Urban areas				Y

+At the time of writing the South East Regional BAP contains targets for habitats only.

ANNEX 4: Protected species and ecological survey seasons

This provides a rough guide to the seasonality of ecological survey to illustrate the potential impact on the submission of information in support of a planning application. A suitably qualified ecologist should always be consulted to provide site specific advice on appropriate methodologies and timing, which may depend on weather conditions.

	Jan	Feb	March	April	May	June	July	August	Sept	Oct	Nov	Dec
Preliminary Ecological Appraisals	**Surveys are possible year round but best during main botanical seasons as below**											
Botanical Surveys						**As appropriate to plant community**						
Breeding Birds			**Six survey visits across the season**									
Wintering Birds	**At least monthly**										**At least monthly**	
Badgers	**Surveys for evidence can be undertaken year round**											
		Bait marking and sett surveys			**Breeding season, limited surveying**				**Bait marking and sett surveys**			
							Licensable season for disturbance					
Bats	**Potential Roost Assessment Surveys are possible year round**											
				Possible depending on temperature	**Emergence and Activity Surveys**					**Possible depending on temperature**		
Hazel Dormice				**Nest tube survey with monthly checks throughout season, to achieve minimum level of effort**								
Reptiles				**Weather conditions are important**								
Water Voles	**Habitat assessment possible year round**											
				Two surveys required: the first Apr to end Jun, the second Jul to Sep to identify breeding territories and latrines								
Great Crested Newts	**Habitat assessment possible year round**											
				4-6 x Aquatic surveys (must include: 2-3 surveys mid-Apr- mid May); eDNA survey season mid Mar to end Jun								

Key

Optimal	
Sub-optimal	
Not recommended	

Points to note regarding surveys are as follows:

- It is important that surveys for protected (and Priority) species are carried out at an appropriate time of year, as indicated by published guidance and/or nationally recognised survey guidelines/methods where available to ensure the greatest chance of detecting protected (and priority) species if present. At other times of year, it can be very difficult to detect protected (and priority) species as their levels of activity decrease as temperatures decline and the weather worsens, they take refuge in areas that are difficult to access, and bad weather destroys evidence of their presence. Therefore, surveys undertaken at an inappropriate time of year will not provide a true reflection of the likely impacts of a proposed development on protected (and priority) species.
- For certain species and habitats, surveys can be carried out at any time of year, but for other species, particular times of year are required to give the most reliable results, as indicated above.
- Surveys conducted outside of optimal times will be unreliable. As a consequence, there may be insufficient information for determination of an application. For certain species (e.g. Great Crested Newt) surveys over the winter period are unlikely to yield any useful information. Similarly, negative results gained outside the optimal period should not be interpreted as absence of a species and further survey work maybe required during the optimal survey season. This is especially important where existing surveys and records show the species has been found previously on site or in the surrounding area.
- Species surveys are also very weather dependent, so it may be necessary to delay a survey or to carry out more than one survey if the weather is not suitable, e.g. bat surveys carried out in wet or cold weather may not yield accurate results.
- Absence of evidence of a species does not necessarily mean that the species is not there, nor that its habitat is not protected (e.g. a bat roost is protected whether any bats are present or not).
- Sussex Biodiversity Record Centre can provide existing information and records (www.sussexbrc.org.uk)

ANNEX 5: Biodiversity Checklist

The Biodiversity Checklist is designed to identify developments which may have an impact on biodiversity, particularly whether protected, Priority or notable species may be affected by proposals. Protected and Priority species are a material consideration in the planning process, and if there is a likelihood that a development will impact them, further information must be submitted in support of a planning application. Applicants or their agents should use the Biodiversity Checklist to carry out a 'first impressions' check of their application site (stage A1). This should be carried out while on site and does not require ecological expertise.

The Checklist is **not required** for the following types of planning applications - advertisement applications, air conditioning units/air source heat pumps (and similar), changes of use, conversion to flats (if not affecting the roof), crossovers (where no hard standing needs to be created), extract ducting, fences, removal of fire escapes, roller blinds/shutters, satellite dishes, shop fronts, walls and gates, windows and doors.

All other types of development proposal must include a completed biodiversity checklist for the application to be validated. This includes householder applications where the development requires a planning application (not permitted development); listed building consents where the roof will be affected including roof lights, solar panels or floodlighting of churches or trees; full planning applications including single/two storey extensions and residential/commercial new build; and outline planning applications. A checklist may be required for variations.

Failure to complete the Biodiversity Checklist accurately may result in your application not being validated and may cause delay to the determination process.

There are two different Biodiversity Checklists: one for householder applications and one for all other types of planning applications.

The Householder Biodiversity Checklist includes questions to help determine whether Protected or Priority species may be affected and whether further information may be required. If 'the answer is 'yes' to any of the questions listed, an ecological report may be required to assess impacts and provide for appropriate avoidance, mitigation and compensation.

The Checklist for other types of planning application includes indicative thresholds and criteria which will trigger the consideration of Protected and Priority species, based on the likelihood of these being present and affected by development. It should be used by applicants to identify which ecological surveys are likely to be necessary for an individual development given its condition and location. If the checklist indicates that species may be present and affected, a suitably qualified ecologist should ensure any necessary ecological surveys are undertaken in the appropriate season. Where a suitably qualified ecologist considers that surveys are necessary, these will need to be carried out and submitted alongside the planning application in order for it to be validated.

Householder Applications Biodiversity Checklist

Question	Features	Response
1) Will the proposals affect (e.g. modify or demolish) existing buildings with any of the following features: (*These could indicate the likelihood of bats (European protected species – see SPD Section 2.2) being present and affected by the development & may trigger the need for survey & assessment to support an application)*	Weather boarding, roof voids and/or hanging tiles that are within 200m of woodland, designated nature sites *(see SPD Section 2.1),* and/or fresh water	Yes / No
	Pre-1960 detached buildings or structures within 200m of woodland, designated nature sites *(see SPD Section 2.1)* and/or fresh water	Yes / No
	Pre-1914 buildings or structures within 400m of woodland, designated nature sites *(see SPD Section 2.1)* and/or fresh water	Yes / No
	Pre-1914 buildings with gable ends, traditional clay tile roofs or slate roofs, hanging tiles or weather boarding (regardless of location)	Yes / No
	Located within, or immediately adjacent to woodland, designated nature sites *(see SPD Section 2.1)* and/or immediately adjacent to fresh water	Yes / No
	Underground structures including, but not limited to, cellars, ice-houses, air raid shelters	Yes / No
	Any structure with gaps around roof structures such as flashing, ridge tiles, fascia and soffit boards within 200m of woodland, designated nature site *(see SPD Section 2.1*) and/or fresh water	Yes / No
	Structures where there is known current or historic bat use	Yes/No
2) Do the proposals involve felling, removal or works to:	Woodland	Yes / No
	Native hedgerows and/or lines of trees	Yes / No
	Old and veteran trees *(Veteran trees are those which are of interest biologically, culturally or aesthetically because of its age, size or condition. Veteran trees often have decay features such as branch death or hollowing)*	Yes / No
	Mature trees with holes, cracks, cavities, or that are covered with mature ivy (including dead trees)	Yes / No
3) Do the proposals involve the removal/modification of mature garden features?	Features including rough grassland; large mature compost heap; large mature log pile; large rockery; scrub; copse; allotment; orchard.	Yes / No
4) Do the proposals involve the removal/modification of a (permanent or temporary) water body, such as a pond?		Yes / No
5) Does the site or part of it lie within a District Licensing Amber or Red Risk Zone for Great Crested Newts?		Yes / No

Notes:

- Woodland can be viewed on magic.gov.uk under the heading of "priority habitats"
- Some wetland habitats, can be viewed on magic.gov.uk
- Locations of designated nature sites can be viewed on the City Plan Policies Map
- Information on the Great Crested Newt District Licensing Scheme can be found on naturespaceuk.com

If you have answered YES to any of the above questions you may need an ecological assessment. In the first instance, a Preliminary Ecological Appraisal (PEA) will be required (see SPD Section 7: A1). A full Ecological Impact Assessment may be required where the PEA indicates that priority habitats or species may be affected (See SPD Section 7: A3). This should be addressed before you submit your planning application by seeking further advice from a professional and suitably qualified ecologist.

Assessments should be proportionate to the size of the site and the nature of the proposals. If your ecologist considers the impacts on ecology are negligible, they should provide justification with clear photographs to explain why. This must include an explanation of how all potential impacts on biodiversity will be avoided and/or why protected and Priority species are not an issue on your site. If the ecological information received does not provide certainty of likely impacts, the application may be refused.

For office use

1	Have all questions on all sections been completed?	Y/N	If YES, go to 2	If NO, application should not be validated
2	Have any questions been answered "Yes"?	Y/N	If YES, go to 3	If NO, application can be validated
3	Has a separate ecological statement, report or other supporting information been submitted to identify and address potential impacts	Y/N	If YES application can be validated	If NO, application should not be validated

Full and Outline Applications Biodiversity Checklist

Proposals for Development That Will Trigger a Survey for the relevant Protected, Priority or Notable Species		**Bats**	**Barn Owls**	**Breeding Birds**	**Gt. Crested Newts**	**Dormouse**	**Water vole**	**Badger**	**Reptiles**	**Amphibians**	**Schedule 8 Plants & Fungi**	**Stag Beetle**	**Aculeate hymenoptera**	**Other Priority Species**	**Notable species of local concern (e.g. swifts)**	**Response (please tick)**
Proposals affect existing buildings with any of the following:	All buildings with weather boarding, roof voids and/or hanging tiles that are within 200m of woodland and/or fresh water	Y														
	Pre-1960 detached buildings or structures within 200m of woodland and/or fresh water;	Y														
	Pre-1914 buildings or structures within 400m of woodland and/or fresh water;	Y														
	Pre-1914 buildings with gable ends, traditional clay tile roofs or slate roofs, , **hanging tiles or weather boarding** regardless of location;	Y														
	All tunnels, mines, kilns, ice-houses, adits, military fortifications, air raid shelters, cellars and similar underground ducts and structures;	Y														
	All bridge structures (especially over water and wet ground).	Y					Y									
	Any structure with gaps around roof structures such as flashing, ridge tiles, fascia and soffit boards within 200m of woodland and/or fresh water	Y														
	Structures where there is known current or historic bat use	Y														

Proposals for Development That Will Trigger a Survey for the relevant Protected, Priority or Notable Species		**Bats**	**Barn Owls**	**Breeding Birds**	**Gt. Crested Newts**	**Dormouse**	**Water vole**	**Badger**	**Reptiles**	**Amphibians**	**Schedule 8 Plants & Fungi**	**Stag Beetle**	**Aculeate hymenoptera**	**Other Priority Species**	**Notable species of local concern (e.g. swifts)**	**Response (please tick)**
Proposals involving lighting of churches and listed buildings or flood lighting of green space within 50m of woodland, water, field hedgerows or lines of trees with obvious connectivity to woodland or water.		Y	Y	Y		Y										
Proposals affecting woodland, or field hedgerows and/or lines of trees with obvious connectivity to woodland or water bodies.		Y		Y		Y		Y			Y	Y				
Proposals within 200m of a designated site for nature conservation		Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
Proposed tree work (felling or lopping) and/or development affecting:	old and Veteran trees that are older than 100 years;	Y	Y	Y								Y				
	trees with obvious holes, cracks or cavities;	Y	Y	Y												
	trees with a diameter greater than 1m at chest height;	Y	Y	Y												
Proposals affecting natural cliff faces, crevices or caves.		Y		Y	Y				Y				Y			
Major proposals within 500m of a pond or Minor proposals within 100-250m of pond, or where the site or part of it lies within a District Licensing Amber or Red Risk Zone for Great Crested Newts?					Y		Y			Y						
Proposals affecting or within 200m of a river, stream, lake, or other aquatic habitats such as reedbed, grazing marsh and fen.		Y		Y			Y		Y	Y	Y					
Proposals affecting brownfield sites, allotments and railway land which involve a change to derelict areas with exposed soil, brambles, piles of rubble etc of more than 100m^2.				Y	Y			Y	Y	Y		Y				
Loss or modification of grassland grazed by horses, cattle or sheep, or more than about 100m2											Y		Y	Y		
Proposals for large wind turbines: see Scottish Natural Heritage *et al* Bats and Onshore Wind Turbines: Survey, Assessment and Mitigation		Y		Y												

Proposals for Development That Will Trigger a Survey for the relevant Protected, Priority or Notable Species	Bats	Barn Owls	Breeding Birds	Gt. Crested Newts	Dormouse	Water vole	Badger	Reptiles	Amphibians	Schedule 8 Plants & Fungi	Stag Beetle	Aculeate hymenoptera	Other Priority Species	Notable species of local concern (e.g. swifts)	Response (please tick)
Proposed development affecting any buildings, structures, feature or locations where protected, notable or Priority species are known to be present.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y		

Notes:

- Woodland can be viewed on magic.gov.uk under the heading of "priorit
- Some wetland habitats, can be viewed on magic.gov.uk
- Locations of designated nature sites can be viewed on the City Plan Policies Map
- Information on the Great Crested Newt District Licensing Scheme can be found on naturespaceuk.com

If you have ticked any of the above questions you are likely to need an ecological assessment. In the first instance, a Preliminary Ecological Appraisal (PEA) will be required (see SPD Section 7: A1). A full Ecological Impact Assessment may be required where the PEA indicates that priority habitats or species may be affected (See SPD Section 7: A3). This should be addressed before you submit your planning application by seeking advice from a professional and suitably qualified ecologist.

Exceptions for When a Full Species Survey and Assessment may not be Required

a. Following consultation by the applicant at the pre-application stage, the Council's ecological adviser has stated in writing that no protected or Priority species surveys and assessments are required.
b. If it is clear that no protected or Priority species are present, despite the guidance in the above table indicating that they are likely, the applicant should provide evidence with the planning application to demonstrate that such species are absent (e.g. this might be in the form of a brief report from a suitably qualified and experienced ecologist, or a relevant local nature conservation organisation).
c. If it is clear that the development proposal will not affect any protected or Priority species present, then only limited information needs to be submitted. This information should, however, (i) demonstrate that there will be no significant impact on any protected or Priority species present (this includes protecting habitats not to be impacted by the development during construction and post construction phases), and (ii) include a statement acknowledging that the applicant is aware that it is a criminal offence to disturb or harm protected species should they subsequently be found or disturbed.

For office use

1	Have all questions on all sections been completed?	Y/N	If YES, go to 2	If NO, application should not be validated
2	Have any questions been ticked “Yes”?	Y/N	If YES, go to 3	If NO, application can be validated
3	Has a separate ecological statement, report or other supporting information been submitted to identify and address potential impacts	Y/N	If YES application can be validated	If NO, application should not be validated

ANNEX 6: Biodiversity on Development sites: A hazard prevention checklist during construction and operation

This checklist aims to help implement the mitigation hierarchy: avoid impacts and embed mitigation during construction as well as inform the design and location of compensation post construction.

Hazard	Considerations
Construction Phase	
Ancillary structures such as paths and other hardsurfaces	These are often excluded from planning application drawings, but their construction and location can damage biodiversity features. Ensure their design, location and construction method take account of biodiversity features e.g. permeable paving systems which can integrate vegetation.
Assembly areas for components of construction.	Plan locations in advance and site well away from sensitive areas. Include in Ecology report site plan.
Demolition operations.	Falling rubble and storage areas for demolished structures can cause unnecessary damage if not properly planned for.
Interruptions to established management regimes	It is important to maintain established habitat management regimes throughout the construction process. In some cases, it may be necessary to modify these to help buffer biodiversity features from construction impacts. Seek ecological advice.
Introduction of imported soils	Often landscaping schemes involve the importation of topsoil which is inappropriate to the locality or the nature conservation feature. In general, nutrient-rich topsoil should be avoided in habitat management and creation schemes. Introduction of topsoil can also promote the spread of invasive plant species.
Lighting	Lighting/floodlighting can interfere with animal behavior patterns. All lighting schemes should be designed to minimise light spill s and maintain dark unlit features on and off-site including on surrounding natural features such as trees and greenspaces.
Provision of services and utilities (e.g. undergroundpower lines, water supply and drainage / gully pots	These are often excluded from planning application drawings, but their construction and location can damage biodiversity features including trapping and killing animals such as toads and amphibians in gully pots. Ensure their location is included in the Ecology report and their design and effects fully considered.
Removal of site offices/compounds and final site clearaway after construction	Due care is needed, for example to ensure protective fencing is maintained in good condition until all danger of damage to biodiversity features by construction-related activity is passed.
Storage areas for construction and landscaping materials	Ensure such storage areas are identified and considered in the ecological report
Structural works to existing buildings including conversions.	Although the footprint of the development may be the same as existing, construction activity may affect nearby biodiversity features. Such development may also affect species which use buildings, such as bats and nesting birds.
Temporary access routes for construction vehicles - both on and off site.	Plan locations in advance and site well away from sensitive areas. Include in ecological report site plan.

Temporary fencing	Protective fencing should be sturdy and form a sufficiently robust barrier to prevent accidental damage to nature conservation features. Temporary fencing forconstruction purposes should avoid severing areas of habitat.
Temporary offices and compounds.	Plan locations in advance and site well away from sensitive areas. Include in Ecology report site plan.
Topsoil and sub-soil removal.	Consider locations for storage and include in Ecology report. Ensure topsoil removal does not promote the spread of invasivespecies to new locations.
Vegetation clearance.	Direct loss of habitat; timing of removal to minimise impact and meet legislative requirements (e.g. nesting birds, hibernating herptiles); ensure controlled removal of undesirable species e.g. Japanese Knotweed)
Occupation/Operational phase	
Landscape management	Appropriate aftercare, such as watering, is crucial to the successful integration of nature conservation features into development. Specialist contractors may be required at particularly sensitive locations. Chemical applications should be avoided.
Pets	Pets can have a severe predation and disturbance effect on reptiles, mammals and birds. Major scheme design should aim to minimise this risk, for example by buffering habitat resources such a woodland from development, and in the location and types of nest boxes and bird feeders used.
Public access	Increased public access to urban nature conservation features should be encouraged but such access should be carefully considered in the design and management of schemes to ensure nature conservation benefits are sustained
Vandalism.	The design of nature conservation features within development should take account of potential vandalism issues and other anti-social behaviour.
Vehicle access around and on/off-site.	Plan locations for all roads and paths in advance and site well away from sensitive areas. Soil compaction issues. Ensure temporary access is Included in ecological report site plan.

ANNEX 7: Notes on habitat creation and enhancement

Table 7.1 General principles on habitat creation

The following general principles should be applied to development schemes involving habitat creation:

Planning			
Location	**Timing**	**Design**	**Species**
Identification of nature conservation features All proposed and existing nature conservation features should be identified on the site plans submitted as part of a planning application. Advice and survey by a professional ecologist may be required. The Sussex Biodiversity Record Centre may also need to be consulted.	***Works*** Works should be scheduled to minimise any risk of disturbance to species and habitats and to maximise the successful establishment of new features. ***Surveys*** Some species and habitats are only available for conservation work at specific times of the year. Such requirements should be factored in duringthe earliest planning stages of a scheme.	***Integration at an early stage*** The design of nature conservation enhancements should be integrated from the early planning stage of a scheme. The aim should be to maximise opportunities and minimise impacts. ***Linear features*** Avoid the fragmentation of linear nature conservation features. These are often important for allowing movement from one area of habitat to another. ***Buffer Zones*** Buffer areas between new nature conservation features and development may be needed to avoid damaging impacts.	***Choice of species*** Full details of all species to be planted should be provided for all schemes. Generally, native species guaranteed to be of local provenance must be used especially in open countryside and on the urban fringe sites. In the urban area, non-native species with confirmed nature conservation benefits, e.g. pollen and nature rich, may also be appropriate. ***Integration*** New nature conservation features should integrate with and complement habitats and species already present in the vicinity. Ensure that habitat creation proposals will not leadto damage to existing biodiversity features.

Implementation		
Site Preparation	**Site Management**	**Aftercare**
Avoid topsoil Most semi-natural habitats are adapted to nutrient-poor conditions, so habitat creation schemes should avoid the use ofnutrient-rich topsoil. Topsoil will encourage competitive weed species of low conservation value.	***On-site personnel*** All on-site personnel should be made aware of any nature conservation features affected and of the conservation measures required. There should be an identified person responsible for overseeing ecological works and their contact details should be made available to the Planning Officer. An ecological clerk of works and/or specialist contractor may be required, particularly for complex or difficult habitat management works.	***Provision for management*** Developments involving new and existing nature conservation features must make provision for their on-going management.

Adequate fencing Sturdy fencing (rather than temporary, plastic fencing or tape) should be used to protect nature conservation features throughout the construction phase including appropriate root protection areas and buffer zones, and in some cases, subsequently. Details ofthe location, type and means of installation of such fencing should be provided on the plans as part of the submitted planning application.	***Plant handling*** All plants should be handled and planted in accordance with the relevant clauses in 'Handling and Establishing Landscape Plants' Chemical applications should be avoided.	

Table 7.2 Native plants of local provenance and other plants suitable for landscaping schemes in Brighton and Hove

The use of native species of local provenance should be used in all habitat creation schemes unless there is adequate justification provided and accepted as reasonable for using plants from other sources agreed with the Council's ecological adviser. Proposals using such species must demonstrate at least UK (and preferably local) seed / plant origins peat and chemical free as possible. Habitat creation schemes nearby designated nature sites, greenspaces, in open countryside, and the urban fringe must use such suitable and appropriate native species of wildlife value as a priority.

Table 7.2 is not intended to be entirely comprehensive.

Species	Latin name	Chalk grassland (c) woodland (w) hedge bank / woodland edge (h)	Spring Meadow	Summer Meadow
Agrimony	*Agrimonia eupatoria*	c,h	N	Y
Black Medic	*Medicago lupulina*	c	N	Y
Bladder Campion	*Silene vulgaris*	c	Y	Y
English Bluebell	*Hyacinthoides non-scripta*	w,h	-	-
Bugle	*Ajuga reptans*	w	-	-
Burnet Saxifrage	*Pimpinella saxifrage*	c	N	Y
Butcher's Broom	*Ruscus aculeatus*	wh		
Centaury	*Centaurium erythraea*	C	N	Y

Species	Latin name	Chalk grassland (c) woodland (w) hedge bank / woodland edge (h)	Spring Meadow	Summer Meadow
Common Bird's-foot Trefoil	*Lotus corniculatus*	c,h	Y	Y
Common Dog Violet	*Viola riviniana*	W	-	-
Common Knapweed	*Centaurea nigra*	C	N	Y
Common Milkwort	*Polygala vulgaris*	c	Y	Y
Common Restharrow	*Ononis repens*	c	N	Y
Cowslip	*Primula veris*	c	Y	N
Creeping thyme	*Thymus drucei*	c	N	Y
Crested dog's-tail	*Cynosurus cristatus*	c	Y	Y
Cuckoo Pint	*Arum maculatum*	h,w	-	-
Devil's-bit Scabious	*Succisa pratensis*	c	N	Y
Dog Violet	*Viola riviniana*	c,h	Y	N
Dog's Mercury	*Mercurialis perennis*	w,h	-	-
Dropwort	*Filipendula vulgaris*	c	N	Y
False Brome	*Brachypodium sylvaticum*	h	-	-
Field Scabious	*Knautia arvensis*	c	N	Y
Foxglove	*Digitalis purpurea*	h	-	-
Garlic Mustard	*Allaria petiolate*	h	-	-
Germander Speedwell	*Veronica chamaedrys*	h,c,g	Y	N
Glaucous Sedge	*Carex flacca*	c	Y	Y
Greater Knapweed	*Centaurea scabiosa*	c	N	Y
Greater Stitchwort	*Stellaria holostea*	h,c	Y	N

Species	Latin name	Chalk grassland (c) woodland (w) hedge bank / woodland edge (h)	Spring Meadow	Summer Meadow
Harebell	*Campanula rotunifolia*	c	N	Y
Herb Bennet	*Geum urbanum*	w	-	-
Hoary Plantain	*Plantago media*	c	Y	Y
Honeysuckle	*Lonicera periclymenum*	w,h	-	-
Horseshoe Vetch	*Hippocrepis comosa*	c	N	Y
Kidney Vetch	*Anthyllis vulneraria*	c	Y	Y
Lady's Bedstraw	*Galium verum*	c	N	Y
Marjoram	*Origanum vulgare*	c	N	Y
Meadow Buttercup	*Ranunculus acris*	c	Y	Y
Mouse-ear Hawkweed	*Pilosella officinarum*	c	N	Y
Nettle-leaved Bellflower	*Campanula trachelium*	w,h	-	-
Oxeye Daisy	*Leucanthemum vulgare*	c,h	Y	Y
Perforate St John's wort	*Hypericum perforatum*	c	Y	Y
Primrose	*Primula vulgaris*	w,h	-	-
Quaking Grass	*Briza media*	c	Y	Y
Ramsons	*Allium ursinum*	w,h	-	-
Red Campion	*Silene dioica*	w,h	-	-
Red Fescue	*Festuca rubra*	c	Y	Y
Rock Rose	*Helianthemum nummularium*	c	N	Y
Salad Burnet	*Sanguisorba minor*	c	Y	Y
Self-heal	*Prunella vulgaris*	c,h	Y	Y

Species	Latin name	Chalk grassland (c) woodland (w) hedge bank / woodland edge (h)	Spring Meadow	Summer Meadow
Sheep's Fescue	*Festuca ovina*	c	Y	Y
Small Scabious	*Scabiosa columbaria*	c	N	Y
Stinking Hellebore	*Helleborus foetidus*	w	-	-
Stinking Iris	*Iris foetidissima*	w	-	-
Sweet Violet	*Viola odorata*	w,h	-	-
Tufted Vetch	*Vicia cracca*	w	-	-
Vipers Bugloss	*Echium vulgare*	c	N	Y
White Campion	*Silene alba*	c	Y	Y
Wild Basil	*Clinopodium vulgare*	c	N	Y
Wild Carrot	*Daucus carota*	c,h	N	Y
Wild Strawberry	*Fragaria vesca*	w,h	-	-
Wood Anemone	*Anemone nemorosa*	w	-	-
Yarrow	*Achillea millefolium*	c,h	Y	Y
Yellow Rattle	*Rhinanthus minor*	c	Y	N
Yellow Wort	*Blackstonia perfoliate*	c	N	Y

Table 7.2.1 Ornamental plants of wildlife value (adapted from a list supplied by The Ecology Consultancy)

In inner urban areas within the built-up area boundary, non-native species which attract beneficial wildlife i.e. nectar and pollen rich, may also be used if these are justified to be better suited to the development and the local environment. In the urban area of Brighton and Hove a wide range of horticultural plant varieties offer valuable sources of food for wildlife including nectar, seeds, berries and sap. Others provide nesting or roosting opportunities. Native and ornamental plants should be combined to create 'near-natural' diverse and interesting wildlife-friendly plantings.

The lists below are not exhaustive, but merely a selection of the more widely available species. They should not be used in the countryside or the urban fringe, where they may invade and damage semi-natural habitats. Planting of fruit trees as "scattered orchards" should seek to use traditional varieties local to Brighton & Hove.

Trees	
Apple	*Malus domestica* (*several ornamental forms available*)
Cherry	*Prunus spp. (but not ornamental flowering cherries)*
Foxglove tree	*Paulownia tomentosa*
Lacebark	*Hoheria spp., e.g. H.glabrata, H. lyallii*
Pear	*Pyrus spp. e.g. Pyrus calleryana* 'Chanticleer'

Shrubs (NB Many of the shrub species below will form small trees when mature)			
Barberry	*Berberis darwinii, B.thunbergii 'Bagatelle', B. x stenophylla*	Gorse	*Ulex spp*
Broom	*Genista spp*	Himalayan honeysuckle	*Leycesteria formosa*
California lilac	*Ceanothus arborea / spp.*	Japanese quince	*Chaenomeles japonica*
Common myrtle	*Myrtus communis*	June berry	*Amelanchier Canadensis*
Hazels	*Corylus spp.*	Laurustinus	*Viburnum tinus*
Hawthorns	*Crataegus spp.*	Lavender	*Lavandula angustifolia, L. x intermedia*
Holly	*IIex* (various cultivars –self-pollinating varieties recommended)	Mahonia	*Mahonia spp*
Daisy Bush	*Olearia x hastii, O. macrodonta* and *O. traversii*	Mock Orange	*Philadelphus spp*
Elderberry	Sambucus 'Black Lace'	Rock rose	*Cistus spp.*
Firethorn	*Pyracantha spp.*	Rosemary	*Rosmarinus officinalis*
Flowering currant	*Ribes sanguineum*	Shrubby Veronica	*Hebe* spp. (select varieties with light coloured flowers)
Flowering Quince	*Chaenomeles speciosa*		

Herbaceous perennials

A wide variety of herbaceous perennials help support wildlife and the list below is only a small selection. The following general rules can also be used to select good wildlife-friendly plantings:

- Plants with 'Single' flowers (those where the stamens are visible) rather than double flowers.
- Most 'traditional' herbs Rosemary, Sage, Lavenders, Fennel, alliums (chives)
- Plants with flat-topped umbels or (daisy-like) heads
- Most Mints (dead-nettles, *Salvia* spp.)
- Carrot family (Umbellifers),
- Cabbage (Crucifers) family

Sterile hybrid flowers (e.g. Hydrangea hybrids, Busy Lizzie) are to be avoided.

Good wildlife friendly herbaceous perennials			
Aster	*Aster spp*	Purple Verbena	*Verbena bonariensis*
Black-eyed Susan	*Rudbeckia hirta or R. fulgida*	Red valerian	*Centranthus rubra*
Cinquefoil	*Potentilla fruticose*	Russian Sage	*Perovskia atriplicifolia*
Echinacea	Echinacea purpurea	Ice plant	*Sedum spectabile*
Escallonia	*Escallonia spp*	Soapwort	*Spanoria officinalis*
Foxglove	*Digitalis purpurea varieties, D. lutea, D. x mertonensis*	Sweet rocket	*Hesperis matronalis*
French Marigold	*Tagetes patula*	Teasel	*Dipsacus fullonum*
Globe thistle	*Echinops ritro*	Tobacco plant	*Nicotiana affinis*
Ice plant	*Sedum spectabile*		

Wildlife friendly annuals		**Climbers**	
Blue Wax Flower	*Cerinthe major* 'purpurascens'	Clematis spp.	*Clematis vitalba, C. armandii, C. alpina, C. montana, C. tangutica*
Californian Poppy	*Eschscholzia californica*	Climbing Hydrangea	*Hydrangea petiolaris*
French Marigold	*Tagetes patula. A*void the double flowered varieties	Honeysuckle	*Lonicera japonica, L. fragrantissima, L. standishii*
Poached Egg Plant	*Limnanthes douglasii*	Ivy	*Hedera helix*
Sunflowers	*Helianthus annus*	Jasmine	*Jasminum officinale*
Tobacco plant	*Nicotiana affinis*		

Table 7.2.2 Terrestrial Species to avoid in landscaping schemes

Any plants listed as Non-native Invasive Species in Schedule 9 of Wildlife & Countryside Act 1981 as amended should not be planted within landscaping schemes. The following terrestrial species have comparatively few benefits for wildlife areas and their use should be avoided in landscaping schemes, without specific justification:

Species not to be used in landscaping schemes	
Buddleia	*Buddleia spp.*
Cherry Laurel & variegated laurel species	*Prunus laurocerasus / Prunus lusitanica Variegata*
Cotoneasters	*Cotoneaster spp*
Evergreen Oak	*Quercus ilex*
False Castor Oil Plant	*FatsiaJaponica*
Japanese Rose	*Rosa rugosa*
Phormium	*Phormium spp.*
Shrubby honeysuckle	*Lonicera nitida*
Spotted laurel	*Aucuba japonica*
Stags Horn Sumac	*Rhus typhinia*

Table 7.3 General principles on planting trees, woodland, hedgerows and scrub

The conservation of existing trees, woodland and hedgerows, and the creation of new native features is encouraged, where this is consistent with other nature conservation objectives. The following general guidelines should be followed in any development involving the planting and creation of new trees, woodland and hedgerows. Proposals should also conform to BS 5837 'Guide for trees in relation to construction' (see also SPD 6 'Trees and Development Sites'):

Planning			
Location	**Timing**	**Design**	**Species**
Trees too close to buildings and car parks can lead to complaints about leaf fall, shade and other problems. Do not plant in locations which could damage other biodiversity features,or which coincide with underground or overhead services. New hedges, trees and woods are particularly appropriate where they connect or extend existing woodlands and wildlife corridors.	Bare root trees should be planted during a frost-free period between mid- October and early December. Container- grown trees can be planted throughout the year (avoiding periods of drought and frost), provided adequate provision is made for regular watering.	Trees and shrubs for woodland/scrub habitats should be spaced between 1-2m apart. Two-year old, feathered seedlings or transplants should be planted (larger sizes are more expensive, slower to establish have a higher failure rate and are prone to vandalism.	Mixes of native species should be used which reflect local, natural associations. In inner urban areas, non-native species and varieties (such as Firethorn) may be appropriate if they provide good wildlife habitat (e.g. berries and nesting habitat for birds). These species should definitely not be used where they could spread to nearby semi natural habitat.

Implementation		
Preparation	**Management**	**Aftercare**
Compacted soils should be deep-ploughed or 'ripped' before planting.	Trees should be planted the same day or as soon as possible after delivery. Roots should be protected from desiccation and frost damage during transit and storage.	Trees may need protection from rabbit damage following planting and should be kept free of weeds 1m diameter around each stem. Use mulch for five years following planting. Each tree should be drenched with 5 litres of water immediately following planting. Thorough and regular watering may also be necessary for the first two seasons,depending on location. Dead saplings should be replaced for the first 3 years following planting. Thinning should take place when tree branches become interlaced and growth is suppressed. Wood waste from thinning should be left scattered under the trees to promote woodland floor species. Piles of dead wood should be avoided where they can create a fire risk. Existing woods may require enhanced management to remove invasive species, manage access, diversify the rangeof species present, increase light reaching the woodland floor or to promote particularly desirable species.

Table 7.4 Native trees and shrubs suitable for planting in Brighton and Hove

Species	Latin name	Suitable for planting on the urban fringe / downland?	Pioneer species	Tolerant of infertile soil	Cliffs and coast	Pollution tolerant	Tree or shrub
Field Maple	*Acer campestre*	N		y		y	small tree
Hawthorn	*Crataegus monogyna*	Y	y	y	y	y	shrub
Beech	*Fagus sylvatica*	Y					tree
Juniper	*Juniperus communis**	N	y	y	y		shrub
Wild Privet	*Ligustrum vulgare*	Y	y			y	shrub
Crab Apple	*Malus spp.*	Y				y	small tree
Blackthorn	*Prunus spinosa*	Y	y		y		shrub
Pedunculate Oak	*Quercus robur*	Y				y	tree
Buckthorn	*Rhamnus catharticus*	Y				y	small tree
Dog Rose	*Rosa canina*	Y		y			scrambler/shrub
Goat Willow	*Salix caprea*	N	y		y	y	shrub
Elder	*Sambucus nigra*	Y	y	y		y	shrub
Yew	*Taxus baccata*	Y		y		y	small tree
Dogwood	*Cornus sanguinea*	Y	y	y			shrub
Small-leaved Lime	*Tilia cordata*	N					tree
Gorse	*Ulex europaeus*	Y	y	y	y		shrub
Wych Elm	*Ulmus glabra*	Y				y	tree
Wayfaring Tree	*Viburnum lantana*	Y	y	y			shrub

The introduction of native woodland ground flora is one way of enhancing existing, established woodlands. Table 7.2 includes recommended species for woodland floor planting. These should be introduced in discrete blocks within woodlands where light levels are between 10% and 40% of daylight in summer, as plug plants or seed. Woodland seed sowing should be at a high rate (10kg of seed per hectare), whereas plant plugs can be introduced at about 5 plants per m^2.

Hedgerow creation and management follows similar principles to those needed for woodland and scrub. Shrub plants for new hedgerows should be selected from the list provided in Table 7.4, planted at 200mm centres in two rows 150-450mm apart. A 'hedge line' mulch should be used, and species should be planted in blocks of five, which helps to give the developing hedge a naturalistic appearance. After planting, cuthard back to encourage bushy basal growth.

Table 7.5 General principles on creating flower-rich grassland

Ancient, species-rich grassland cannot be recreated but it is possible to create attractive, flower-rich grassland as part of new developments. Chalk grassland creation is encouraged by the Sussex Chalk Grassland BAP where conditions are suitable. The following general guidelines should be followed:

<table>
<tr><th colspan="4">Planning</th></tr>
<tr><th>Location</th><th>Timing</th><th>Design</th><th>Species</th></tr>
<tr><td>Flower-rich grassland should not be located where:
it will be heavily shaded by trees.
the soil is rich in nutrients or will be fertilised
Locations suitable for flower-rich grassland are:
areas of lowsoil fertility,
dry slopes with thin soils.</td><td>Sow native, local provenance wild flower seed in autumn (September-November), a month after soil treatments have been completed (see Site Preparation)</td><td>Avoid small grass patches.These are expensive to maintain and tend to be of low nature conservation value. Aim to create fewer,larger spaces which can incorporate low-maintenance wild flower areas.</td><td>A mix of species should be used which reflect local, natural associations (see Table7.2).

Plant plugs, not seeds,should be used to diversify existing grassland. They should be planted 50cm apart. Yellow Rattle (Rhinanthus minor); canbe seeded into existing grassland where it will reduce grass vigour.

Seed mixes should be used to establish newflower-rich grassland. Recommended seeding rate: 2g of seed/m^2, Cornfield annuals should be used as a‘nurse crop’.</td></tr>
<tr><th colspan="4">Implementation</th></tr>
<tr><th>Site Preparation</th><th>Site Management</th><th colspan="2">Aftercare</th></tr>
<tr><td>Nutrient-rich topsoil should be removed or buriedbefore sowing.

Expensive soil improvements, such as drainage, deep ripping and fertiliser treatment are to be avoided.

Work the soil in midsummer to minimise compaction problems when wet. Cultivate to aneven tilth (breaking up, raking, harrowing and rolling) and firm surface. Remove large stones (may damage grass cutting equipment).

Sowing wildflower seeds. Scuffle the surface after sowing to incorporate seeds in the surface soil.</td><td>Flower-rich meadows should be protected from access and from storage of plant and machinery throughout the construction process</td><td colspan="2">New grassland
In the spring of the first year after sowing, roll and then cut to 10cm high and remove clippings. Cut to 10cm aboutevery 2 months thereafter to prevent anyspecies from becoming dominant. Allow a 5 week break in June/July for the cornfield annual nurse crop to flower. In the second year, revert to the cuts described below.
Timing of cutting and cutting frequency have an important influence on the species found in new and existing grasslands. In all cases, cuttings should be removed and no fertilisers should be added at any time.

Spring meadow: Do not cut until late June, then cut to 50mm. Thereafter cut regularly to 100mm. Because spring meadows are cut before the school summer holidays, they can double as ‘kick about’ areas.

Summer meadow: Do not cut between mid-May and late August. Regular cutting to 50mm between March and mid May helps to eliminate coarse grasses during theirmaximum growth period.
Flower-rich grassland should look intentional. Use mown borders, paths, benches, etc to give flower-rich grasslandareas a ‘cared for’ appearance.</td></tr>
</table>

Table 7.6 Aquatic plant species suitable for planting in Brighton and Hove

There are no permanent, naturally occurring freshwater bodies in Brighton and Hove. However, 'dew ponds' have been created on the Downs for centuries and more recently, amenity garden ponds and associated wetland areas have become important for wildlife.

Submerged		**Floating**		**Emergent**		**Marginal**	
Common name	**Scientific name**	**Common name**	**Scientific name**	**Common name**	**Scientific name**	**Common name**	**Scientific name**
Common Water Crowfoot	*Ranunculus aquatilisagg.*	Yellow Water Lily	*Nuphar lutea*	Flowering Rush	*Butomus umbellatus*	Marsh Marigold	*Caltha palustris*
Curled Pondweed	*Potamogeton crispus*	White Water Lily	*Nymphaea alba*	Branched Bur-reed	*Sparganium erectum*	Brooklime	*Veronica beccabunga*
Spiked Water Milfoil	*Myriophyllum spicatum*			Water Plantain	*Alisma plantago*	Bogbean	*Menyanthes trifoliata*
Water Violet	*Hottonia palustris*					Water Forget-me-not	*Myosotis scorpioides*
Hornwort	*Ceratophyllum demersum*					Water Mint	*Mentha aquatica*
						Reed Sweet Grass	*Glyceria maxima*
						Yellow Flag	*Iris pseudacorus*
						Purple Loosestrife	*Lythrum salicaria*

Table 7.6.1 Invasive aquatic plant species

Aquatic Plants which must NOT be used under any circumstances (very invasive)							
Swamp Stonecrop	*Crassula helmsii*	Water Fern	*Azolla filiculoides*			Marsh Pennywort	*Hydrocotyle Ranunculoides*
Parrot's Feather	*Myriophyllum aquaticum*	Fringed Water Lily	*Nymphoides peltate*			Himalayan balsam	*Impatiens glandulifera*
Canadian Pondweed	*Elodea canadensis*						
Nuttall's Pondweed	*Elodean nuttallii*						
Curly Waterweed	*Lagarosiphon major*						

Table 7.7 Coastal vegetated shingle

Coastal vegetated shingle is both a national and Sussex BAP habitat. The Sussex BAPspecifically includes an action to "take advantage of coastal development to create new shingle areas". Coastal shingle is an inhospitable environment for plant growth. Plants experience high-temperature stress and desiccation in summer; saltwater spray, high winds and substrate movement in winter. The substrate itself is nutrient-poor and with very little organic matter. Many species survive by accumulating substantial underground reserves.

Due to the intensive amenity use of the beaches in Brighton and Hove, very few areas of coastal shingle retain natural vegetation. However, opportunities may arise through landscaping within new coastal developments to integrate new vegetated areas.

Planning				Implementation		
Location	**Timing**	**Design**	**Species**	**Site Preparation**	**Site Management**	**Aftercare**
Any site within 100m of the beach (other than cliffs)	Pot planting should take place in spring (March/April) to give plants time to establish before summer desiccation and winter storms. Sow seed in the autumn or spring	Aim to vary the substrate, aspect and slope of a site to maximise the variety of shingle species that can successfully establish.	Annuals and short-lived plants can be establishedfrom seed. Perennials colonise too slowly and are too susceptible to disturbance when young for seedling establishment. These species require container-grown plants (9cm pots or greater).	New shingle habitats should be profiled to contain about 20% sandto promote seedling establishment. A depth of at least 20cm shingle is required. Organic matter and fertiliser are not required (may attract weed species). Aim for a matrix of areas of different textures to promote the establishment of different species.	Ensure vegetated shingle areas are protected from disturbance throughout the construction period.	Add boardwalks, interpretation boards, etc. to encourage appreciation of this rare habitat.

Suitable species for new vegetated coastal shingle are:

Sea Kale	*Crambe maritima*
Sea Holly	*Eryngium maritimum*
Sea Campion	*Silene maritima*
Biting Stonecrop	*Sedum acre*
English Stonecrop	*Sedum anglicum*
Viper's Bugloss	*Echium vulgare*
Rock Samphire	*Crithmum maritimum*
Yellow-horned Poppy	*Glaucium flavum*

ANNEX 8: Building with Nature – Helping create better places for people and wildlife

Building with Nature (BwN) is a voluntary approach that enables developers and other built environment professionals to go beyond the statutory requirements to deliver more for people and wildlife. The BwN Standards are free to use and provide industry with a benchmark, underpinned by a set of quality standards and 'how-to' guidance, to meet the challenges of the climate, ecological and health emergencies.

BwN Standards can be used for every *type* and *scale* of development across the UK. The benchmark is equally applicable across residential, commercial, and community infrastructure development; and is designed to support the quality of green infrastructure in projects of all sizes, from infill development, up to new settlements.

Building with Nature Accreditation

There are multiple benefits from BwN accreditation as this reduces planning uncertainty, provides a robust set of holistic design principles, delivers Corporate Environmental and Social responsibility and supports marketing and sales of residential developments. This also demonstrates a shared framework of evidence-based Standards with an independent verification of quality and readiness for Biodiversity Net Gain and new local policy requirements.

Building with Nature (BwN) Standards can help to smooth passage of an application through the planning process. By more clearly defining parameters and expectations around quality of green infrastructure (GI), the use of BwN can help create a level playing field for applicants and makes it easier to understand what good looks like for a particular scheme. BwN is already referenced in the National Design Guide and a full summary of references to BwN in local policy documents is available on request.

As an external verification, BwN Accreditation can also raise confidence amongst other important stakeholders, such as elected members. A scheme that has a BwN Design Award in place, or is working towards a BwN Full Award would be welcomed . If a scheme is already developing high-quality GI, then paying for the Award provides an independent verification of that quality. The Award is a way of demonstrating a scheme meets a high standard - and critically - helps to demonstrate that a scheme meets and goes beyond policy compliance and other regulatory requirements.

BwN and BNG work well together. BNG is a quantitative biodiversity metric, and BwN is a qualitative design tool that focuses multi-functionality and quality, helping to embed biodiversity enhancements into a design and maximise opportunities for on-site biodiversity gains. Put simply, BNG is the what and BwN is the how. BwN can be used as the mechanism for assisting schemes in achieving BNG compliance on site, whilst also ensuring quality place-making that provides multiple benefits for people and our planet. The evidence that a design has met BNG can be used as evidence to demonstrate compliance with the Wildlife standards within the BwN Standards.

Climate and Biodiversity Emergencies

As the Council has declared a climate and biodiversity emergency, BwN is one way to demonstrate how development proposals are responding to the challenges of climate change. With a Building with Nature Award in place, the Council councillors and others will be able to clearly see how your development is addressing these issues by meeting the relevant BwN Standards.

BwN Standards provide a clear definition of high-quality Green Infrastructure

BwN Standards are overseen by BwN Standards Board, which has representation from Royal Town Planning Institute, Landscape Institute, Chartered Institute of Ecologists and Environmental Managers, TCPA, representative from government, including Environment Agency, Natural England, and representatives from industry, including Taylor Wimpey. As such, BwN Standards are well respected, and are kept up to date and robust (comfort for LPAs and designers) and can help developers implement Policy DM37.

BwN Accreditation can help guide the design process

The BwN Accreditation system results in Awards but is effectively a "process tool" that can help guide the design process. An Approved BwN Assessor can ensure that all relevant consultants are engaged in the design process at the right time, and can help streamline the design process, save time, avoid mistakes and help the developer to meet all the necessary planning policy and other targets. This is particularly true if BwN Assessors are appointed early on. If a Full Award is pursued, this includes a post-construction check (12-months post-completion) and shows further commitment on the part of the developer (another tick for planning). The requirement for a long-term Landscape and Ecological Management Plan (or equivalent) is likely to be a condition on a consent to secure the delivery of BNG from retained and newly created habitats and BwN can then use this for the post-construction check. High-quality green infrastructure, coupled with higher density schemes, can mean that housing numbers can be achieved at the same time as meeting a range of other policy requirements.

Covering long-term management and maintenance costs

Part of the BwN Accreditation process is supporting you to get the most cost-effective, sustainable model and mechanism for long-term management and maintenance in place. Your Approved Assessor will be able to offer examples of good practice and may be able to broker partnership working to more efficiently secure practicable solutions to common problems such as adoption of above-ground surface water management features. It is often the case that a civils approach to sustainable drainage can be more costly in the long-term to maintain than "softer" solutions where GI is designed into the SuDS. For more information read about the BwN case studies.

Appendix 2 Consultation Summary

Introduction

This consultation summary sets out details of how the Council carried out consultation on the draft Biodiversity and Nature Conservation Supplementary Planning Document (SPD), a summary of the responses received and how the responses have been addressed in the final SPD. The consultation was conducted in line with Brighton & Hove City Council's Statement of Community Involvement (SCI)

Who was consulted

The following groups and individuals were contacted by the city council for their views on the draft SPD:

- The public
- Elected Members
- Individuals/organisations registered to receive alerts on planning consultations including local community and amenity groups, environmental groups, developers and landowners, planning agents and architects, and statutory consultees.
- National Highways
- Natural England
- Historic England
- Environment Agency
- Other Local Planning Authorities within the wider area

How these people were consulted

The draft SPD was subject to a 6-week consultation between the 7th February and 21st March 2022. The consultation included a press release, advertisement on the Councill's website, emails sent to numerous stakeholders and interested parties, and hard copies of documents made available in all libraries and the Bartholomew's House Customer Service Centre. Information about the consultation was publicised on the Council's social media including Facebook and Twitter. Other council teams and local partnerships also circulated information on the consultation including the council's Communities and Equalities team, Sussex Local Nature Partnership and The Living Coast Biosphere.

The consultation also included:

- A survey available on the council's online consultation portal
- 2 dedicated online events for stakeholders -attended by 16 individuals/group representatives

- 1 dedicated online event for the local Planning Agents Forum – attended by 14 local agents/architects
- 1 dedicated online event for council officers – attended by 11 council officers
- Briefing for Carbon Neutral 2030 Members Working Group

Consultation response

The council received 19 responses on the SPD. 12 of these were submitted via the consultation portal with respondents completing the online survey; 7 were submitted via email. The breakdown of respondents is as follows:

- 6 individuals
- 4 Environmental/wildlife organisation (Benfield Wildlife & Conservation Group, Benfield Valley Project, BH Wildlife Forum, Sussex Wildlife Trust)
- 2 Local Residents Associations (Goldstone Valley RA, Hanover Action)
- 2 Statutory Consultees (Environment Agency, Historic England)
- 1 internal officer
- 1 civic/amenity group (Hove Civic Society)
- 1 developer/agent (Enplan)
- 1 District Council (Horsham)
- 1 local partnership (The Living Coast)

In addition, the council received responses from the following 5 organisations, all of which had no comments to make:

- Natural England
- Coal Authority
- National Highways
- Southern Water
- BADGE (Brighton Access for Disabled Groups)

Summary of comments and officer response

The following tables summarise the comments received and how the comments have informed the changes to the final version of the SPD.

Section/comments/issue raised	BHCC response
Section 1 Introduction	
Links between climate change and biodiversity declines and reference to the climate and biodiversity declaration in paragraph 1.2 makes emotive political point rather than a scientific one. Although linked, biodiversity is a different issue affected by human actions, as well as natural climate change.	Section 1.2 has been amended to make it clear that biodiversity declines are not just associated with climate change.
Setting an arbitrary date for 'carbon neutral' is wishful thinking rather than science or good community planning. Need to be more active in controlling population growth, which has the biggest effect on the UK environment, and seek net zero by 2030.	Net zero and carbon neutrality are the same, meaning to reduce carbon emissions from operations as far as possible and to offset remaining emissions. The rationale for the 2030 target date is linked to the Paris Accord 2015, signed by most countries in the world, to limit global temperature rise. In order to limit temperature rise to 1.5°C above pre-industrial levels, the world as a whole must reach net-zero emissions by 2050. BHCC, along with hundreds of other UK councils and businesses, has declared targets with a 2030 deadline. This is faster than the UK government target of 2050.
Other issues also important including reducing carbon emissions, reducing water wastage in distribution. Question around cost vs benefit. Costs and benefits should be more clearly described.	Comments noted; however the scope of this SPD is focussed on improving biodiversity outcomes. The government recognises the potential for negative ecological impacts from development and aims to secure measurable improvement in habitats for biodiversity through its policy on BNG. This has been subject to its own impact assessment with full cost analysis and is available to the public. Providing details on costs vs benefits would be overly detailed for an SPD.

Section 2 Biodiversity Resource	
Do you agree that Section 2 accurately describes Brighton & Hove's local biodiversity?	
11 out of 19 respondents answered this question of which: • 2 strongly agreed • 8 tended to agree • 1 tended to disagree	Support for this section noted.
Suggested changes	

Difficulty viewing sites/areas protected as document hard to read in consultation portal.	Maps showing key designations are included within Section 2. A full and enlargeable version of the draft SPD was also available on the council website during the consultation. Hyperlinks will be included from the consultation portal during future consultations for ease of accessing enlargeable versions.
Public need to know how to find out if an area is included.	Maps showing key designations are included within Section 2. This section also includes hyperlinks to the interactive MAGIC map and the City Plan Policies Map where designated sites can be seen in greater detail.
Protecting residents' gardens would help local biodiversity. Increased parking permit costs resulting in an increase in paved gardens for parking use.	It is acknowledged that private gardens can provide important habitat and that this needs to be encouraged. Householders benefit from certain 'permitted development rights' which can include paving over of front gardens provided certain criteria are met. Text has been added to the SPD to encourage retention of front gardens, but this cannot be required where permitted development applies.
SPD should refer to people as part of the biodiversity. Need to ensure the environment people live in is conducive to wellbeing.	The link between the wider environment and people's health is acknowledged and recognised under section 1.1 of the SPD. In this way, guidance in the SPD should help to support people's health and wellbeing through the protection and enhancement of habitats and species.
Local green spaces and parks within urban areas not adequately described. Development around green spaces could have negative impacts on pollinators and birds accessing these resources.	Additional text has been added to this section to acknowledge that the city's parks and green spaces, which are not designated nature conservation sites, also contribute towards biodiversity.
Provide more general context in the initial paragraph to highlight the 3 key types of environments found: the rural Downs, the urban environment and the coastal and marine environments. Strengthen reference to coastal and marine environments to ensure this environment is not overlooked.	Additional contextual information text about the 3 key environments has been added to the initial paragraph.
Other comments on this section	
Climate change mitigation and adaptation through biodiversity	
Opportunity for planning to take into account the climate crisis, e.g. tree-planting and limited car-use to reduce CO2 output; use of verges to capture water and provide green infrastructure.	City Plan Parts 1 and 2 comprise the development plan for the city. These include a range of policies that support sustainable patterns of growth, climate change mitigation and adaption. It is recognised that biodiversity has multi-functional benefits including those that are linked to climate change adaptation such as carbon sequestration, temperature regulation and surface water management. These benefits are set out in section 6.1 under the "wider benefits of landscaping" as well the case study in section 6.7. The focus of the

	SPD is to provide guidance to assist in meeting policies focussed on improving biodiversity outcomes.
Concern regarding designations	
Concerned that the Living Coast designation can be used as a way of generating tourism /visitors to the city and this impact is not adequately taken into account in the bigger picture, where "stakeholders should seek to manage and sustainably develop the area's resources".	The Living Coast Biosphere designation supports people and nature thriving together in the region by enabling sustainable socio & economic development through innovation in managing our ecosystems sustainably for future generations. The visitor economy is recognised as one of the most important economies of the wider Brighton city region and working to improve the sustainability and reduce the environmental impact of this economy continues to be a significant area of research and development for The Living Coast. From 2018 – 2021 The Living Coast delivered the EU Funded BioCultural Heritage Tourism project which had the specific aim of increasing the financial value of tourism to the region whilst reducing the environmental impact. The Living Coast continues to work with visitor economy partners to enable this sector of the local economy to reduce their environmental impacts and develop within regional ecosystem boundaries.
Status of designated sites	
Clarification required of the level of protection provided by the plan and LNR status in relation to Benfield Hill.	The SPD is a guidance document, it is not a statutory Development Plan. The SPD does not provide protection; it provides guidance to assist the implementation of planning policies in the development plan. The SPD will be a material consideration in planning decisions. It is noted that the Benfield Hill LNR falls entirely within the South Downs National Park and any planning decisions for that site would be taken by the SDNPA.

Section 3 Key Legislation	
Comments of support	
Relevant legislation clear.	Support noted.

Section 4 Planning Policy and Strategies	
Issues raised on policy section	
NPPF	
Clarification required on whether NPPF or Local Plan policies have priority. It would be helpful to know where there is conflict, what the LPA will prioritise.	Development Plan policies are the starting point for decision making and have most weight. However, the NPPF in setting out national planning policy is an important material planning consideration. For a Local Plan to be found "sound" by a planning inspector, it must in general conformity with the NPPF and therefore cannot directly conflict with the NPPF.
NPPF causes conflict. Para 116 supports prior approval for telecom infrastructure masts. LPA should refuse prior approvals where there is an impact on the Biosphere. Special consideration should apply where there might be construction impacts in or around habitats or protected species.	Planning considerations relating to prior approvals are limited to those outlined in Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The LPA is not able to consider any other matters in relation to prior approvals.
The LPA should set a green priority on how it adopts the NPPF.	The LPA is not able to choose how it adopts the NPPF. All sections of the NPPF must be considered, where relevant.
SPDs	
Reference to SPD15 Toads Hole Valley omitted.	A link to SPD15 has been added to section 4.2 – Supplementary Planning Documents, Planning Advice Notes and Other Guidance.
Have any important local strategies been missed out from section 4.3?	
10 respondents answered this question of which: • 4 answered yes • 4 answered no • 2 answered not sure	Partial support for this section noted. Specific queries responded to below.
Additional strategies suggested	
Educating and empowering local people to deliver on biodiversity targets.	There is no specific strategy regarding education or empowerment of local people with regards to biodiversity. However, a key objective of The Living Coast is to promote environmental awareness, knowledge and learning, and the process of developing a Local Nature Recovery Strategy will include community engagement and consultation. Both these work-strands, as well as further council work promoting biodiversity will support education around biodiversity.
Regeneration plans for the Three Corner Copse, Hove, to include plans for protecting species that will migrate from Toads Hole Valley.	There is currently no specific strategy for the regeneration of Three Cornered Copse. It is noted that this site is a Local Wildlife Site and is proposed as a Local

	Green Space in City Plan Part Two. As a LWS, it is likely to form part of the Local Nature Recovery Network and Local Nature Recovery Strategy which will drive a more coordinated approach to nature recovery.
The council's declaration of Climate and Biodiversity emergency and the Carbon Neutral 2030 programme has been omitted.	The Climate and Biodiversity emergency and Carbon Neutral Programme is already referred to in Section 1.
Other comments on this section	
BOAs	
Clarification on process of identifying / including certain sites within BOAs required.	BOAs were identified in 2009 by the Sussex Biodiversity Partnership as areas where landscape-scale conservation of biodiversity could be targeted. This explanation has been added to the SPD.
The description of the BOAs provided in 4.32 directly contradicts the fact that a large section of the Benfield Valley has been allocated for 100 dwellings in City Plan Part 2. Clarity needs to be given as to whether development of a site within a BOA is appropriate. Will this area (Benfield Valley) remain a BOA and be afforded protection?	The allocation of two areas for some development in Benfield Valley is a matter that has been addressed through the preparation and examination of the City Plan Part Two. BOAs are not a formal statutory or local designation for planning purposes. City Plan Part Two policy SA7 Benfield Valley seeks to secure biodiversity conservation and enhancement, and positive management of wildlife habitats, and recognises the role of development in facilitating this.
Areas which are BOAs should fall under 'Avoidance' in the mitigation hierarchy: site allocations on Benfield Valley BOA should be removed from City Plan Part 2. Assurance sought that the whole of Benfield to Hangleton BOA is protected from any future development plans.	See response above.
Local Nature Recovery Strategy content and process	
Local Nature Recovery Strategy preparation will provide a positive opportunity. Council should work with local groups to maximise opportunities to create improved biodiversity within BOAS.	The preparation of the Local Nature Recovery Strategy will involve community consultation and engagement. This will be carried out by the "Responsible Authority" for a certain area which will be identified by the government. These are likely to be upper tier authorities.
SPD and Local Nature Recovery Strategy should build connectivity between important habitat sites and green spaces. Maps in Figures 3 and 4 illustrate how disparate and unconnected the sites are.	The role and purpose of the SPD is to provide guidance to planning applicants and planning officers. An SPD cannot set a strategy, e.g. how to build ecological connectivity but does acknowledge the importance of this. The Local Nature Recovery Strategy and future local Nature Recovery Network will establish this strategy and part of this will focus on ecological connectivity.

Query how Benfield Valley will play its part in this LNRN if it has been interrupted by the building of 100 dwellings, cutting the space in two and creating further disparity in the connectivity of our local green spaces.	A significant portion (94%) of the Benfield Valley site area does not form part of any housing site allocation. As a LWS, it is likely to form part of the Local Nature Recovery Network.
Implementation of strategies	
Staff resource is needed to implement strategies. Money required to employ more staff for monitoring and scrutiny.	BHCC is aware that the requirements relating to BNG will have resource implications and is working with East Sussex authorities on how best to resource this work, including any requirements relating to application stage, monitoring and enforcement.

Section 5 Principles and Matters	
Comments on the Mitigation Hierarchy	
Assurance sought that Benfield Hill LNR falls into the "Avoidance" category of the mitigation hierarchy and therefore any planning application for development would be refused.	The mitigation hierarchy applies to all development regardless of where it is situated and seeks to avoid significant harm in the first instance. However, the LNR status would be a material consideration in the determination of any planning application, which would be undertaken by the South Downs National Park Authority for any planning application on this site.
Do you agree that Section 5.2: Biodiversity Net Gain accurately and adequately describes Biodiversity Net Gain?	
11 respondents answered this question of which: • 1 strongly agreed • 8 tended to agree • 2 neither agreed nor disagreed	Support noted.
Changes suggested	
Successful delivery of BNG requires education and empowerment of people.	A key objective of The Living Coast is to promote environmental awareness, knowledge and learning, and the process of developing a Local Nature Recovery Strategy will include community engagement and consultation. Both these work-strands, as well as further work carried out by the council on promotion of biodiversity, including for example the environmental education programme with schools, will support education around biodiversity and BNG.
Section should be updated with further information as a more defined approach to measurable BNG is achieved locally.	Prior to adoption, the SPD will be checked thoroughly against any emerging guidance in relation to BNG, including the recent Defra consultation document.

	As far as possible, the SPD will be written flexibly to accommodate any outstanding uncertainties in relation to BNG. However, the council may need to produce further detailed technical guidance on BNG to supplement the SPD, once the secondary legislation has been produced.
Do you agree with the approach of ideally providing BNG on-site, followed by off-site provision when it can't be achieved on-site?	
11 respondents answered this question of which: • 5 strongly agreed • 5 tended to agree • 1 tended to disagree	Support noted.
Comments on this approach	
Concerns regarding off-site BNG	
Clarity required requiring off-site provision. Provision of off-site BNG seems like a get-out clause for developers and doesn't equate to leaving sites in a better state.	The ability to provide off-site BNG is set out in the Environment Act in recognition that not all sites will be able to provide sufficient BNG on site. The government has recently consulted on the approach to BNG, including off-site provision and this will inform secondary legislation which is to follow. It is clear from the government's consultation document that the government expects BNG to be delivered on-site in the first instance to ensure BNG is consistent with the mitigation hierarchy and spatial hierarchy where impacts on mitigated on site. Delivering BNG off-site, particularly where this improves sites which are part of a wider ecological network, will still be beneficial for biodiversity and should not be considered as a "get out" clause.
Off-site BNG should not be the norm. Off-site BNG should only be considered where there are fully justified and exceptional reasons confirming that on-site BNG is not possible, or only partly possible, and that a better biodiversity/nature conservation outcome will be achieved by off-site.	Secondary legislation anticipated for later 2022 will set out more detail regarding the process in relation to BNG. However, it is understood that applicants will need to submit a BNG Plan with their application which will include consideration of on-site opportunities for delivering BNG. These will be verified by the council's ecological advisor as part of the planning application determination process. Delivering BNG off-site, particularly where this improves sites which are part of a wider ecological network, will still be beneficial for biodiversity.
SPD should clarify that off-site BNG should be an alternative to on-site BNG, rather than subsidy for on-site destruction.	BNG does not replace or undermine the mitigation hierarchy, therefore any onsite or offsite BNG secured must be for measurable gains; it cannot be used

	to mitigate or compensate any onsite losses. This is set out in section 5.2 of the SPD. The way in which off-site BNG can be provided and will be regulated will be set out in secondary legislation anticipated later for 2022.
Support for off-site BNG	
Draft Horsham District Nature Recovery Strategy published by Horsham District Council. SPD could reflect the need to take any opportunity to further connections and wildlife networks that are identified both within and beyond council's boundaries.	Comment noted and supported. An amendment has been incorporated to the text to refer to the potential for off-site opportunities being within a Sussex NRN.
BNG presents an opportunity to improve and enhance biodiversity within the urban realm, however offsite BNG provides opportunity to improve key local sites, such as landscape scale restoration opportunities, chalk grassland, coastal & marine restoration.	The SPD refers to off-site provision having regard to any emerging Local Nature Recovery Strategy. This should ensure that off-site BNG does invest in these landscape scale projects and contributes to the recovery of nature on a regional scale. An amendment has been incorporated to the text to refer to the potential for off-site opportunities being within a Sussex NRN.
Proportion of BNG sought	
10% BNG not considered sufficient to reverse biodiversity loss. The Living Coast is supportive of the wider regional ambition to aim for higher than 10% (e.g. minimum 20%) via planning policy and is working in partnership to both identify the required evidence base to support this as well as the percentage BNG needed locally.	Proposed Modifications to City Plan Part 2 policy DM37 Green Infrastructure and Nature Conservation proposes the addition of text which recognises the regional ambition to achieve 20% BNG. The council is committed to working with the Sussex Local Nature Partnership with regards to bringing forward evidence that would support a higher than 10% target. The review of City Plan Part 1 will provide the mechanism to require a higher than 10% target through policy if this can be supported by evidence.
Monitoring BNG	
Both on and offsite opportunities have value and the balance between the two in terms of what is being delivered will need to be monitored and managed.	Comment noted. The management and monitoring of on and offsite provision will be a requirement of the Environment Act. This ongoing monitoring should enable the benefits of onsite vs offsite to be better understood in the longer term.
Developers must be serious about achieving on-site BNG. Developers must be held to account when commitments are not delivered. BNG must be monitored.	The way in which BNG will be monitored will be set out in secondary legislation anticipated later in 2022 therefore details are currently unknown. However, there will be a legal obligation for developers to manage and maintain BNG for a period of at least 30 years and this will include reporting to the LPA to allow monitoring to take place.
Does Section 5.3: Local biodiversity matters includes all relevant local matters?	

11 respondents answered this question of which: • 5 answered yes • 4 answered no • 2 answered don't know/not sure	Some support for this section noted.
Additional matters suggested	
Other European Protected species: Section on Great Crested News should be expanded to include a paragraph on other European Protected Species e.g. Hazel Dormice, which has the same legal protection.	Comment noted. Key Biodiversity Matter 7 amended to reflect Species Conservation Strategies of relevance locally. These will be brought forward through the Environment Act and will encompass a range of species at greatest risk. The SPD may need to be amended in future as and when further information on these is known.
Prevention of paving over front gardens: Paving over of driveways/ front gardens damaging in terms of water retention and biodiversity. Planning system should disincentivise this practice.	Comments noted as addressed above. However, this not considered to be a key biodiversity matter which this section of the SPD focusses on. Some householders benefit from permitted development rights relating to the paving over of front gardens where certain criteria are met; this is therefore out of the scope of planning policy and guidance.
5G masts: High 5G masts create a physical change and potentially impact wildlife through environmental change. This should be recognised particularly in relation to any new evidence around the impacts of this new technology.	This is not considered to be a key biodiversity matter which this section of the SPD focusses on. Some telecom masts benefit from permitted development rights and are subject to prior approval. Planning considerations relating to prior approvals are limited to those outlined in Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The LPA is not able to consider any other matters in relation to prior approvals. Where a telecom mast falls outside the scope of permitted development rights, e.g. due to its height, then all planning matters will be considered.
Off-site mitigation: In relation to off-site mitigation, e.g. species translocation, what measures will be in place for ensuring species are thriving and who is accountable for this?	The issue of mitigation is not considered to be a key biodiversity matter. Mitigation is addressed in section 7. Offsite mitigation would be secured through Section 106 legal agreement. This would be reported to the council. The developer would be held accountable for this.
Scrutiny of developers required – development should not be permitted unless thoroughly checked prior to and throughout development process.	This is not considered to be a key biodiversity matter. The planning application determination process involves scrutiny of proposals, including by the council's ecological advisor. Where relevant, planning

	conditions, including a Construction Environmental Management Plan would ensure any ecological matters are addressed throughout the construction process.
Include promotion of areas that can be reclaimed for biodiversity with local people, particularly where green spaces have been lost.	This is not considered to be a key biodiversity matter which this section of the SPD focusses on. The purpose of this section of the SPD is to provide guidance for planning applicants on biodiversity matters that need consideration during the entire planning process. The suggestion would not be a matter for consideration by a planning applicant.

Do you agree that each biodiversity matter is accurately and adequately described?	
1. Irreplaceable habitats	
11 respondents answered this question of which: • 3 strongly agreed • 6 tended to agree • 2 didn't know/weren't sure	Support noted.
2. Habitats Regulations	
11 respondents answered this question of which: • 3 strongly agreed • 6 tended to agree • 2 didn't know/weren't sure	Support noted.
3. Recreational pressure on designated sites	
11 respondents answered this question of which: • 3 strongly agreed • 6 tended to agree • 2 didn't know/weren't sure	Support noted.
4. Priority habitats	
11 respondents answered this question of which: • 3 strongly agreed • 6 tended to agree • 2 didn't know/weren't sure	Support noted.
5. Marine environment	

11 respondents answered this question of which: • 3 strongly agreed • 5 tended to agree • 1 neither agreed nor disagreed • 2 didn't know/weren't sure	Support noted.
6. Wildlife sensitive lighting	
11 respondents answered this question of which: • 4 strongly agreed • 5 tended to agree • 2 tended to disagree	Support noted.
7. Great Crested Nest District Licensing	
11 respondents answered this question of which: • 4 strongly agreed • 4 tended to agree • 2 strongly disagreed • 1 didn't know/wasn't sure	Support noted.
Changes suggested to Biodiversity Matters section	
Matter 1 Irreplaceable Habitats	
Benfield Hill considered to be an Irreplaceable Habitat. Confirmation required on this interpretation and that no planning application for development will ever be approved.	Habitats within Benfield Hill are not considered to be irreplaceable habitats under current definition provided by the NPPF. In recent BNG consultation, the government has proposed to produce a list of irreplaceable habitats. The Benfield Hill LNR is situated entirely within the South Downs National Park. Any planning decisions for this site would therefore be undertaken by the SDNPA.
Matter 5 - Conservation of the marine environment	
Marina inner lagoon is an active recreational and business area. Any restrictions need to have consideration of operational needs of boatyard business required. Outer tidal area has suffered from extensive silting, which seems to have been affected by recent building resulting in reduced marine access and many boats aground. Dredging not being carried out quickly enough. Restrictions need to take this into account.	The purpose of Biodiversity Matter 5 is to highlight the biodiversity issues that need to be considered in relation to the marine environment. Any existing ongoing requirements relating to the use of the inner harbour for recreational and business purposes would have been assessed during the determination of any previous planning applications relevant to the area. Consultation on any future planning applications affecting this area will provide the opportunity for these issues to be raised and scrutinised, where relevant.

Licences need to be readily available for dredged mud disposal at sea.	Licencing for dredged mud disposal falls outside the scope of this SPD.
Matter 6 Wildlife sensitive lighting	
Insufficient detail, advice and guidance provided in this section for the wildlife mentioned e.g. Dormouse.	The section on Wildlife Sensitive Lighting includes a link to guidance produced by the Institute of Lighting Professionals which sets out the process of mitigating lighting impacts for bats, which is also applicable to other species.
Matter 7 Great Crested Newt Licensing Scheme	
The map does not show roads and/or major city features/locations. Query how stakeholders will know whether development will be impacted by GCN.	Map provided for illustrative purposes only. Further details, including maps shown at larger scale, are available on the NatureSpace website, hyperlinked from the SPD.

Section 6 Integrating Biodiversity into Development	
Are the good practice examples helpful or unhelpful?	
11 respondents answered these questions of which: • 6 found all the good practice examples extremely helpful • 5 found all the good practice examples helpful	Support noted.
Changes suggested	
Photographs	
Photograph of the biodiverse roof on Velo Café is disingenuous and does not reflect its current state. Consideration for provision of ongoing maintenance required.	Although this issue is recognised, the photograph is considered helpful in showing an example of a green roof. However, the importance of maintenance is recognised and planning conditions are used to secure maintenance. A new paragraph highlighting the importance of maintenance has been added to this section. Any features providing mandatory BNG will be required to be maintained and managed for a period of at least 30 years.
Photograph of chalk grassland at Swanborough Drive is allocated for housing in CPP2. Concerned that BHCC were unaware Whitehawk Hill was LNR when allocated in CPP2, despite local community raising this an issue. Improved communication within BHCC and between BHCC and local organisations required.	This error is noted and the photograph deleted. The role of the SPD is to provide guidance to help ensure positive and improved outcomes for biodiversity where development takes place. Concerns regarding Whitehawk Hill are noted and these matters have been addressed through the examination of the City Plan Part Two. The production of the Local Nature Recovery Strategy will provide further opportunities for partnership working.
Maintenance / management	

The need for planning long-term management of new features required throughout.	A new paragraph highlighting the importance of management and maintenance has been added to this section and will reflect the requirement to manage mandatory BNG for a period of at least 30 years.
Plant species	
Emphasise use of native species or local provenance from suppliers such as the WildFlower Conservation Society or other reputable sources such as Emorsgate and the Millennium Seed Bank.	Comment noted. Additional references to encourage the use of native species of local provenance have been added, in addition to further cross-references to Annex 7. The council cannot specify the use of certain suppliers.
Use of SuDS	
Use of SuDS supported. Choice and design of SuDS must not cause adverse impact to the Brighton Chalk Block Aquifer. SPD should specify that only specific types of SuDS will be appropriate in some locations.	A reference to the need for SuDS to be appropriate to the location has been added to section 6.7, to ensure they do not have an adverse impact on groundwater quality.
Comments of support	
All examples are great ideas/solutions in an urban context and need to be implemented wherever possible.	Support noted.
Section is well-presented.	Support noted.
Other comments	
Measures need to take account of any hazards.	Annex 6 of the SPD includes a hazard prevention checklist.
Are there any other good practice examples that would be useful to include in Section 6?	
Butterfly Haven at Dorothy Stringer school	A case study on the Dorothy Stringer Butterfly Bank has been added.
Exclusion of gas central heating in new developments in favour of heat pumps and similar, more ecologically-sound means of heating houses.	This matter is not considered to be of relevance to this SPD.
Do you have any relevant local case studies that could be incorporated into Section 6?	
SPD would benefit from more local case studies of mitigation measures, including mitigation that has been carried out well and mitigation which has failed to deliver, with analysis of why this was the case to ensure errors are not repeated. Example of mitigation which was carried out well, involving local community expertise and given long term support is The Liz Williams Butterfly Haven, Dorothy Stringer.	Role of SPD is to set examples of good practice. Comments are noted and inclusion of local good practice examples supported. The Liz Williams Butterfly Haven, Dorothy Stringer has been added as a case study in section 6.

Example of mitigation which was carried out poorly would be translocation of reptiles to Whitehawk Hill and Mile Oak from land near Overdown Rise LWS, Mile Oak 2018	

Section 7 Step by Step Guide to Biodiversity and the Development Management Process	
Do you agree that this section clearly sets out the various stages of the process and identifies what information is required at each stage?	
11 respondents answered this question of which: • 2 strongly agreed • 7 tended to agree • 1 neither agreed nor disagreed • 1 didn't know/wasn't sure	Support noted.
Changes suggested	
Pre-application stage	
Important that the LPA provides service at all stages including pre application to avoid poor site choices.	A pre-application advice service is provided by BHCC; however it is not mandatory and is the applicant's choice whether they request it. The SPD emphasises the need to consider the mitigation hierarchy from site search stage and suggests that pre-application advice at this stage would be useful and is encouraged.
Heavy weight on requiring avoidance of damage to nature by developments must be required: not considered that this has been pursued in decision making.	The county ecologist is consulted on any relevant planning applications and ecological advice is provided and considered as part of the determination process, alongside other planning matters.
Ecological survey timing	
Clarity on when ecological surveys for proposals should be undertaken required; assurance that surveys will not be undertaken at inappropriate times of the year.	Annex 4 of the SPD provides full details on ecological survey seasons. A cross reference to this Annex is provided within the section on Ecological Impact Assessment. For an Ecological Impact Assessment to be in accordance with best practice standards, any ecological surveys would need to have been undertaken at the correct time of year. This is a requirement for relevant planning applications and would be checked during the determination of applications.
Connections with local expertise – site assessment and mitigation	
SPD should encourage and facilitate developers to make early connections with local community expertise including reviewing and carrying out site surveys and	Section 7 of the SPD incudes a section on choosing a consultant, and section A3 clearly states that an ECIA should be produced in accordance with best practice

assessment, planning and delivering mitigation, and long-term monitoring and management. A precedent for using local community expertise is the NatureSpace scheme, using Amphibian and Reptile Conservation and The Freshwater Habitats Trust's involvement and expertise to plan and carry out mitigation measures for GCN district licensing.	guidance, including ensuring ecologists are suitable for the role. It would not be appropriate for the SPD to suggest using local groups to carry out site survey and assessment. The role of local groups is acknowledged and are encouraged to submit records to the local Record Centre and this information is then used in the planning process. Local groups also have the opportunity to contribute to proposals during consultation on the planning application. The county ecologist is consulted on all relevant planning applicants which includes consideration of mitigation measures. Where mitigation measures are required, these would be secured by condition or legal agreement and would include a requirement to monitor.
Mitigation measures	
Include up to date information and reviews of latest research on value of mitigation measures. Recent studies show that commonly used mitigation measures such as translocations of reptiles and Badgers may have extremely limited success.	Comment noted. Any mitigation or compensation measures, such as translocation, are identified and delivered in accordance with best practice guidance. Section 7 Stage D has been amended to reflect this point.
BNG Assessment	
To ensure the SPD wording is consistent with the Defra Metric User Guide, the following amendment is suggested: "*For major developments, the latest version of the Defra Biodiversity Metric should be used as a tool to inform the assessment of demonstrating biodiversity value and measurable mandatory net gain.*"	Comment noted. Text amended as suggested.
Application and construction stages	
Developers not to be trusted. Each stage needs checking as well as after construction. Do not support the ability to mitigate or compensate: will be used as a get out clause.	The mitigation hierarchy is set out in the NPPF and allows impacts to be mitigated, where they cannot be avoided, or compensated as a last resort. Applications are scrutinised as part of the determination process to ensure the mitigation hierarchy has been appropriately followed.
Post Construction stage – management and monitoring	
Mitigation plans should be followed up with surveys to ensure any relocations of wildlife are thriving. SPD and final planning approval should include sanctions to be applied where mitigation, including translocation, fails.	Some mitigation measures would include monitoring of the effectiveness. This would be reported to the council. Secured by condition or legal agreement.
More detail required on management of sites.	The specific details of site management will vary on a site-by-site basis. The SPD is considered to provide an overview of the requirement for management and

	specifies that details will be secured through a Landscape and Ecological Management Plan.
Management of sites should include opportunities for community group involvement.	Community groups have the opportunity for involvement with site management where appropriate but this will depend on what has been agreed in the Landscape and Ecological Management Plan. However, it is recognised that there could be issues with community group involvement, such as long-term reliance on volunteers etc. British Standards also set out information with regards to suitability for management work. It is likely that any monitoring of mandatory BNG will be regulated. Further information on this is anticipated through secondary legislation.

Other questions

Comments	BHCC Response
Do you agree that the SPD sufficiently reflects the requirements of the Environment Act 2021?	
11 respondents answered this question of which: • 8 tended to agree • 1 neither agreed nor disagreed • 2 didn't know/weren't sure	Support noted.
Changes suggested	
Percentage BNG	
SPD should set out that the 10% Biodiversity Net Gain is a legal minimum. Where BNG is less than 15% developers must provide an explanation / justification. Meeting the minimum BNG requirements is not acceptable.	Section 5.2 and Section A5 has been updated to reflect that the mandatory requirement is to achieve a minimum 10% BNG. The SPD is a guidance document. To require developers to justify why they are providing less than 15% BNG would be a policy requirement and cannot be included within an SPD.
Need for further review	
The SPD will need amendment in future to reflect statutory targets in relation to biodiversity and decline in species abundance.	Statutory targets are currently unknown and are currently out for consultation by the government. The SPD will be written flexibly to accommodate this and it is recognised that further amendment or technical guidance may be required
SPD must be amended/reviewed in future to ensure emerging requirements of the Environment Act, including BNG, are incorporated into the SPD.	The SPD has been checked thoroughly against any emerging guidance in relation to BNG, including the recent Defra consultation document. The council may need to produce further detailed technical guidance on BNG as well as other requirements relating to the Environment Act to supplement the SPD, once the secondary legislation has been produced.
Future review of SPD to include up to date information on how development is affecting our city's natural capital.	The council will have various monitoring responsibilities through implementation of the Environment Act which will be set out in secondary legislation. This will include monitoring of BNG.
SPD may need further review to reflect BHCC position. BHCC has not established its position on the regional ambition of achieving a greater than 20% BNG, and the balance between on and offsite delivery of BNG in relation to	The potential to secure 20% BNG will be explored through evidence gathering undertaken as part of the preparation for a local nature recovery strategy and plan. This can then be reflected in further forthcoming plan reviews.

the overarching context of Nature Recovery Networks / Local Nature Recovery Strategies.	It is anticipated that work to progress the Local Nature Recovery Strategy will help develop the council's approach and position in relation to onsite and offsite BNG. The SPD has been checked to ensure it is written flexibly to accommodate any future position in relation to this.
Other suggestions	
User-friendly version of the Environment Act required to enable local people can see how it applies to our city and communities.	It is agreed that a user-friendly version of the Environment Act would be helpful, however this is outside the scope of this SPD and would be for the government to produce.

Is there anything else that you think should be included in the SPD?	
Glossary of definitions would be useful.	Further definitions provided
SPD should emphasise the 3 Tests that must be passed overriding public interest, no alternative, favourable conservation status) where a licence from Natural England is required before any building work can take place, for European Protected Species.	Comment noted. Further information added to the revised Biodiversity Matter on Species Conservation Strategies and Species Licenses.
Heat pumps or similar should be required in all new builds.	This matter is not within the scope of this SPD.
Sites situated within BOAs should be removed from all planning documents.	BOAs do not represent a formal planning designation. The site allocations proposed in City Plan Part 2 are not a matter for consideration in this SPD consultation. This issue has been addressed through previous consultations on CPP2 and is continuing through the CPP2 examination process.
SPD fails to provide a framework that would help achieve measurable BNG. Council should identify opportunities for delivery of off-site BNG.	The role and purpose of the SPD is to provide guidance to applicants on how to ensure biodiversity is considered at each stage of the planning process to ensure biodiversity is protected and enhanced and to provide guidance on how to achieve mandatory BNG. The introduction of mandatory BNG is measurable BNG. It is anticipated that the identification of sites for delivery of off-site BNG will come forward as part of the forthcoming Local Nature Recovery Strategy.
SPD does not develop practical opportunities for carbon sequestration across the city. E.g. large paved areas exist throughout the city that could be used for tree planting, providing carbon capture and having associated benefits. Opportunities exist to increase the "green network" through upgrading	This is beyond the scope and remit of the SPD which is to provide guidance for how specific planning policy requirements can be met through new development to ensure biodiversity is protected and enhances. Some of the ideas cited may be better addressed through other initiatives e.g. highways

ecological function of smaller underused sites. Council should identify which parts of the built-up areas could be re-dedicated to a more natural use.	improvements and local transport plan initiatives. Future climate change adaptation projects as part of the Carbon Neutral Programme work may also look at this.
Proposed policy (Hove Station Neighbourhood Plan) of one street tree per new dwelling provides link between carbon sequestration and BNG.	The proposed policy contained in the Submission Hove Station Neighbourhood Plan will be a matter considered as part of the examination for that plan. The content of the SPD is guided by regulations and cannot introduce new planning policies.
Southern Water need to be held to account for the spaces that it owns / manages. Areas owned by Southern Water in Hanover could be used for biodiversity gain; SW not open to suggestions.	Comment noted. This matter falls beyond the scope of this SPD.
SPD should consider the inter-relationship between conservation of heritage assets and historic landscape character and nature conservation and biodiversity where there are overlapping interests; e.g. Stanmer Park Registered Park and Garden where landscape restoration could have benefits to both biodiversity and heritage significance.	The multiple policy benefits from improving biodiversity are recognised in the SPD and through adopted and emerging local planning policies. A reference to the potential for landscape restoration to have benefits to both biodiversity and heritage has been added to section 6.1
Confirmation sought of how BHCC will ensure implementation of the SPD.	Indicators for SPD11 are reported annually in the AMR. These indicators will be reviewed to determine whether they are still relevant and suitable. It is likely that the Environment Act will set out specific requirements for monitoring. These requirements will be reflected in any future monitoring for the SPD.
The value of the SPD is in how it will be used. Useful to know whether any analysis has been carried out as to how the adopted SPD was utilised by developers, decision makers and elected members, whether there are examples of how it worked in practice, what enforcement of conditions relating to the SPD were undertaken and how could this be improved upon for the future. Interested to see examples of development in the city that has followed the mitigation hierarchy and delivered biodiversity enhancements in line with the previous version of the SPD, for reassurance that the SPD has been implemented.	Indicators for SPD11 are reported annually in the AMR. These indicators will be reviewed to determine whether they are still relevant and suitable. It is likely that the Environment Act will set out specific requirements for biodiversity monitoring. These requirements will be reflected in any future monitoring for the SPD.
Query whether the Urban Greening Factor is an approach being considered by BHCC	The SPD supports the delivery of CP10 and DM37, neither of which refer to the Urban Greening Factor but which do refer to the importance of incorporating green infrastructure within new development. The review of City Plan Part 1

	will provide the opportunity to consider other approaches such as the Urban Greening Factor.
Do you have any local images that could be used in the SPD?	
Images of "Blooming Hanover"	Comment noted and will be investigated where appropriate.
Any images available on The Living Coast website (www.thelivingcoast.org.uk/business-resources) as needed.	Comment noted and will be investigated where appropriate.

Annexes

Comments	**BHCC Response**
Annex 1 Legislation	
Annex 2 City Plan policies supported by SPD	
Annex 3 Priority habitats and species in Brighton & Hove	
Annex 4 Protected species and ecological survey seasons	
Annex 5 Biodiversity Checklist	
Annex 6 Biodiversity and Development Sites – Hazard Prevention	
Annex 8 Building with Nature	
17a.Is the information contained in the above Annexes helpful?	
11 respondents answered these questions of which: • 2 found the above Annexes extremely helpful • 7 found the above Annexes helpful • 2 didn't know/weren't sure	Support noted
Annex 7 Habitat Creation and Enhancement	
17a. Is the information contained in the Annex helpful?	
11 respondents answered this question of which: • 3 found it extremely helpful • 6 found it helpful • 2 didn't know/weren't sure	Support noted
Suggested changes	
No changes to any of the above Annexes were suggested by any respondents under this question although various comments were put forward regarding the Biodiversity Checklist, Annex 5, under a separate section.	

Annex 5 Biodiversity Checklist	
Do you agree that Annex 5 clearly sets out the validation requirements?	
11 respondents answered this question of which: • 1 strongly agreed • 5 tended to agree • 1 neither agreed nor disagreed • 3 strongly disagreed • 1 didn't know/wasn't sure	Some support noted.
Suggested changes	
A typical householder would struggle with this checklist. Further explanations and definitions required e.g. what a European protected species is, what a woodland designated nature site is (and where they are).	Comments noted. Householder Checklist has been reviewed and amended. Some further clarification has been provided, including links back to the relevant sections of the SPD, and further clarification on when survey is required. .
In Q7 there is a benefit in not asking whether the applicant is aware of protected species. Instead, ask if there is any record or sign of protected species. Developer unlikely to give positive answer to subjective question.	This question has been deleted from the checklist to reduce the risk of subjective response.
Do you agree that a biodiversity checklist should be a validation requirement for relevant applications, including householder applications?	
11 respondents answered this question of which: • 8 strongly agreed • 1 tended to agree • 2 neither agreed nor disagreed	Support for this requirement noted.
Justification:	
Strongly agree:	
Loss of green space and gardens for building works is resulting in reduced air quality and destruction of local area.	Comment noted.
People need to be aware of species which might be affected by their proposal.	Comment noted
All need to consider the impacts on biodiversity	Comment noted
Ecology and the environment should be protected as a priority in all developments.	Comment noted

Will ensure best practice is being adhered to, although the review of such documentation would be necessary.	Comment noted. The documents submitted will be reviewed by the case officer responsible for determining the planning application which could also include further advice from an ecological advisor where necessary/relevant.
Biodiversity is our life support system and should be considered as an integral part of the design process for all applications, regardless of size, scale or national importance. Supports council's declaration of biodiversity emergency.	Comment noted. The importance of biodiversity is reflected in the citywide Urban Design Framework SPD17.
Helps to demonstrate applicant's efforts but query why not required for permitted development?	The checklist is only applicable to applicants who must submit a planning application. Some types of development, e.g. householder extensions that meet certain criteria, are permitted development meaning they can go ahead without any application to the Local Planning Authority. It would therefore be unreasonable to request a checklist when no planning application is made.
Tend to agree	
Will help people to think things through.	Comment noted
Neither agree nor disagree	
Checklist not considered to be of value for a typical existing residential building but will be of value for a new build or a redevelopment of a brownfield site.	Comment noted. It is welcomed that checklist is considered of value for a new build or redevelopment. The checklist has been reviewed to clarify further details, including when survey is required.

Other General Comments

Comments	BHCC Response
GENERAL COMMENTS OF SUPPORT, CAVEATED WITH FURTHER COMMENTS BY RESPONDENTS, AS SUMMARISED ABOVE	
Excellent draft dealing well with the broad range of areas that need protection and enhancement already identified and being looked after across the city.	Support noted.
SPD contains good checklists for on-site requirements by developers	Support noted.
Production of SPD supported to "ensure development protects, conserves and enhances biodiversity, including providing gains for biodiversity." The key to its success in delivering these outcomes for biodiversity will be in ensuring that it is implemented effectively.	Support noted.

Pro-active approach to biodiversity and nature conservation and the guidance provided in the SPD supported.	Support noted.
Encouraged to see BHCC taking active steps to ensure developers deliver biodiversity as part of the planning process.	Support noted
OTHER GENERAL COMMENTS / ISSUES	
SPD should require an impact assessment on people's wellbeing in areas affected by changes.	Health Impact Assessment (HIA) is not within the scope of this SPD. Some developments are required to undertake a HIA, however this is mainly strategic or larger developments.
SPD not considered effective in current format. Layout should ensure users do not feel overwhelmed/lost in the initial detail but understand the purpose of the document and the required steps they need to take. The information in section 7, especially Figure 6 and Table 3 should feature more prominently at an early stage in the document and provide links through to some of the more detailed information that is presented elsewhere.	BHCC SPDs are prepared to a certain format and it is considered important to provide the local context and policy basis first particularly as SPDs are required to hang from adopted policy. The introduction to the SPD clarifies the role of the SPD and its purpose. The overview has been reviewed and a table added to provide signposting to certain sections of the SPD.
Query how developers will be held to account given this is a guidance document.	The SPD is guidance but has the status of a material planning consideration in the decision-making process and the guidance is directly relevant to the ability or otherwise to meet planning policy requirements. Some of requirements explained in the SPD will become mandatory, e.g. the achievement of BNG and all of the requirements in relation to the stages of the planning process, in particular, those relating to the process of ecological assessment which need to be in accordance with best practice and British Standards. As a material planning consideration, the SPD will be afforded weight in planning decisions.
The introduction during the on-line public consultation sessions acknowledged that this document is advisory and sits below many layers of council policy and procedure in terms of influence over decision making. Clarification sought as to what extent the council is reviewing policy and procedure in light of the biodiversity and climate emergencies.	The role of the SPD is to provide guidance on how to meet the planning policy requirements as set out in statutory local plans e.g. adopted City Plan Part One and emerging City Plan Part Two. The SPD clearly acknowledges the biodiversity and climate emergencies. A further review of the City Plan Part One will also take place and will take into account any further changes to national policy, local priorities and other

	circumstances. The timetable for the review is set out in the Local Development Scheme.
Concerned by the identification of LWS and LNRFs as areas suitable for development. CPP2 failed to protect these sites. Criticism of the use Urban Fringe Assessments to base decision making upon and a lack of internal expertise to impartially assess sites. The review of urban fringe assessments, utilising local expertise to properly assess value of remaining sites ahead of further City Plans and review of development strategy and process in light of the biodiversity emergency suggested. No evidence of any changes in BHCC policy which will lead to anything other than a continuation of degradation and loss. City's natural resources being undervalued in current decision making.	These are matters which have been addressed and scrutinised through the preparation and examination of the City Plan Part Two. Policies in the City Plan Part Two e.g. DM37 clearly set out requirements for any development likely to impact on designated sites. The role of this SPD is to provide guidance on how policy requirements can be implemented.
Recent developments such as Circus Street/AMEX areas have not been scrutinised: they are not environmentally friendly and contain no green infrastructure.	Comments noted. These developments will have been scrutinised through the planning application determination process.
Sufficiently large workforce required to ensure rules are monitored.	BHCC is aware that the requirements relating to BNG will have resource implications and is working with East Sussex authorities on how best to resource this work, including any requirements relating to monitoring and enforcement.

Brighton & Hove City Council

Tourism, Equalities, Communities and Culture Committee

Agenda Item 11

Subject: **Brunswick Town Conservation Area Character Statement**

Date of meeting: **16 June 2022**

Report of: **Director of Economy, Environment and Culture**

Contact Officer: **Name: Tim Jefferies**
Tel: 01273 293152
Email: tim.jefferies@brighton-hove.gov.uk

Ward(s) affected: **Brunswick and Adelaide**

For general release

1. Purpose of the report and policy context

1.1 The report summarises the response to public consultation on the draft Brunswick Town Conservation Area Character Statement and seeks approval to publish the final document. The Character Statement seeks to define the 'special architectural or historic interest' of the area and so helps to inform future planning decisions in the area; it forms a sound basis for the area's future management. This is consistent with the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), the National Planning Policy Framework (NPPF), City Plan Part One and the Conservation Strategy (2015), as set out further below

2. Recommendations

2.1 That Committee agrees publication of the Brunswick Town Conservation Area Character Statement (Appendix 1)

3. Context and background information

3.1 Brunswick Town Conservation Area encompasses the fine late Regency period and early Victorian planned estates of Brunswick Town (1824-1834) and Adelaide Crescent / Palmeira Square (1830-1860). These planned estates are flanked to the south by the open seafront and Hove Lawns and to the north by the commercial thoroughfare of Western Road, with parallel streets of 19th century residential terraces beyond. The conservation area was designated in 1969 and extended in 1977. It covers almost 39 hectares.

3.2 The existing Conservation Area Character Statement is a very brief document that dates from the early 1990s.The council's Conservation Strategy (2015) identified Brunswick Town as the priority Character Statement for review.

3.3 The Act (s69) places a statutory duty on local planning authorities (LPAs) to determine which parts of their area should be designated as conservation areas, and to review these areas from time to time. It also states (s71) that

an LPA should from time to time formulate and publish proposals for the preservation and enhancement of a conservation area. Whilst there is no statutory requirement to prepare conservation area character statements, local authorities are encouraged by the NPPF to identify and assess an area's significance.

3.4 A good understanding of what makes a conservation area special is key to its continued conservation; it gives justification and credence to the designation. An up-to-date character statement is important for making robust and enforceable planning decisions and is a material consideration in determining a planning application and in the event of an appeal.

4. Analysis and consideration of alternative options

4.1 There is an option to continue with the existing Character Statement in place, but this document is very brief and is not up-to-date so would carry very limited weight. This option would not be good practice and would risk the council failing its statutory duty under section 69 of the Act.

5. Community engagement and consultation

5.1 Early, informal engagement with ward councillors, local amenity and residents' groups in the area as well as some local businesses took place from early December 2021 to early January 2022 through the appointed consultants. The feedback to that engagement helped to inform a draft Character Statement. Internal consultation on the draft document with other relevant council services was carried out in March 2022.

5.2 A formal consultation on the draft Character Statement was then undertaken for 5 weeks from 30 March to 4 May 2022. This included a series of questions via the council's consultation portal as well as direct e-mails to all local amenity and residents' groups and those local businesses engaged at the previous stage, as well as to ward councillors, and information on the council's website. Thirteen responses were received from individuals via the consultation portal and four from local groups or organisations. A summary of responses received and how these have been addressed in the final document is included at Appendix 2.

5.3 The comments received were largely positive and the document was complimented by the Conservation Advisory Group (CAG), the Brunswick Town Association and Hove Civic Society. A strong majority of respondents agreed that the draft character statement accurately captured the special character and appearance of the conservation area and that the division into four 'character areas' is appropriate. No changes to the boundary were suggested. Some critical comments were received from the Regency Town House and additions have been made in response to those comments where appropriate.

5.4 A number of comments were received in respect of section 6 of the document, which relates to future management of the area and which sets out a number of key opportunities, issues and vulnerabilities. These comments predominantly express concern about the maintenance and upkeep of the public realm and open spaces and particularly Hove Lawns

and the seafront. Some of the comments lie beyond the scope of this document, but where appropriate amendments have been made to this section, including the action plan at Table 6.1.

6. Conclusion

6.1 Conservation area review provides an important mechanism through which to protect and manage historic areas. This is recognised in legislation and through national and local planning policy. The Brunswick Town Conservation Area Character Statement will inform the planning process and future management of the area, with support from the local community.

6.2 The boundaries of the conservation area were reviewed as part of this work but no changes to the boundaries are recommended.

7. Financial implications

7.1 The cost of commissioning and producing the Brunswick Town Conservation Area Character Statement was funded from the existing Policy, Projects and Heritage team budget within the City Development and Regeneration service. Staff resources to oversee the document and undertake the consultation were again funded from the team's revenue budget.

Jill Scarfield: Date consulted (1/6/22):

8. Legal implications

8.1 The council has a duty under section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to review its conservation areas, from time to time, to determine whether any parts or further parts should be designated as conservation areas. The Conservation Area Character Statement provides a mechanism through which to review the area and to define its special interest. There is no statutory requirement for public consultation prior to designation / review but this is considered best practice.

Hilary Woodward Date consulted 19/05/22:

9. Equalities implications

9.1 The Conservation Area Character Statement will support policy DM 26 of the Submission City Plan Part Two once it has been adopted. A Health and Equalities Impact Assessment (HEQIA) has been carried out on the draft City Plan Part 2 and the Main Modifications

10. Sustainability implications

10.1 An active approach to conserving and enhancing the conservation area will help the small 'high street' local businesses in Western Road Hove to thrive.

Supporting Documentation

1. Appendices [delete if not applicable]

1. Brunswick Town Conservation Area Character Statement
2. Summary of Consultation Responses

2. Background documents

1. Strategy for Conserving Brighton & Hove's Historic Built Environment (the Conservation Strategy) (2015)



Brighton & Hove City Council

Brunswick Town Conservation Area

Character Statement

32630

MAY 2022

Brighton & Hove City Council

RSK

RSK GENERAL NOTES

Project No.: 32630

Title: Brunswick Town Conservation Area Character Statement

Client: Brighton & Hove City Council

Date: 31 May 2022

Office: Tonbridge

Status: Final

Author(s)	Laurence Hayes, Sebastian West & David Walker	**Technical reviewer**	Andy Towle
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Date:	31/05/22	Date:	31/05/22
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Date:	31/05/22		

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Where field investigations have been carried out, these have been restricted to a level of detail required to achieve the stated objectives of the work.

This work has been undertaken in accordance with the quality management system of Stephenson Halliday Ltd and Headland Archaeology UK Ltd.

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ACKNOWLEDGEMENTS

This conservation area character statement has been prepared by RSK Group companies Headland Archaeology (UK) Ltd and Stephenson Halliday Ltd, on behalf of Brighton & Hove City Council. The staff involved in the preparation of the report were Laurence Hayes (report text, graphics), Sebastian West (report text and review), David Walker (consultation, field visits and photography) and Dr Andy Towle (technical review).

RSK is grateful for the assistance of the officers of Brighton & Hove City Council in the preparation of the assessment. Consultation was undertaken with professional and community stakeholders as the study progressed, and their contribution is gratefully acknowledged.

1 STATEMENT OF SPECIAL INTEREST

Background

Brunswick Town Conservation Area encompasses the fine late Regency period Brunswick Town development, largely built over a ten-year period between 1824 and 1834, and the early Victorian planned estate of Adelaide Crescent and Palmeira Square, erected between 1830 and 1860. These two developments are flanked to the south by Hove Lawns and the sea, and to the north by the commercial thoroughfare of Western Road, with parallel streets of Victorian and 20th century residential terraces beyond which extend to Lansdowne Road in the north.

Conceived as a fully self-contained and prestigious new town to the west of Brighton, Brunswick Town was a speculative development initiated by the partnership of architect Charles Augustin Busby and the Reverend Thomas Scutt, owner of the Wick Farm estate in Hove. Employing an elegant neo-classical style, the most desirable housing was built along Brunswick Terrace, where the houses faced south and offered views across a wide promenade to the sea beyond, and around Brunswick Square, where mostly bow fronted properties offered the spectacle of a large formal garden coupled with the promenade and sea views to the south. The town's design included surrounding terraces of smaller, less prestigious housing on parallel streets, as well as a chapel, hotel and public baths. Service roads included mews, a market hall and public houses. Western Road at its northern boundary and Market Street to the south were designed to offer shop premises. As early development was progressed, Scutt released plots of land for development to the north of Brunswick Square and Western Road, the small number of terraced properties initially built in this location were later extended to form the north part of Brunswick Place as it is seen today.

The remainder of the Wick estate was sold to Sir Isaac Lyon Goldsmid in 1830, who employed architect Decimus Burton to design Adelaide Crescent, a Regency-style set piece of sweeping residential terraces on land to the west of Brunswick Town. The crescent, only part-built in the early 1830s, was completed to a modified design between 1850 and 1865, incorporating the Italianate Palmeira Square at its northern end. Both of these developments included central gardens, and an area of landscaped grounds to the north now known as the Floral Clock.

In the years following 1850, Isaac Goldsmid released plots of land for development to the north of Western Road. Here, parallel streets of residential terraces were built, some in the Regency-style referencing the principal developments to the south, together with Victorian Italianate terraces. Alongside these, less prestigious housing and courtyards of mews properties were introduced. During the late 19th and early 20th centuries a wider variety of architectural styles came to be employed as street development progressed.

Statement of Special Interest

Brunswick Town has been described as one of the finest examples of Regency (or late Georgian) architectural styling and integrated urban planning in the United Kingdom, designed and built as a fully self-contained new town in the parish of Hove. Along with Kemp Town to the east of Brighton it is also regarded as one of the foremost achievements of the Regency architect Charles Augustin Busby. Adelaide Crescent and Palmeira Square, built to the west of Brunswick Town, represent an interesting transition between the late Regency designs of Decimus Burton and the increasingly fashionable Italianate style of the early Victorian period.

The conservation area as a whole contains over 550 individual listed properties, including over 100 listed at Grade I and 40 at Grade II*. The area includes notable buildings by other key architects of the late

Regency and early Victorian period, including the early Italianate Church of St Andrew designed by Sir Charles Barry.

The relationship between the formal landscaping and open space of the squares and sea front, the formal architecture of the terraces and the legibility of the town's original spatial planning all contribute to the special interest of the area.

Specific characteristics which contribute positively to the conservation area's character and appearance can be summarised as follows:

- Brunswick Town was completed almost entirely as first conceived by C A Busby. His street layout and buildings survive largely intact, providing clear legibility of the functional zoning and architectural ambitions of its designer.
- Throughout the conservation area there is a broad consistency in scale, with terraces forming rhythmic and ordered compositions of similar, or deliberately stepped, height.
- Individual terraces and streets are largely consistent in architectural style, with consistent use of materials and detailing. Painted stuccoed facades over brick and bungaroosh, with iron balustraded balconies at first floor level, are ubiquitous throughout the area. Boundaries are dominated by iron perimeter railings or low stub walls, with front gardens being relatively rare. Windows are generally of the timber sliding sash variety in various configurations, and roofs slate covered. Original stone entrance steps survive to the larger terraces, though many were tiled in later periods. The tall bow-fronted terraces of Brunswick Town are replicated in later Victorian terraces to the north, alongside canted bay variations in the secondary and later streets.
- The rear elevations of the taller terraces are frequently visible from adjacent streets, with exposed brick, bungaroosh and render predominating, alongside ad hoc arrangements of rainwater goods and later introduced external fire escapes.
- The Hove Borough Council Act 1976 and a number of Article 4 directions are in place for the repainting, boundary management and control of change within the majority of the conservation area, lending the individual streets and terraces a strong uniformity and sense of place. However, it is notable that the cream and black colour scheme adopted in the first half of the 20th century for Brunswick Square and Terrace, which is a distinctive feature of the conservation area's current character and appearance, differs from the original earth-toned colour palette intended by C A Busby.
- The landscaped spaces of Brunswick Square Gardens, Adelaide Crescent Gardens, Palmeira Square Gardens, the Hove Lawns and Floral Clock, and the open vista of the sea to the south, form part of the essential setting of the principal terraces and provide a sense of tranquillity and openness within the otherwise dense configuration of residential and commercial streets behind. The open spaces permit important views of the surrounding architecture and seascape. Street trees and temporary planters in a number of north-south aligned streets also contribute to the ambience.
- Landmark buildings form important focal points in views throughout the conservation area, including the grand palace-style facades and formal terraces at the seafront, places of worship and elaborate Victorian commercial and residential buildings in and around Western Road.
- The service streets and mews present a marked change in scale, ambience and architecture, with two storey buildings and a range of vernacular styles and materials used. In Brunswick Town in particular, the relationship between these more intimate spaces and the surrounding streets is

important to the appreciation of the intended functional zoning of the town, and is at risk of erosion through inappropriate alteration, infill development and lack of maintenance.

- The later 19th and early 20th century streets in the north-west of the conservation area include more frequent used of red brick, and varied architectural styles, with a decrease in the density of development on Holland Road and Rochester Gardens.
- Today, Western Road stands in marked contrast to the prevailing residential character and is a busy commercial street and through route for traffic. A number of early and interesting shop fronts survive, however modern inserted shop fronts dominate, alongside a number of modern apartment and office blocks of low architectural quality.

2 INTRODUCTION

Brunswick Town Conservation Area covers an area of 38.8 ha (388,198 m^2) and is located at the eastern limit of Hove, on the border with Brighton. Established on former agricultural and industrial land of the Wick Estate, the area includes C A Busby's Brunswick Town, an early 19th century 'new town' development erected largely between 1824 and 1834, and the early Victorian planned estate of Adelaide Crescent and Palmeira Square to the west, erected between 1830 and 1860. To the south the conservation area is flanked by Hove Lawns and the English Channel, and to the north by the commercial thoroughfare of Western Road, beyond which lie further Victorian and 20th century residential terraces.

This Conservation Area Character Statement has been prepared by Stephenson Halliday Ltd and Headland Archaeology, both part of the RSK Group, on behalf of Brighton and Hove City Council. The purpose of the statement is to define the special interest of the conservation area, describing its history, character, appearance and significance, and presents proposals for its management and enhancement through the planning process.

The assessment presented in this Character Statement has been informed by desk-based research and site survey, alongside public consultation undertaken between November 2021 and May 2022. It seeks to fully define elements that contribute or detract from the area's character and inform the formulation of management proposals.

This statement provides context for the policies contained in the adopted Development Plan, as well as forming an evidence base for emerging and future Development Plans.

The purpose and implications of conservation area designation

Brunswick Town was first designated as a conservation area in 1969 and subsequently extended in 1978. Designation as a conservation area recognises a place's '*special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance*'.[1] This designation therefore places controls on new development, demolition and the way in which owners can alter or develop their properties, where such development might adversely affect the area's character or appearance. It is a material consideration in the planning process.

The designation also supports additional controls which enable the withdrawal of specified permitted development rights under the General Permitted Development Order (Article 4 Directions). There are five Article 4 directions applicable to Brunswick Town as discussed later in this document (see also Drawing 4).

[1] Planning (Listed Buildings and Conservation Areas) Act 1990 Part II Section 69

3 BRUNSWICK TOWN CONSERVATION AREA

Location and Context

Brunswick Town is located in the south-east corner of the coastal parish of Hove, centred on NGR 529657, 104464 (Figure 1 and Drawing 1, Appendix A). The eastern boundary of the conservation area is defined by the historic parish boundary between Hove and Brighton, in part preserved by Boundary Passage and Little Western Street. The northern boundary follows the alignment of Lansdowne Road, at its western end turning southwards along Rochester Gardens before bisecting the residential streets of Palmeira Avenue, Salisbury Road and terminating at Selbourne Road. The western boundary is defined by Selbourne Road/First Avenue in the north-west, before continuing southwards to the rear of properties on St John's Road. The southern boundary adjoins the beach and seafront. Overall the conservation area is 653m wide at the seafront and extends a maximum of 614m northwards.

The conservation area is spanned by two east-west aligned thoroughfares. The A259 Kingsway extends along the seafront, flanked by the open space of Hove Lawns and the pedestrian promenade to the south. Western Road bisects the centre of the conservation area and is commercial in character. Between Kingsway and Western Road, within the southern half of the conservation area, are the early-mid 19th century planned residential estates of Brunswick Town, Adelaide Crescent and Palmeira Square. To the north of Western Road are north-south aligned streets of residential terraces which were developed in phases during the mid-late 19th and early 20th centuries.

Brunswick Town borders the Avenues and The Willet Estate Conservation Areas to the west and north-west respectively, and Regency Square and Montpellier & Clifton Hill Conservation Areas to the east.



Figure 1: Location Map

Topography and Geology

Brunswick Town is located on a gentle south-west facing slope, the topography gradually falling from 39 m AOD in the north-east to between 6-7 m AOD at the seafront. Ground levels are generally even, however there are localised areas of reduced ground level: the gardens of Adelaide Crescent, Palmeira Square and Brunswick Square being 1-2m lower than the surrounding streets.

At a wider scale, Brunswick Town is surrounded by the chalk uplands of the South Downs, which rise to local high points at Hollingbury Castle (178 m AOD) 4 km to the north-east, Sweet Hill (129 m AOD) 5 km to the north and Round Hill (135 m AOD) 4.5 km to the north-west.

The local bedrock geology comprises the Newhaven Chalk Formation, overlain in the south and west by superficial deposits of clay, silt, sand and gravel (known as Head deposits) which derive from hillwash and soil creep associated with periglacial erosion from the higher ground to the north.

Summary of Designations and Environmental Considerations

Designated heritage assets (Drawing 2, Appendix A)

Brunswick Town contains a large number of listed buildings reflecting the architectural significance of the planned Georgian town and the historical associations which it possesses. There are 69 individual entries on the National Heritage List for England, representing a total of approximately 579 individual properties, structures and street furniture. Of these, seven are listed at Grade I (103 individual properties), four at Grade II* (40 individual properties) and 58 at Grade II (436 individual properties). The majority of these buildings are residential properties, however places of worship, commercial properties, walls, street light columns, shelters, monuments and boundary stones are also represented.

A number of listed buildings within the conservation area are covered by the Hove Borough Council Act 1976, which includes provision for preserving the uniformity of appearance of properties in Brunswick Square, Brunswick Terrace and Brunswick Place.

There are no scheduled monuments or registered parks and gardens within the conservation area.

Non-designated heritage assets (Drawing 3, Appendix A)

Brighton and Hove City Council maintains a local list of heritage assets, defined as buildings and parks or gardens considered to be of special interest because of their local historic, architectural design or townscape value. Planning Advice Note 07 (Local List of Heritage Assets) published by the council in 2015[2] provides information on the local list and the criteria for including assets on the list.

The current local list was published as part of a review in 2013-15. In Brunswick Town there are 27 locally listed heritage assets. These include the open spaces and gardens of Brunswick Square, Adelaide Crescent, Palmeira Square, Floral Clock and Hove Lawns. Other assets on the list include residential and commercial buildings, letterboxes and street light columns. The council has produced thematic studies for street lighting and letterboxes which are available online.[3] At the time of writing the local list is under review.

[2] https://www.brighton-hove.gov.uk/sites/default/files/migrated/article/inline/PAN07%20Local%20List%20of%20Heritage%20Assets%20Jun%202020 15_0.pdf

[3] https://www.brighton-hove.gov.uk/content/planning/heritage/local-list-heritage-assets

The East Sussex Historic Environment Record identifies two further non-designated heritage assets (excluding duplicate entries for listed and locally listed buildings), comprising records of 18th-19th century brick manufacture at Brunswick Square and Adelaide Crescent.

There are two Archaeological Notification Areas in Brunswick Town: the Church of St Andrew on Waterloo Street (for which a burial register exists) and the site of a former prehistoric burial mound on Salisbury Road. These Archaeological Notification Areas provide a mechanism for consultation relating to any development which might adversely impact upon buried archaeological remains.

Arboriculture and Tree Preservation Orders (Drawing 4, Appendix A)

In terms of historic design intentions, formal lines of trees are typically found at the open space margins within the conservation area to visually define the space and offer additional shelterbelt and windbreak protection. More informal scattered tree planting is also found within some of these spaces which is typical of the Victorian 'Gardenesque' design movement. The style was introduced by Scottish author, botanist and garden designer John Claudius Loudon (1783-1843) and was subsequently adopted by numerous public parks which encouraged the planting of exotics and a range of specimen trees and shrubs which were used to showcase new species with ornamental and sensory interest. Street trees also soften the streetscape at some locations. Further information on the landscape design evolution and planting within the area is contained within the following Sections 4 and 5.

The trees provide important aesthetic, amenity, ecological and climate benefits to the community. It is also worth noting the challenges establishing trees on the more exposed eastern side of the squares and especially if planted as single specimens. The elm was extensively planted at Hove precisely because they could tolerate coastal conditions.

Two tree preservation orders are currently present within Brunswick Town Conservation Area: at 43 Cambridge Road (sycamore tree located to the front of the property); and the rear of Dudley Mansions, Lansdowne Place (two sycamores and an elm within a courtyard).

Further information on works to trees within conservation areas and the associated legislation can be found at the following links:

- Planning Portal Website, 2022:

  www.planningportal.co.uk/info/200126/applications/60/consent_types/14

- The Arboricultural Association Website, 2022. *A brief guide to legislation for trees*:

  www.trees.org.uk/Help-Advice/Public/A-brief-guide-to-legislation-for-trees

4 HISTORICAL OVERVIEW

Early history

The East Sussex Historic Environment Record (HER) does not record any evidence for human activity pre-dating the 18th-19th century within the conservation area, reflecting the limited opportunity for systematic, commercially-funded or research investigation of the area's archaeological potential since the establishment of the town in the 19th century.

The HER records only three previous archaeological investigations in the area:

- a watching brief was carried out at Lansdowne Place and Wilbury Avenue between 2007-2008 during the installation of wastewater infrastructure. No archaeological remains were encountered.
- geophysical survey of Hove Lawns was carried out in 2009, recording the presence of c.1800 brick-manufacture. An unrecorded investigation conducted in 2008 by Dr Matt Pope of UCL and Nick Tyson of The Regency Town House discovered midden pit finds lying under Hove Lawns, the materials thought to have been associated with the first decade of occupation in the newly built Brunswick Town.
- a detailed desk study of the entire Hove area was carried out in 2007 as part of the Extensive Urban Survey of Brighton and Hove.

Despite the absence of recorded archaeological remains, there is a long history of human habitation in the immediate area. Most pertinent to Brunswick Town was the presence of a middle-Bronze Age burial mound containing an important assemblage of grave goods, including the exceptional Hove amber cup (Figure 2), originally located just beyond the northern boundary of the conservation area on what is now Salisbury Road. The site was excavated and destroyed in the 1850s, however there remains a potential for associated remains to survive in the vicinity. Findspots from the wider area of Hove indicate prehistoric activity from the Neolithic period onwards, including finds of flint arrowheads and Bronze Age axes and metal artefacts.



Figure 2: The Hove Amber Cup[4]

Local activity during the Romano-British period is similarly known through findspots of artefacts and wider evidence for Roman activity noted in the form of villas, settlements and cemeteries. Evidence for early to mid-Saxon occupation is sparse, the nearest being a probable cemetery site at the junction of Church Road and St Andrew's Road 3 km to the west of Brunswick Town.

During the early part of the medieval period there was no recorded significant settlement in Hove. It is likely that during this period the parish was sparsely settled and in agricultural use. Throughout the later

[4] Photo credit: Royal Pavilion & Museums, Brighton & Hove

medieval and early post-medieval period this rural, coastal parish was overlooked by the expansion of Brighton which emerged as a centre of commerce and trade. The medieval town was focussed around the Lanes, c. 1 km to the east, from as early as the mid-12th century.[5]

The rural character of Hove persisted throughout the post medieval period. In the 16th century the land which would subsequently become Brunswick Town formed part of the Wick Farm Estate, purchased by the Stapley family in 1573. The land remained in their ownership until its sale in 1701 to John Scutt of Brighthelmstone for £1600. The grandson of John Scutt built Wick Farm and House in the location of the present Wick Hall, within landscaped grounds adjacent to the Brighton parish boundary.

Yeakell & Gardner's map of Sussex published in 1778-1783 (not reproduced) and the tithe map for the Parish of Hove published in 1839 (Figure 3) show the original layout of the fields and the land within and surrounding the later new town, with Wick Farm to the north.



***Figure 3: 1839 Hove Tithe Map*[6]**

The Development of Brunswick Town

In contrast to the surging popularity of Brighton as a fashionable seaside resort in the 18th century, by the early 1800s Hove remained a small village with surrounding farmland. Brighton continued to flourish in the late 18th and early 19th century, helped in part by the Prince of Wales' continued patronage and by

[5] Harris 2007, p20

[6] *Plan of that part of the Parish of Hove in the County of Sussex North of the Road from Shore- ham to Brighton. Copied by Wm Leach, Surveyor, Brighton*, ESRO TD/E153. The tithe map was published after the establishment of Brunswick Town, but was based on an earlier survey

improvements in coach transport from London, which encouraged both speculative development and financial investment.

In the midst of a national building boom which emerged in the years following the end of the Napoleonic wars (1815), local landowners Thomas Read Kemp and the Rev. Thomas Scutt (owner of the Wick Estate) sought to capitalise on this opportunity and were responsible for a number of prestigious housing schemes in Brighton on a par with Nash's developments in London, turning Brighton into an elegant 'London by the Sea'. In 1823 Thomas Kemp invited the architect Charles Augustin Busby to Brighton to work in partnership with builder Amon Wilds and his son, the architect Amon Henry Wilds. Using their designs, work began on the Kemp Town Building Project to the east of Brighton that year.

In parallel, a separate partnership was formed between Busby and Thomas Scutt to design and develop a new town immediately to the west of Brighton. Brunswick Town was deliberately intended as a self-contained new town containing all necessary amenities for the new inhabitants. Being situated in Hove offered a number of advantages, not least the fact that the land remained an undeveloped 'blank canvas', but also the fact that poor rates were lower than Brighton, resulting in lower taxation on materials including coal. As landowner, Thomas Scutt sold the building plots defined on Busby's plans, while Busby guided new purchasers and speculators on the construction of their houses in accordance with his masterplan. This detailed guidance extended to the dimensions of all the timber, types of render, thickness of walls and the specific sources and types of materials, as well as the overall form and appearance of the buildings. The external shells of the buildings were to be of brick and bungaroosh construction, with stuccoed facades in elegant imitation of stone, while the interiors were largely of timber construction, including load bearing internal walls.

Conceived along similar lines to Kemp Town, the design for Brunswick Town included prestigious housing of Brunswick Terrace in the neo-classical style along the sea front, facing south across Hove Lawns (also known as Brunswick Lawns). A large square of bow-fronted terraces extended northwards ranged around a central formal garden, while the buildings at the northern end of the square facing the sea reverted to the style employed on Brunswick Terrace, incorporating pilasters and Corinthian capitals and providing visual unity when viewed from the sea front.

The bow fronts of the housing on the east and west sides of the square permitted wide views through large windows towards the sea and throughout the square, emphasising the connection between the built and natural environment. The opening at the northern end of the square into Brunswick Place maintained an open line of sight between Wick House and the sea. In the original specification for decoration of the building exteriors, Busby designated 'mastic finished' Roman cement elevations, ironwork painted in 'invisible green', oak grained front doors and windows and storm shutters, where present at ground, first and second floor, in Holland's Antwerp Green. This 'earth toned' colour pallet further ensured a sense of connection between the architecture and landscape.

The most prestigious housing was split across five storeys. At basement level was the kitchen, scullery, pantry, servants' hall, butler's pantry, housekeeper's room and vaults underneath the pavement for wine cellar and coal cellar. The ground floor contained the hall, dining room and morning room. The first floor contained a double drawing room, while bedrooms for the residents occupied the second floor and servants on the third floor. Stabling for horses and carriage houses were to be located at the rear of each property, accessed from the service roads of Brunswick Street East and West. The service roads also included a market hall, public houses and shop premises, while terraces of smaller, second-class housing, as well as a hotel, chapel and public baths, were to be placed on parallel streets between the sea and Western Road. Western Road itself was to house shops.

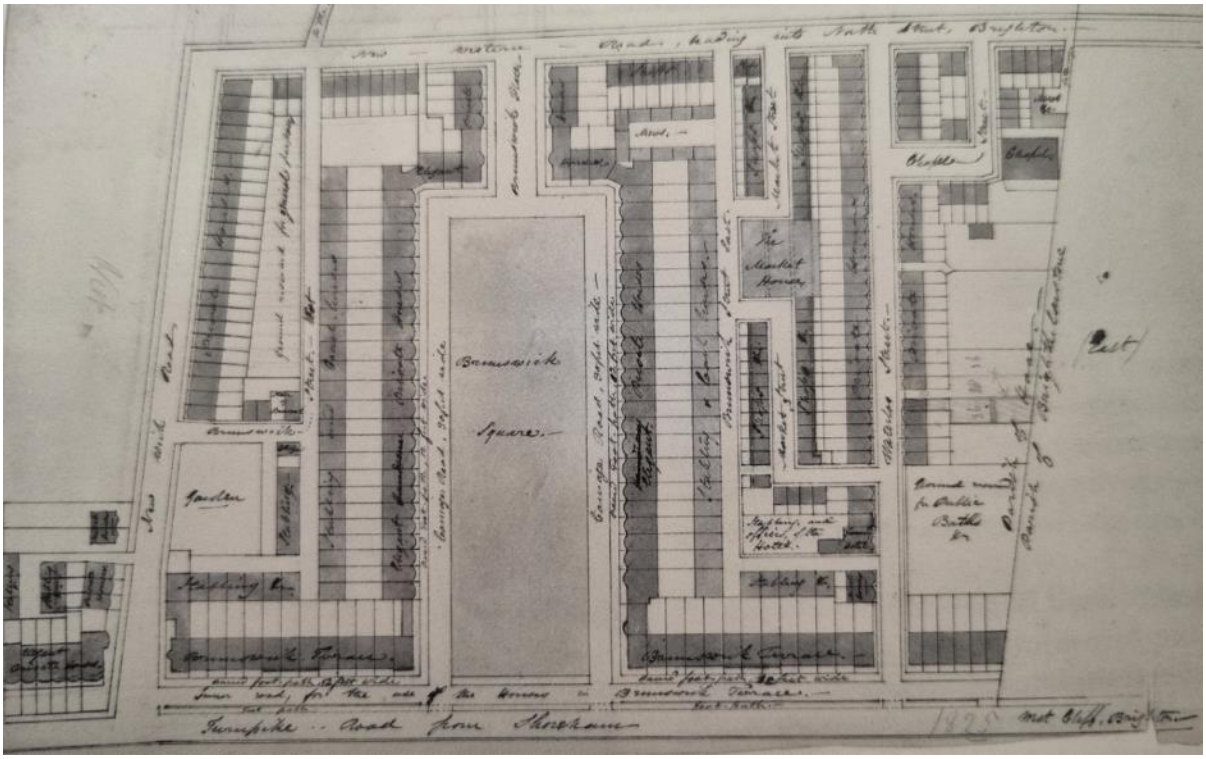


Figure 4: C A Busby's early plan for Brunswick Town dated 1825[7]

Construction work began on Brunswick Town in 1824 commencing with the eastern part of Brunswick Terrace. In 1825 work commenced on the square. The first houses of the eastern terrace were ready for occupation in 1826 and much of Brunswick Terrace and Square was finished by 1834. This first phase of development extended as far west as Lansdowne Place (formerly New Wick Road) and Holland Road in the south-west, and as far north as Western Road. Busby's early plan of the scheme dated to 1825 (Figure 4 above) shows that the town was largely completed as planned, with only minor variations including the later addition of semi-detached housing and a small square on Lansdowne Place and Lansdowne Square, and the Church of St Andrew in the south-east, built to the designs of Sir Charles Barry and noted as the first example of the use of the Italianate style in England. Further terraces of housing replicating the bow-fronted style of Brunswick Square were built on Lansdowne Place and to the north of Western Road along Brunswick Place (extending a short section completed in the early 1830s) following Busby's death in 1834.

The Brunswick Town Commissioners developed the garden at the centre of Brunswick Square in 1830 from rough land formerly containing brick kilns. From 1874 the garden was managed by the Hove Commissioners, emerging as an Authority from 1894. It remained private until World War II when railings were removed.

Historic mapping of 'Brighton and its Environs' dated 1853 identifies five diagonal belts of sinuous planting within Brunswick Gardens. A steel engraving by Newman & Co, London c. 1860 shows surrounding railings, a central entrance to the south and belts of planting and tree formations at the margins and within. The first illustrations from 1875 also depict a mixture of shrubbery beds and the serpentine soft landscaped feature within the centre, currently raised and planted with bulbs.

[7] Bingham, 1991, p66.

Ordnance survey maps of 1880 highlight scattered tree planting amongst elliptical and sinuous planted borders. There appears to be a formal line of established tree planting at the perimeter with a circular walk at the margins. Many of these designed features remained into the 20th century.

The design styles and horticulturalist principles are also comparable to the Kemp Town Enclosures and the Royal Pavilion Gardens which were the work of Brighton landscape gardener and author Henry Phillips (1779-1840).



Figure 5: General View of Brunswick Square and Adjacent Buildings (engraving dated 1826)[8]

The Development of Adelaide Crescent and Palmeira Square

In 1830 the remainder of the Wick Estate was sold by Thomas Scutt to Sir Isaac Lyon Goldsmid, who employed the architect Decimus Burton to design a new estate to the west of Busby's Brunswick Town. 'Queen Adelaide Crescent' was intended as a single, Regency-style set piece, comprising a semi-circular terrace with houses at either end facing the sea. However, following the start of the building work in 1830 only thirteen houses at the south-eastern corner were built before work halted in 1834 (Figure 6).

During this period Goldsmid funded the construction of a huge iron-framed glass conservatory planned by English botanist and landscape gardener Henry Phillips (1779-1840) and designed by architect Amon Henry Wilds (1784/1790-1857) on land to the north of the crescent in the area now occupied by the gardens of Palmeira Square. The dome, known as the Anthaeum, was conceived on a very large scale and consisted of a gigantic cupola-topped dome covering more than 1.5 acres (0.61 ha). The structure was intended to enclose a carefully landscaped tropical garden and other attractions, but collapsed in 1833 shortly before its official opening. The financial setback, alongside wider issues with construction and property development exacerbated by economic depression in the post-Napoleonic period, may have contributed to the cessation of work on the crescent.

[8] Bingham, 1991, p67

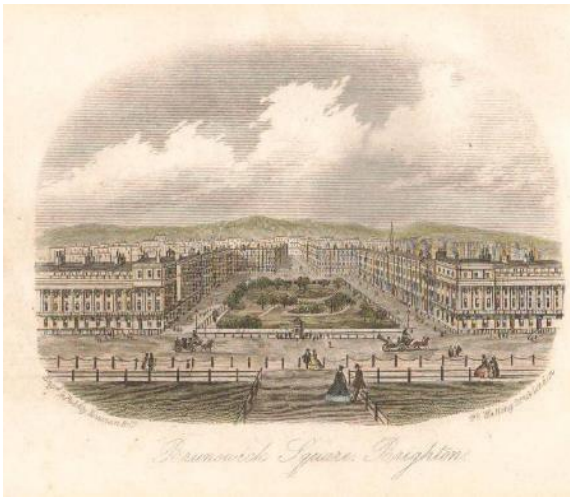


Figure 6: Watercolour, c. 1830, depicting the Hove seafront during the early stages of construction of Adelaide Crescent[9]

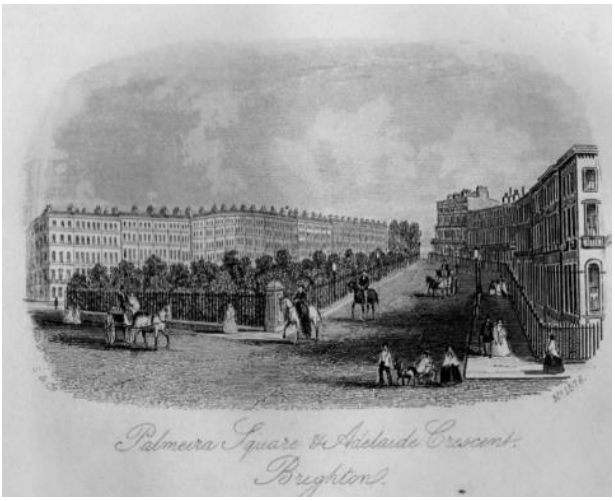
Construction did not recommence on Adelaide Crescent until 1850. In that time the proposed layout was altered, opting instead for two wings of the crescent curving northwards and opening into a new square which would be known as Palmeira Square (a reference to Goldsmid's title given by the Queen of Portugal *Baron de Goldsmid e de Palmeira*). The two wings of the crescent were completed between 1850 and 1860 to the designs of Decimus Burton, while Palmeira Square was built between 1860 and 1865 (the architect is unknown). The Church of St John the Baptist was built at the northern end of Palmeira Square between 1852 and 1854, designed by Edward and William Gilbert Habershon. The later 'Palmeira Mansions' (designed by H J Lanchester) were built on the north side of Church Road between 1883-1884, completing the 'square'.

The differing periods of development in this area brought with it a distinct transition of styles, the Georgian Regency style of Adelaide Crescent giving way to the mid-late 19th century Victorian Italianate architecture of Palmeira Square. In contrast to Busby's Brunswick Town, these later properties were characterised by solid masonry construction throughout, though the buildings themselves were on a similar scale to those of Brunswick Square and Terrace.

[9] https://somersetandwood.com/adelaide-crescent-hove-brighton-hove-original-c-1830s-watercolour-painting-js-709



Brunswick Square c. 1860



Palmeira Square and Adelaide Crescent c. 1865

Figure 7: 19th Century artistic impressions of Brunswick Square, Adelaide Crescent and Palmeira Square[10]

As with Brunswick Square, open spaces were a key feature of the Adelaide Crescent and Palmeira Square developments. Large formal gardens were created within the spaces enclosed by both the crescent and square to form a centrepiece and visual foil to the surrounding terraces. Historic mapping of 'Brighton and its Environs' from 1853 identifies a more geometric and formal layout with pockets of planting within Adelaide Crescent which is perhaps more schematic. A steel engraving published by J. S. & Co c. 1870 (Figure 8) shows Palmeira Square gardens, with its classical pavilion at the southern end and sea beyond. Ordnance survey maps of 1880 highlight an increasingly planted south-eastern portion within Adelaide Crescent with a network of paths and a circular pathway at the margins and an avenue of planting to its edges. At around this time there appeared to be a formal line of established tree planting at the perimeter of Palmeira Square with a network of paths within the gardens and a circular pathway to the south. A focal point feature is located within the centre much like the present day. Many of these designed features remain.

An additional landscaped area was created to the north of Palmeira Square in the space defined by Church Road and Western Road, originally known as Palmeira Mansions Enclosures. A photograph from 1906 illustrates a circular thatched shelter in the centre with surrounding lawns, hedges, trees and railings. The space was adorned with a floral clock in 1953 to commemorate the coronation of Queen Elizabeth II.

[10] Images used courtesy of the Regency Society of Brighton & Hove



Figure 8: Engraving of Palmeira Square Gardens c.1870[11]

Late 19th - 20th Century Expansion

Having taken possession of the remainder of the Wick Estate in 1830, Goldsmid systematically sold off plots for further residential development between Adelaide Crescent and Brunswick Town, and to the north of Western Road in the mid-late 19th century. These included the northward extensions of Brunswick Place and Lansdowne Place (backing onto mews and stables along Farm Road), as well as Brunswick Street, which were built between 1850 and 1860 replicating the bow-fronted terrace style employed by Busby in Brunswick Town. Cambridge Road was also developed within this period, differing in the use of canted bays to the town houses. The houses on the western side of Cambridge Road originally faced east onto a linear formal garden which was subsequently built over in the late 19th-early 20th century.

Between 1876 and 1898 work progressed westwards, with the development of Lansdowne Street, Holland Road, Rochester Gardens, Palmeira Avenue, Palmeira Mansions and Salisbury Road. Houses were built along these north-south aligned streets in stages, commencing in the south. At the northern end of Holland Road and Farm Road some building plots remained vacant for many years, and as a result these areas represent the most varied in terms of the periods and uniformity of style of architecture.

A broad overview of the phasing of development within the conservation area is depicted on Drawing 5, Appendix A.

[11] Image used courtesy of the Regency Society of Brighton & Hove



Figure 9: 1911 Ordnance Survey Map (1:2500 scale)

5 CHARACTER ANALYSIS

The definition of character sub-areas within the Brunswick Town Conservation Area is an important tool in the management of change. It enables the unique qualities of the townscape to be understood in their historical context and helps to develop an informed approach to the management of the conservation area in ways which reinforce its character and appearance.

The character sub-areas described below have been delineated on the basis of two key factors. The first relates to the discrete stages, or phases, of historical development, considering amongst other factors the original layout of the planned estates and their street patterns, historic functional zoning, noted figures associated with each phase and the architectural styles and ambitions of their creators. The second factor relates to current use, and the principle that subdividing the conservation area offers an opportunity to manage change within a framework which is informed by modern-day activities, patterns of use and future concerns.

Four distinct character sub-areas have been defined as follows: Hove Lawns; Planned Estate South (Brunswick Town, Adelaide Crescent & Palmeira Square); Western Road Commercial; and Planned Estate North (Figure 10). In the following sections the character of each area is defined, considering the buildings and scale of the area, open spaces, streets, paths and street furniture, landscape and views.



Figure 10: Brunswick Town Conservation Area- Character Sub-Areas

1: Hove Lawns

Description

The Hove Lawns (also known as Brunswick Lawns) span the southern limit of the conservation area and comprise a series of rectilinear lawns bordered to the south by the wide pedestrian seafront promenade and the Hove sea wall, and to the north by Kingsway, Adelaide Crescent and Brunswick Terrace. The lawns were laid out as part of the establishment of Brunswick Terrace, and later extended to the west with the construction of Adelaide Crescent. The lawns form a key element of the setting of Brunswick Terrace and Adelaide Crescent, protected since the introduction of the Hove Improvement Act 1830 to restrict any development with the exception of lighting and fencing, and to preserve the open seafront aspect of the terrace and square.

Buildings and scale

There are no substantial buildings in this character area. Two ornate Grade II listed shelters of iron construction with inset windbreak glazing and benches are present on the esplanade (**Figure 11b**). The Grade II listed Edward VII Memorial Monument, known locally as The Peace Statue, was commissioned to commemorate the reign of Edward VII (1841-1910) and stands at the eastern limit of the conservation area forming a prominent local landmark (**Figure 11a**). The angel design is a reference to Edward's nickname "The Peacemaker". The inscription reads: "*In the year 1912 the inhabitants of Brighton and Hove provided a home for the Queen's nurses and erected this monument in memory of Edward VII as a testimony of their enduring loyalty*".

Modern kiosk-type cafes of timber and brick construction are located immediately to the east and west of the conservation area boundary, with open-air seating areas extending into the conservation area within the pedestrian zone.

The prevailing scale of the Hove Lawns is, accordingly, low, with no sense of permanent buildings, providing essential contrast against which the facades of Brunswick Terrace and Adelaide Crescent are experienced.



a) Grade II listed King Edward VII Peace Monument



b) *Grade II listed shelter*

Figure 11: Listed structures adjacent to Hove Lawns

Spaces

Reflecting the intended function of the lawns, open space is the defining characteristic of this area. The series of five rectilinear lawns are flat and under grass, with stone kerbs surmounted with low iron railings along the southern side. The wide walkway to the south is an important through-route for pedestrians and

visitors to Brunswick Town, while Kingsway to the north is a busy route for traffic passing east and west between Brighton and Hove. A cycle lane runs immediately to the north of the lawns.



Figure 12: Brunswick Terrace viewed from the southern side of Hove Lawns

Streets, paths and street furniture

Pedestrian walkways are predominantly tarmac surfaced. Seating areas for cafes beyond the limit of the conservation area boundary, and pavements along the northern edge of the lawns adjacent to Kingsway are surfaced with concrete paving slabs.

A row of twelve 19th century 'Type 8' electric lighting columns dating from 1923 along the southern edge of the lawns, and the seafront railings which top the Hove sea wall, are locally listed.

In addition to the listed iron shelters noted above, recessed areas along the southern edge of the lawns contain seating of timber construction. Iron/timber benches are placed at intervals adjacent to the sea wall and railings. These have been noted as subject to repeated vandalism, and are a maintenance issue (see Section 6).

A modern cycle hire stand is present at the western end of the lawns. Additional street furniture includes refuse and recycling bins along the southern edge of the lawns, iron bollards, road signage, and modern streetlighting to the north and south of Kingsway. There is on-street parking on the northern side of Kingsway with intermittent parking meters.

Landscape and key views

This historically open area has remained as such and provides an open space for leisure, events, relaxation and promenading with a range of nearby facilities. The space provides important visual and physical access

to the sea for pedestrians and local residents. The lawns are now locally listed reflecting the local importance of these areas as a community asset and their relationship to the formal architecture of Brunswick Town.

Views are panoramic in all directions, with open vistas of the sea to the south, views along the seafront towards Brighton in the east and Hove in the west, and obliquely north along Brunswick Terrace (**Figure 13a** and **13d**). This includes oblique views along the frontage of Brunswick Terrace and Adelaide Crescent from outside Brunswick Town, from the adjoining Regency Square and The Avenues Conservation Areas. Taller buildings in Brighton, including the i360 viewing platform, are visible above the roof lines of the 19th century terraces.

When moving through the area, intended views northwards into Brunswick Square and Adelaide Crescent/Palmeira Square are revealed, permitting the composition of the formal squares, central gardens and associated walls, ramps and stairways to be appreciated (**Figure 13b** and **13c**). These views are fundamental aspects of the original plans for both developments, the lawns and promenade having been intended for enjoyment and recreation along the seafront. This is reflected in artistic representations of the town in the 19th century as both a selling point for the developments in the first instance, and as a destination for elite and middle class visitors alike following their completion.



a) Panoramic view- Brunswick Terrace



b) Intended view- Brunswick Square



c) Intended view- view to north of Adelaide Crescent



d) Panoramic View- Adelaide Crescent and Brunswick Terrace facing east

Figure 13: Views within Hove Lawns area

2: Planned Estate South (Brunswick Town, Adelaide Crescent & Palmeira Square)

Description

At the heart of this character area are the set-piece architectural compositions of Brunswick Terrace, Brunswick Square, Brunswick Place, Adelaide Crescent and Palmeira Square, located to the south of the commercial thoroughfare of Western Road and flanked to the south by the Hove Lawns. More broadly however this character area incorporates the majority of Busby's planned Brunswick Town, excluding the southern side of Western Road. It incorporates the subsidiary streets of less prestigious housing, service roads, mews and facilities built between 1824 and 1834, and the subsequent westward expansion of the town with the planned developments of Isaac Goldsmid built between 1830 and 1865. The layout of the 19th century estate remains intact and legible; it is predominantly residential in character.

The original extent of Busby's Brunswick Town is indicated as the first phase of development between 1824 and 1834 in Drawing 5 at the end of this report. The streets which constitute Brunswick Town comprise Brunswick Terrace and Brunswick Square, with Waterloo Street and Cross Street to the east and the southern part of Lansdowne Place and Square to the west. Between these, the intermediate service streets comprise Brunswick Street East and West, Upper and Lower Market Street, Ivy Place/Mews, Cavendish Mews, Chapel Mews, Donkey Mews, Alice Street and Brunswick Mews.

Buildings and scale

This area includes a large number of architecturally important buildings which were conceived and built to designs which rivalled the Regency architecture of London and Bath. The key buildings are major landmarks in their own right and represent a transition in style from the fashionable neo-classical style of the late-Regency period to the Italianate style popularised in the early and mid-Victorian period. The key elements of this area can be summarised as follows:

- ***Brunswick Terrace***: a terrace of four storey + basement stuccoed dwellings flanking Brunswick Square, built in four sections and presenting a continuous frontage to Hove Lawns to the south. Conceived to be the most prestigious housing in the area, the terrace was designed by C A Busby, initially in partnership with Amon Henry Wilds, with Palladian influences incorporating strong vertical fenestration and pilasters with Corinthian capitals, with first floor balcony railings and railings at street level. Within each block the individual houses form part of a wider 'palace' façade (**Figure 14a**). All buildings forming the terrace are Grade I listed.
- ***Brunswick Square and Brunswick Place (South)***: two broadly symmetrical terraces of four, five and six storey + basement stuccoed houses arranged around Brunswick Gardens. The houses exhibit some variation, narrower properties present at each step in roof level as the terrace extends upslope to the north. The buildings on the east and west side of the square incorporate Busby's distinctive full-height bow and curved fronts, half-columns with Ionic capitals, balustraded or continuous parapets and railings at street level and to the first floor balconies (**Figure 14b**). The south-facing buildings at the northern end of the square revert to the flat-fronted style employed along Brunswick Terrace, with pilasters and Corinthian capitals. All buildings are Grade I listed.
- ***Adelaide Crescent***: two broadly symmetrical continuous terraces of Grade II* listed four and five storey + basement stuccoed houses arranged around Adelaide Crescent Gardens with two flanking terraces fronting Hove Lawns to the south. The south-eastern corner of the terrace was built between 1830 and 1834 to the design of architect Decimus Burton (**Figure 14c**), the remainder completed to a simplified design between 1850-60. The houses are flat-fronted with balustraded or iron first floor balconies and railings at street level.

- ***Palmeira Square***: two terraces of five-storey + basement stuccoed dwellings, Grade II listed, facing east and west across Palmeira Square Gardens to the north of Adelaide Crescent. Built between 1860-65 for Isaac Goldsmid, the terraces are Italianate in style with flat-roofed Doric porches, and canted bay windows and iron balconies at first floor level (**Figure 14d**).

The materials of the most substantial terraces comprise stucco over brick and bungaroosh, with some bungaroosh/flint/sea cobble walling to rear elevations which are variously rendered or exposed. In keeping with existing controls over the regular painting of the terraces (Article 4 directions and the Hove Borough Council Act 1976) a uniform off-white (magnolia/cream) colour scheme has been maintained for the front facades of specific groups of buildings and black for railings and balcony metalwork. In a number of cases the side elevations remain unrendered, exposed brick; for example the western elevation of 32 Brunswick Terrace. It should be noted that the current colour scheme within the terraces of Brunswick Town, which is one of the defining features of the conservation area's character and appearance, has resulted in the loss of the earth-toned palette and contrasting colours for the masonry, timber and ironwork of the external elevations originally specified by C A Busby.

Slate roofing is ubiquitous throughout this area and evident in the principal terraces. Slate-tiled mansards are particularly a visible feature of the rear elevations seen from adjacent service streets, more generally concealed from the front behind building parapets, though the slate roofing and rising roofline of Adelaide Crescent is widely visible when viewed across the central gardens.

Detailing of the buildings is clearly variable, the variation providing distinction between the periods and architects involved in their design, particularly in Adelaide Crescent. Within the principal terraces of Brunswick Town windows are generally 2, 4 or 6 pane sliding sash windows with timber surrounds and glazing bars. Finer glazing bars are present in the Georgian-pattern sashes of the earlier Regency examples in Brunswick Square and Terrace, though many have been replaced with later Victorian 2 or 4 pane sashes, alongside the widespread loss of the original louvred storm shutters, reflecting the transition in glass manufacturing technology in the mid-19th century. Curved glazing is present on the narrower bow-fronted buildings in Brunswick Square. Timber framed French windows are also present at first floor level, most notably in Brunswick Square. By contrast, the windows of the later Adelaide Crescent and Palmeira Square are almost exclusively 2 or 4 pane Victorian sashes.

Doors are typically black painted timber, though part-glazed and varnished wood examples are present with varying styles in Adelaide Crescent. The majority of buildings are accessed from street level via tiled or exposed stone steps.



a) Nos 20-32 Brunswick Terrace



b) Nos 23-27 Brunswick Square



c) Nos 3-19 Adelaide Crescent



d) Nos 1-11 Palmeira Square

Figure 14: Illustrative views of buildings in Brunswick Terrace, Brunswick Square, Adelaide Crescent and Palmeira Square

The secondary streets dividing the most prestigious housing of Brunswick Terrace and Square, Adelaide Crescent and Palmeira Square are aligned broadly north-south, extending between Western Road and Kingsway. Two streets flanking Brunswick Square (Lansdowne Place and Waterloo Street) contain terraces of less substantial, though still well-detailed and proportioned dwellings, while Holland Road to the east of Adelaide Crescent and Palmeira Square has a more variable character:

- ***Waterloo Street***: Situated to the east of Brunswick Square, the majority of the buildings in this street date to c. 1830 and are listed at Grade II, comprising terraces of three and four storey + basement stuccoed dwellings (**Figure 15a**). These include full or half height bow fronts or canted bays, with attic rooms within mansards concealed behind the parapets. The majority of buildings have iron railings at street level and to the first floor balconies. Front doors are generally black-painted timber with rectangular fanlights above, though other colours are noted. The bow-fronted houses generally have earlier multi-pane timber sash windows, while those with canted bays have four or six pane sashes. The Church of St Andrew (Sir Charles Barry) at the south-eastern end of the street is Grade I listed and is noted to be the first example of the use of the Italianate style in England (**Figure 15b**). The Waterloo Street Arch (Grade II listed) was built in 1877 as part of the Dupont Riding Academy housed in the Old Market behind (**Figure 15c**). At the northern end of the street the eastern terrace (not listed) is less well preserved and incorporates inserted shop fronts at ground floor level (**Figure 15d**).



a) Nos 55-59 Waterloo Street (east side)



b) Waterloo Street: Church of St Andrew





c) Waterloo street Arch and Old Market

d) Nos 37-42 Waterloo Street (east side)

Figure 15: Illustrative views of buildings in Waterloo Street

- ***Lansdowne Place (South) and Lansdowne Square***: situated towards the western limit of Busby's Brunswick Town, this street is slightly more varied and includes terraces of three, four and five storey stuccoed bow-fronted houses alongside semi-detached three storey bow-fronted houses with front gardens behind low, rendered boundary walls (**Figure 16a**). Nos 13-23 Lansdowne Place incorporate canopy hoods to the balconies and overhanging eaves, not seen elsewhere in Brunswick Town and the last to be built by Busby. The majority of buildings are listed at Grade II with the exception of Dudley Mansions (locally listed) and a pair of later houses (nos 9-11). No 2 Lansdowne Place is notable as the house C A Busby occupied, Brunswick Cottage to its rear (fronting onto Brunswick Street West) having served as Busby's drawing office. The variability of the architecture on this street reflects the changing fortune of Brunswick Town following Busby's bankruptcy and death in 1834, before the completion of his later scheme. As a result, the majority of the buildings in the northern half of the street were completed to a similar design for Isaac Goldsmid. An Article 4 Direction (A4/37) is in place for repainting within Lansdowne Place and Square.





a) Nos 23-33 Lansdowne Place (west side)

b) Lansdowne Square (view to west)

Figure 16: Illustrative views of buildings in Lansdowne Place and Lansdowne Square

- ***Holland Road***: lying beyond the western limit of Busby's Brunswick Town and flanked to the west by the rear elevations of Adelaide Crescent and Palmira Square, the eastern side of Holland Road comprises a continuous terrace of unlisted stuccoed four storey + basement town houses with canted

bays, street level and first floor balcony iron railings, built between 1850 and 1876. These stand in marked contrast to the scale and materials of the detached and semi-detached two storey houses on the western side of the road which were developed in stages between the late 19th-mid 20th century on an area of former open ground (**Figure 17a**). The houses include front gardens (the majority having been paved) behind brick boundary walls, and are part rendered, variably with tile-hung bays, plain tile roofs and mock-Tudor timber detailing. To the south of the junction with Alice Street is The Brunswick pub (locally listed) built in the 1930s with distinctive curved bays, crittall windows and plain tiled roof with turrets above the bays (**Figure 17b**).



a) Holland Road (view to south)



b) The Brunswick, Holland Road

Figure 17: Illustrative views of buildings on Holland Road

Interspersed throughout this character area is a network of smaller streets and mews which form part of the original layout of both the Brunswick Town and Adelaide Crescent/Palmeira Square developments. The buildings here are lower in scale and reflect more closely local vernacular traditions not seen in the more prestigious streets and terraces.

Of these, the most substantial are centred on the Old Market, situated in a small square and designed by C A Busby as part of his holistic approach to develop an entirely self-contained new town. The Old Market was built in 1828 and served its original purpose for a short time only, later becoming a riding school. It is now in part a performance venue and is listed at Grade II. To its north, Upper Market Street contains two short terraces of small, rendered town houses. The western terrace is Grade II listed, comprising three storeys + attic dwellings with narrow bow fronts which retain their early multi-pane timber sash windows, (**Figure 18a**). The eastern terrace is three storeys + attic and basement with canted bays and later two or four pane sash windows with railings at street level. These buildings are an interesting variation on the style employed by Busby in the more prestigious terraces and are characteristically white painted with black painted window surrounds and doors. Lower Market Street, to the south of the Old Market, includes the Bottoms Rest public house and contains terraces of three storey + basement rendered town houses, with canted bays either at ground level or extending to the full height (**Figure 18b**).



a) Upper Market Street (west side)



b) Lower Market Street (view to north west)

Figure 18: Upper and Lower Market Street

Cross Street to the east of Waterloo Street contains two terraces of unlisted two and three storey rendered town houses, again with some interesting variation on the prevailing character seen elsewhere in Brunswick Town. These are flat-fronted with varying roof lines. The southern terrace includes early multi-pane timber sashes with painted louvred timber window shutters (**Figure 19a**). The northern terrace includes some elaborately detailed early shop fronts at ground level, with dentil cornicing above moulded timber supports and signage panels (**Figure 19b**).



a) Cross Street (south side)



b) Shop fronts on Cross Street (north side)

Figure 19: Illustrative views of buildings on Cross Street

Throughout the conservation area, the buildings and mews properties on the service streets of Brunswick Town are not listed or locally listed, and are generally low in scale, standing in clear contrast to the taller surrounding terraces. This contrast permits appreciation of the planned functional zoning of the town. The majority of the mews buildings are two storeys in height and variously have surviving boarded or part-glazed carriage entrances, or modified door entrances. While the majority have been modified for permanent residential use (**Figure 20a** and **20c**), many are converted to retail or workshop uses, and as a result the condition of the buildings is variable (**Figure 20b** and **20d**). Materials are predominantly rendered brick, painted white or off white, though other colours are present, and other materials are noted including weatherboard cladding and flint and bungaroosh walling, particularly on Brunswick Street West. There is little uniformity to the colours or types of doors. Equally, many windows have been replaced, with double glazed units present alongside original timber sash windows. Roofing includes slate or modern concrete tiles. Infill development includes the presence of single storey 20th century garages (notably on St John's Road to the west of Adelaide Crescent) and light industrial buildings (e.g., the sawtooth-roofed workshop

of the Bimm Institute on Brunswick Street West). Modification of some mews properties is also evident, with the addition of extra storeys noted in Brunswick Street East which serve to erode the character of the area, blurring the difference in scale between the service roads and surrounding terraces.



a) Mews property, Brunswick Street East



b) Mews workshops, Brunswick Street East



c) Mews, residential conversions, Brunswick Street West



d) Mews, commercial use, Brunswick Street West

Figure 20: Mews Properties, Brunswick Street East and West

There are relatively few negative buildings within this character area. It is largely the result of inappropriate adaptation of existing buildings, new-build developments lacking architectural interest or poorly maintained buildings in the secondary streets and mews that has resulted in isolated instances of buildings which do not contribute to the character and appearance of the area. These include modern housing, garages and apartments in St John's Road, modern apartments in Golden Lane, and isolated residential and commercial buildings in Kerrison Mews, Brunswick Street East and West and Holland Mews.

Spaces

Within this character area are the key open spaces of Brunswick, Adelaide and Palmeira Gardens. These are fundamental to the design of the respective squares and terraces and are indivisible components of the setting of each terrace, providing an intended sense of openness and connection between the squares and the seafront to the south. While not formally designated, the gardens are locally listed. Brunswick Terrace faces directly south across Hove Lawns to the seafront.

Elsewhere, the density of urban development is such that there are limited areas of open space, the width of the streets and the scale of the surrounding buildings providing a sense of enclosure which increases in the narrower streets. Notable exceptions include Brunswick Place as it approaches Western Road in the north, the courtyard space between the Old Market and Waterloo Street Arch, and the southern end of

Holland Road/Alice Street in which the garden of 'The Brunswick' represents a break in the otherwise continuous terrace on the east side of this street.

The mews streets have an even greater sense of enclosure, with narrow streets and courtyards backed by the rear elevations of taller terraces behind, creating an almost canyon-like effect.

Streets, paths and street furniture

Throughout the character area, roads are tarmac-surfaced with on-street parking in marked bays on one or both sides of the road. Pavement materials vary: kerbstones are predominantly stone, and in the larger squares and terraces the pavements include Portland and Caithness stone. Iron coal hole covers are inset into the pavements in Brunswick Square, Brunswick Place, Adelaide Crescent and Palmeira Square. In the narrower streets concrete paving slabs are more prevalent, while the mews streets include a wide variety of surfacing materials in varying condition, including cobble setts, brick paving or concrete aprons at the entrance to former carriage bays.

Many original gas street lighting columns survive, modified to electricity in 1892-3. In Brunswick Square there are sixteen Grade II listed lamp posts (**Figure 21a**), and ten in Adelaide Crescent. The remainder which continue into Palmeira Square are locally listed, though identical in form (**Figure 21b**). These comprise square plinths chamfered to an octagon with ribbed decoration, slender shaft of clustered columns, calyx capital and swan neck support with original shades above, manufactured by J Every of Lewes. Further locally listed examples of this type are present around the Old Market, Upper Market Street and Cross Street, while unlisted examples of this type are present in the surrounding streets and mews.

Large black street bins for domestic refuse positioned on the road are common throughout this character area on most streets.



a) Grade II listed lighting column, Brunswick Square



b) locally listed lighting column, Palmeira Square

Figure 21: Lighting columns, Brunswick Square and Palmeira Square

Landscape and key views

The formal gardens of the principal squares and crescent are locally listed, providing an important and attractive setting for the properties.

The gardens of Adelaide Crescent are elevated above the Hove Lawns to their south and the topography is gently undulating, clearly an intentional designed landscaped feature offering some natural play and visual interest. There are pockets of ornamental trees and shrubs in sinuous form within the space and more informal sinuous tarmac paths winding through the lawns and occasional ornamental timber and metal benches. A stone bird bath is located within the space.

The ornamental and fairly linear gardens of Palmeira Square to the north have a more geometric design, particularly to the southern and northern portions. To the south there is a stone birdbath focal point, surrounded by formal rectangular rose planted borders amongst lawns and ornamental timber and metal benches. A circular planted border is located to the northern end. Palmeira Square is more porous at its boundaries with linear planting of trees comparable to depictions of more regimented established tree planting shown in early 19th century photographs. Historic locally listed lamp columns are located within the space.

Both Adelaide Crescent and Palmeira Square have designed landscape features reminiscent of the Victorian 'Gardenesque' design movement which was introduced by Scottish author, botanist and garden designer John Claudius Loudon (1783-1843). This style was subsequently adopted by numerous public parks which encouraged the planting of exotics and a range of specimen trees which were used to showcase new species with ornamental and sensory interest.

Brunswick Square Gardens have been restored since the early 1990s, work including the replacement of railings, recreating the side beds and two elliptical 'eye' beds, reviving the eastern side 'copse', planting new trees provided by local residents, relaying the pathways and improving signs. Funding was received by the Hove and Brighton Urban Conservation Project. Currently the gardens have railings at the perimeter and established hedging and established intermittent trees particularly on the north and western edges. Similar to Palmeira Square and Adelaide Crescent, there are designed landscape features of groups of exotic or evergreen planting within formal lawns which conforms with the Victorian 'Gardenesque' design movement which has been identified since the 19th century. An ornamental stone drinking fountain is located to the south. There is a risk of clutter, including excessive signage and site furniture in the vicinity of the space. There are some signs of anti-social behaviour within the gardens.

Landscaping elsewhere in this character area is limited. Tree and shrub planting in semi-permanent planters is present on Waterloo Street, and notably on the walkway between the Waterloo Street Arch and Old Market Which has been much improved through the creation of a garden by local residents. Street trees and some planted front gardens are present on the western side of Lansdowne Place, and on Farman Street between Cross Street and Western Road. Domestic front gardens (some planted) are also present on west side of Holland Road and east side of St John's Road.

There is an important visual relationship between most prestigious housing of the area and the surrounding landscape. Brunswick Terrace, Brunswick Square and Adelaide Crescent were established with full and open or oblique views to the sea across the foreground landscaping. As originally conceived, both Brunswick Square and Palmeira Square enjoyed views to the north across the former Wick Estate towards the South Downs, a view that is now lost through subsequent urban development. These visual connections were intended to reinforce the relationship between the ordered and elegant neo-classical architecture and the natural world beyond.

As such, these remain key views and are important aspects of the setting of the town. Within Brunswick Square, Adelaide Crescent and Palmeira Square there are panoramic views which encapsulate the architecture of the terraces, the central formal gardens and the sea beyond which are available throughout. Views are also channelled south towards the sea along the perimeter roads of these areas, unobstructed by the low-lying Hove Lawns along the seafront.

In the surrounding streets, static, oblique views along the front of the residential terraces are channelled southward towards the sea on Holland Road, Lansdowne Place and Waterloo Street.

Elsewhere there are a number of interesting short-range views which form part of the planned layout of Brunswick Town, notably views towards the Old Market from the north along Upper Market Street and west through the Waterloo Street Arch, and also west into Lansdowne Square which provides an unexpected view of a particularly fine town house façade (**Figure 16b**). The view north along St John's Road terminates with the spire of the Church of St John the Baptist, prominent above the surrounding mews.



a) Intended view- Brunswick Square Gardens facing north



b) Intended view- Adelaide Crescent Gardens facing north east



c) Oblique view- Palmeira Square Gardens facing north west



d) Intended view- Palmeira Square Gardens facing south

Figure 22: Views within Planned Estate South

3: Western Road Commercial

Description

Western Road formed the original northern limit of Busby's Brunswick Town and was extended west as a continuation from Brighton. From its first inception, the southern side of the road was always intended as a commercial street, with Busby producing designs for buildings which could be either residential or incorporate shop fronts. During the mid-19th century the road was extended further to the west with the development of Palmeira Square, wrapping around the northern side of a zone of formal landscaping now widely known as the Floral Clock. With the exception of a short section of terraces at the southern end of Brunswick Place, the buildings on the northern side of the road were established in successive phases as Isaac Goldsmid released plots of the former Wick Estate for development, starting in the east between 1850-60 and culminating in the establishment of Palmeira Mansions in the west in 1883-84.

This character area comprises the buildings on the north and south sides of Western Road, between Little Western Street in the east and First Avenue in the west, and includes the landscaped Floral Clock, Church Road and the Church of St John the Baptist at its western end. Uses are predominantly commercial, with shops, cafes and pubs lining both side of Western Road as far as the Floral Clock, with some external dining areas, and office uses on upper storeys. The area around Floral Clock includes commercial use to the south and residential terraces of Palmeira Mansion to the north.

Buildings and scale

Reflecting the phased development of this area, there is an eclectic mix of building styles along Western Road. The buildings form continuous terraces. There are comparatively few listed buildings, those that are listed tending to incorporate the end terraces of streets to the north and south at the junctions of Brunswick Road, Brunswick Place, Lansdowne Place and Palmeira Square, though there are a number of exceptions.

Along the southern side of Western Road the earlier commercial buildings are generally of three to four storeys creating a varied roofline, rendered and painted off white with pronounced string courses and parapets, and occasional canted or curved bays at or above first floor level. The majority have inserted modern shop fronts and signage. Moving from east to west, notable buildings include:

- Grade II listed shop and dwelling above at 20 Western Road on the corner of Upper Market Street, and the adjacent locally listed former Western Hotel
- Grade II listed shops at the eastern corner of Brunswick Place (30a-c Western Road)
- Locally listed shop at 31a Western Road, incorporating a Dutch gable and large curved bay with ogee canopy at first floor level
- Grade II listed Freemasons Inn and Restaurant at 39 Western Road (1870) incorporating a distinctive mosaic frontage
- Grade II listed shops at 44-47 Western Road housed in the side return of 48 Lansdowne Place
- Locally listed parade of shops at 50-58 Western Road within the three and four storey art deco former William Hill's department store
- Grade II listed shop at 62 Western Road and adjacent Italianate Wick Public House
- Locally listed Hove Bank at 64 western road, a four storey red brick corner building incorporating a corner turret

- Grade II listed parade of shops at 68-72 Western Road incorporated into northern return of 17 Palmeira Square, and 73-76 Western Road incorporated into northern return of 18 Palmeira Square

A single building is identified on the southern side of Western Road which detracts from the character and appearance of the street: Intergen House (65-67 Western Road) is a nine storey late 20th century apartment block of brick construction with vertical columns of windows interspersed with gloss black cladding.

Buildings on the northern side of Western Road are broadly of a similar scale to the south, being three-four storeys, but are stylistically more varied. Moving from east to west, notable buildings include:

- Grade II listed shops at 124-125 Western Road within southern return of terrace at 1 Brunswick Road
- Grade II listed shops at 108-110 Western Road with the southern returns of 9 and 10 Brunswick Place
- Locally listed shop at 100 Western Road (late 19th century Lane & Steadman with art nouveau/timber shop front)
- Grade II listed shops at 86-90 Western Road, incorporating southern return of 59 Lansdowne Place
- Grade II listed 'Maples' at 82 Western Road (four storey Italianate shop and apartments in prominent corner position at the eastern end of Floral Clock, now a Tesco Express).

To the north of the Floral Clock are the Italianate five storey + basement Grade II and II* listed Rochester Mansions and Palmeira Mansions with listed walls to the front, built in 1883-4 to the designs of H J Lanchester. Further unlisted town houses (both rendered and stock brick) are located further to the west, extending to the western boundary of the conservation area.

A number of negative buildings are identified on the northern side of Western Road at nos 83, 112-116 (Sheridan House) and 130, comprising later 20th century infill developments, broadly in keeping with the prevailing scale on Western Road but of low architectural value.

At the western end of the Character Area is the Grade II listed Church of St John the Baptist, designed by Edward and William Gilbert Habershon and built in 1852-4 with the spire added c. 1859. The church was built on land donated by Isaac Goldsmid for the residents of Adelaide Crescent and Palmeira Square. The church is of knapped flint construction with stone dressings and clay tile roof.

Spaces

The majority of the character area is a single, busy shopping street with through traffic from Brighton in the east and Hove in the west. The tall buildings to the north and south of Western Road create a sense of enclosure.

Floral Clock marks a departure from this, with the Church of St John the Baptist at its western end and large Italianate mansions surrounding the northern, eastern and southern sides of the landscaped garden which is also open to Palmeira Square in the south, creating an open, boulevard-type character.



a) View to west along Western Road



b) Listed and locally listed commercial premises, Western Road/Upper Market Street



c) Floral Clock- view to west from Western Road



d) Church of St John the Baptist, facing west from Floral Clock

Figure 23: Western Road Commercial Area

Streets, paths and street furniture

Throughout this character area Western Road and Church Road are tarmac surfaced, with stone kerbs and concrete pavements. Zones of cobble sett paving are present demarcating specific changes in use, including bus stands at Floral Clock and around the perimeter of the gardens.

Pavements are generally wide and include outdoor seating with awnings at some cafes and restaurants. Roadside refuse, recycling and communal bins are also present at intervals, alongside bike stands, belisha beacons, road signage and modern bus stands.

Locally listed street furniture comprises a red pillar box with the 'VR' cipher at the junction of Lansdowne Place and Western Road. Modern street lighting is present throughout.

Landscape and key views

Along the commercial section of Western Road there is minimal landscaping. Street trees, where present, are located at the ends of adjoining residential streets and do not contribute strongly to the character of the area. Views are channelled east and west, with fleeting, glimpsed views into residential streets to the north and south. A number of buildings occupying prominent corner positions act as focal points to the observer moving along the street, including the Wick Inn, Hove Bank and former Western Hotel.

By contrast, the colourful linear space of Floral Clock provides visual interest for the surrounding properties and Church Road, the B2066 and Western Road/Holland Road. A colourful clock formed through bedding planting provides a focal point within the centre of the gardens. Amenity features and site furniture are positioned within the space including ornamental timber and metal benches, knee high fencing, bins and colourful formal bedding displays amongst lawns, tarmac paths and established boundary tree planting with some localised replanting. There is ongoing wear and tear and vandalism given its frequent use by pedestrians and busy roadside location.

Views across the Floral Clock area are important aspects of its intended function as a recreational space for Adelaide Crescent and Palmeira Square. These include views oriented west towards the Church of St John the Baptist and east towards the Maples building (**Figure24**), and oblique views along the prominent façades of Palmeira Mansions and south towards the terraces of Palmeira Square and Palmeira Square Gardens.



Figure 24: Floral Clock, facing east towards Western Road

4: Planned Estate North

Description

This character area includes the north-south aligned streets extending between Western Road and Lansdowne Road at the northern limit of the conservation area. Essentially a later continuation of the planned estates to the south, this predominantly residential area was developed in successive stages by Isaac Goldsmid in the mid-late 19th century. It includes northward continuations of some key terraces from the south, including Brunswick Place and Lansdowne Place, drawing on the design principles established by CA Busby in Brunswick Town, alongside terraces of later Victorian and early 20th century housing.

Buildings and scale

The buildings of this character area are described below by street moving from east to west:

- ***York Road***: opposing terraces of paired three storey + basement unlisted town houses. The majority are off-white painted render over brick, with one example which has been roughcast rendered. Canted bays variously extend to two or three storeys. Roofs are concealed behind parapets. Black painted railings at street level, with tiled steps to front doors which are part glazed timber with rectangular fan lights. Four pane timber framed sash windows. At the northern end of the road are two individual bow-fronted, four storey houses with balcony railings at first floor level.
- ***Brunswick Road***: Grade II listed, built c. 1850-60, opposing terraces of paired three storey + basement bow-fronted town houses. Uniform off white painted stucco over brick, with black balcony railings at first floor level (**Figure 23a**). Low walls and gate piers to the front of the properties with tiled steps to front doors which vary in style and colour. Four-pane timber sash windows with horizontal glazing bars.
- ***Cambridge Road***: Church of St Patrick at south-western end of road (Grade II listed, built 1878 in Kentish ragstone to design of Edward Kendall Jnr). The remainder of buildings in the street are unlisted. On the western side is a continuous terrace of four storey + basement town houses, painted stucco over brick with full height canted bays, railings at first floor balcony level, two pane timber sashes and dwarf boundary walls with gate piers at the roadside (**Figure 25b**). The majority have heavily moulded parapets with balustrades above. On the eastern side, nos 1-22 and 50-56 are four storey + basement townhouses, the southern two being bow fronted and the remainder having canted bays to the third storey with Doric porches above the doors supporting iron balcony railings. Windows are two-pane timber sashes with narrow glazing bars placed towards the window edges. Dwarf walls at the roadside support elaborate iron railings. Until the late 19th century the space between nos 22 and 50 was a linear landscaped garden. Substantial semi-detached housing was built over this area between 1898 and 1911, comprising two storey + attic double-fronted houses in pale stock brick with red brick dressings to the window and door surrounds. Balcony railings supported on porch above glazed doors with large fanlight. Mock Tudor timber dressings with roughcast panels to heavy projecting gables at attic level. Roofs are covered with plain tiles, some having been replaced with cement tiles. Tiled steps between low stock brick walls at the front of the properties.
- ***Brunswick Place***: Grade II listed, c. 1850, opposing terraces of paired four and five storey + basement bow-fronted town houses (**Figure 25c**). Uniform magnolia painted stucco over brick, with black balcony railings at first floor level. Railings to the front of the properties with stone or tiled steps to front doors which are black, part glazed with rectangular fanlights above. Two pane timber sash windows to the ground and first floor, four-pane timber sashes above. This street is a continuation of Busby's Brunswick Place on the south side of Western Road, but was largely completed following his death on land owned by Isaac Goldsmid to a similar design.

- ***Farm Road***: this road is highly variable in character. Formerly leading to Wick Farm, this narrow road contains a discontinuous row of two storey mews-style properties on the eastern side, while the western side is dominated by a continuous terrace of compact three storey + basement town houses with simple canted bays (**Figure 25d**). Carriage entrances pass beneath these buildings at intermittent points leading to secluded courtyards of former stables/mews properties at the rear (Lansdowne Mews, Farm Mews, Goldsmid Mews and Spink Close). The mews-style buildings on the eastern side of Farm Road were built in stages from the early-mid 20th century onwards and are generally off-white painted render over brick (though unpainted brick and tile hung bays are noted at the southern end of the street), fronting directly onto the pavement with four-pane timber sashes and slate covered pitched roofs concealed behind low parapets. In the northern half of the street the buildings are interspersed with ad-hoc single storey garages in varying states of repair, brick built and some with pebbledash render. The town houses on the western side of Farm Road were built between 1850-60 and are of a simple design with painted render or pebbledash over brick. Roofs are concealed behind flat parapets. There is some variation along the terrace, with bays at the front of the properties either extending to full height or single bays placed centrally at first floor level. Satellite dishes are ubiquitous. At the northern end of the street, St Anne's Well House is a modern brick and part-rendered apartment building with a fourth storey mansard roof. No 26 Farm Road to the north of this is a slightly more elaborate town house, while the side return of no 4 Lansdowne Road forms the corner of the street and is a two storey + basement double fronted mid-19th century villa. The Brighton and Hove Progressive Synagogue to the west of 4 Lansdowne Road has existed on the site since the late 19th century, but now has a simple, flat modern frontage painted white.
    - ***Lansdowne Mews***: 1850-60, comprises 12 properties within a courtyard accessed beneath the Coopers Cask pub on Farm Road. These are two-storey rendered brick buildings with accommodation at first floor level over former carriage entrances. Timber carriage doors survive in most of the buildings, while there is some variation in the quality of the first floors, with replaced windows and doors. Roofing materials are slate, though roofing felt only is also present. The buildings are in generally poor condition and are used as workshops and storage. A large panel of graffiti is present on the southern wall of the carriage entrance from Farm Road.
    - ***Farm Mews***: 1850-60, contains 13 properties within two courtyards accessed between nos 11-12 Farm Road. The northern courtyard comprises two storey rendered brick or weatherboarded buildings painted white and black (**Figure 25e**), with accommodation at first floor level over former carriage entrances. Timber doors survive. Windows vary and include double glazed units, timber framed sash and metal framed examples. Roofing materials are concrete tiles. The buildings are in generally poor condition.
    - ***Goldsmid Mews***: 1850-60, contains 7 properties within a courtyard accessed between 15 and 16 Farm Road. Two storey flint-built mews properties with red brick dressings to carriage entrances, doors and windows (**Figure 25f**). No. 1 has white painted rendered walls. White painted timber doors and multi-pane casement windows. Roofs are slate covered. The buildings in this courtyard are in a good state of repair and well-maintained.
    - ***Spink Close***: modernised apartment blocks in former mews courtyard accessed between 21 and 22 Farm Road. The buildings are rendered brick painted white and two storeys high with additional accommodation in a slate-tiled mansard. Square double height bays with white painted two-pane sash windows.

- ***Lansdowne Place***: Grade II listed, c. 1850-60, these opposing terraces of paired three and four storey + basement bow-fronted town houses are superficially similar to those of Brunswick Place to the east. Uniform magnolia painted stucco over brick, with black balcony railings at first floor level. Railings to the front of the eastern terrace with tiled steps to front doors which are black, sometimes part glazed, with rectangular fanlights above. The buildings of the western terrace stand behind painted, rendered brick walls with gate piers. Windows are white-painted timber sashes with a variety of glazing bar configurations. This street is a continuation of Lansdowne Place to the south of Western Road.
- ***Lansdowne Street***: Opposing terraces of unlisted three storey + basement houses. At the southern end of the street nos 3-21 and 6-18 were built between 1870-76 and have relatively plain facades of off-white painted rendered brick with simple full-height canted bays and projecting string courses. Generally with four-pane timber sash windows, though nos 18 and 15 have been modified with removed bays and multi pane double glazed window units. Roofs are concealed behind parapets. To the north the houses were built between 1876 and 1898 and are painted rendered brick (off-white, grey and blue noted) with canted bays to the first storey and a projecting cornice at parapet level supported on brackets. The western terrace is more elaborately detailed, with dentil cornicing above the bays and projecting quoins. The roofs are concealed behind the parapets, though examples are noted to include inserted dormer windows at attic level. This street is notable for having a greater prevalence of satellite dishes on the western terrace, and gas boiler outlets projecting through the front elevations on a number of the buildings.
- ***Holland Road***: Developed in successive phases between the late 1880s and 1950, Holland Road contains a variety of buildings and differing scales which diverge from the uniformity of residential terraces to the east. The eastern side of the road is dominated by the Transitional Gothic Grade II listed Baptist Chapel (John Wills) in coursed Purbeck rubble with its tall tower and spire. To its north is the substantial Grade II listed red brick stabling and warehouse of the Brighton and Hove Co-Operative Supply Association at 75 Holland Road, built in 1893, which presents an imposing façade to the street and stands behind iron railings. To the south are standalone residential buildings, including a five storey modern apartment block with café at ground level at 63 Holland Road, the three storey + basement Young Women's Christian Institute at 65 Holland Road in yellow stock brick, and a three storey + basement town house in off-white painted rendered brick with full height canted bay at no. 73. A two storey house in coursed Purbeck rubble with gothic detailing is attached to the north of the Baptist Chapel at no. 71. To the north of the former Brighton and Hove Co-Operative Supply Association there is a marked decrease in density and scale: a 20th century single storey workshop (currently a vehicle rental business) with corrugated sheet roofing is set back deeply behind a wide concrete forecourt, to the north of which is the locally listed Hove Hebrew Congregational Chapel, housed in a former gymnasium of 1883 with an unusual architectural style described as reminiscent of Viennese Jugendstil. By contrast, the western side of Holland Road is dominated by almost continuous terraces of five and six storey apartments in red brick. The southern half of the street contains the vast Flemish Renaissance-style Gwydyr Mansions (1890), now locally listed and presenting frontages to both Holland Road and Rochester Gardens. To its north is the rear elevation of Rochester Court and Rochester House, built between 1911 and 1932, and Rochester Close (1932-51).
- ***Rochester Gardens***: The eastern side of Rochester Gardens comprises the red brick frontages of Gwydyr Mansions, Rochester Court, Rochester House and Rochester Close, described above. These are set back within their plots and include gardens to the front behind low brick walls and clipped hedging. On the western side of Rochester Gardens only no 1-6 are included within the conservation area, comprising a short terrace of two storey + attic red and brown brick, part rendered houses, built

between 1911 and 1932. These vary slightly but similar detailing, including clay tile hung bays and steeply pitched clay tile roofs with projecting dormer windows. The windows are generally multi-pane timber sashes, though some have been replaced with double glazed units.

- ***Palmeira Avenue***: Nos 1-11 and 2-12 at the southern end of the street are included within the conservation area. These are opposing terraces of substantial, unlisted, Italianate town houses which project northwards from the side returns of Palmeira Mansions to the south. These are four storeys in height + basement and attic, comprising white painted stucco over brick, with ashlar at ground level and full height, wide canted bays at the first to third storeys. Elaborate iron balustrades are present at first floor level, and iron railings to the front boundaries with tiled steps leading up to black painted, part glazed front doors. The windows are timber sashes in various configurations. Roofs are concealed behind projecting parapets.
- ***Salisbury Road***: Nos 1-3 on the western side of Salisbury Road are included within the conservation area. This comprises a short terrace of unlisted, three storey + basement and attic town houses. The buildings are a buff coloured stock brick with white-painted door surrounds, canted bays which extend to the first floor and rusticated quoins. The front boundaries are defined by low stub walls with gate piers and part tiles stone steps leading to part glazed front doors. Windows are two-pane timber sashes. Dormer windows project forward from the roofs which are otherwise concealed behind the bracketed parapet.

The eastern limit of this character area is formed by Boundary Passage, a narrow pedestrian alley which follows the historic parish boundary between Brighton and Hove. The passage is enclosed by tall flint walling and includes two Grade II listed boundary markers.

Only a small number of negative buildings are identified which detract from the character and appearance of the area. These comprise 20th century garages on eastern side of Farm Road and a workshop on the eastern side of Holland Road.

Spaces

The spaces within this character area are generally confined to the linear gridded arrangement of streets which extend north to south between Lansdowne Road and Western Road. There is a noticeable change between the wider streets of Brunswick Place, Palmeira Avenue (both of which include two vehicle lanes to either side of a central parking zone) and Lansdowne Place, and the narrower secondary streets such as Lansdowne Street and Farm Road which have a greater sense of enclosure. The mews courtyards on the western side of Farm Road have a private, secluded ambience which is not seen elsewhere.

Towards the western end of the character area the density of buildings decreases, and notably the northern end of Holland Road, which contains a wide vehicle forecourt[12] and reduced building heights, and the western side of Rochester Gardens in which buildings are set back behind planted gardens, have a more open feel with a broader mix of uses.

[12] At the time of writing, consent has been granted for development within this plot.



a) View to south, Brunswick Road



b) View to south, Cambridge Road



c) View to north, Brunswick Place



d) View to south, Farm Road



e) Weatherboarded mews buildings, Farm Mews



f) Flint and brick mews buildings, Goldsmid Mews

Figure 25: Planned Estate North

Streets, paths and street furniture

Throughout the character, streets are tarmac surfaced, with stone kerbs and concrete pavements. The condition is generally good, though Farm Road differs with the presence of concrete garage entrances and multiple forms of surfacing to the mews courtyards, much of which is in poor condition.

Roadside refuse, recycling and communal bins are present in most streets, alongside bike stands and road signage. On street parking is ubiquitous.

Brunswick Place contains seven Grade II listed lamp posts which are broadly of the same form (Type 2) as those seen in Brunswick Square and Adelaide Crescent. Lighting columns in the surrounding streets are also of the same type. A locally listed red pillar box with the 'VR' cipher is located at the north-east corner of Brunswick Place.

Landscape and key views

There is minimal soft landscaping in this character area. Street trees are present in York Road, Brunswick Road, Cambridge Road (northern end), eastern side of Brunswick Place, western side of Lansdowne Place, Rochester Gardens, Palmeira Avenue and Salisbury Road. Rochester Gardens is also noted to include wide front gardens on the eastern side, which incorporate some mature trees.

Views are necessarily channelled along the axis of these parallel streets, however glimpsed views southwards of the sea are possible from the northern ends of Brunswick Road, Cambridge Road, Brunswick Place and Lansdowne Place which provides a visual connection to the wider landscape. A significant view is also noted facing south from Palmeira Avenue across the Floral Clock and into Palmeira Square Gardens.

6 MANAGEMENT APPROACHES

Key opportunities, issues and vulnerabilities

The overriding objective of conservation area designation is to preserve or enhance the area's character or appearance. This can be achieved in a number of ways, through a continual process of monitoring and review, sensitive and proactive management within the planning process, control of permitted development rights, and the implementation of wider planning and community initiatives.

With reference to the statement of special interest (Section 1), the assessment undertaken in the course of preparing this character statement has identified a number of key opportunities, issues and vulnerabilities as summarised below which have been incorporated into the action plan presented in Table 6.1. These are grouped below under three general themes: the built environment; open spaces; and the public realm.

THE BUILT ENVIRONMENT

Brunswick Town contains a large number of distinctive and historically important buildings which have survived intact and in groups, providing a strong sense of order and uniformity to the conservation area. Existing planning controls are in place, including the Hove Borough Council Act 1976 and five separate Article 4 Directions, which have effectively managed the appearance of many of the streets and controlled change over time. These existing controls are considered sufficient for future management of change, and no further controls are recommended.

Because of the densely developed nature of the streets in Brunswick Town, there is generally a limited opportunity for wholly new development to occur. However, a number of points are noted here:

- The conservation area contains a large number of listed and locally listed buildings, which positively contribute to the area's character and appearance. In addition, a large number of buildings have been identified which, although not designated at a local or national level, are considered to be 'positive' buildings, contributing to the character and appearance of Brunswick Town. Changes to these buildings should be resisted, including incremental alteration or loss of features through replacement of windows, replacement of doors, use of uncharacteristic roofing materials (slate or plain tiles predominate here), installation of satellite dishes, solar panels and gas boiler flues to the street-facing elevations of buildings. Proposals for the reinstatement of lost features, including period-appropriate windows, should be encouraged wherever possible, subject to clear evidence for the work.
- Existing character should be maintained through the continued application of Article 4 Directions.
- Proposals for new development or alterations to existing buildings should be accompanied by robust heritage statements setting out the way in which a proposal will affect not only the significance of the building(s) but also the setting of the surrounding assets and the contribution that this makes to their significance, in accordance with local and national planning policy.
- Any new development should seek to preserve the scale and uniformity of the street on which it is proposed. This is particularly important in streets of mews buildings and along the secondary streets, in which the low relative scale of the buildings compared to those of the surrounding terraces is fundamental to appreciating the intended layout of the planned historic town. There is a lower

apparent risk of new and inappropriate development within the surrounding streets of terraces, however the same principle would apply- that new development should reflect the prevailing scale of surrounding buildings on the street in question.

- Any applications for conversion of loft space should be carefully considered to ensure that this does not adversely affect the appearance of the street on which it is proposed. The conservation area includes buildings with a range of roof profiles and wall parapets; buildings in which conversion of loft space would require substantial dormers that are visible from street level should be resisted, and any proposals should be considered on a case-by-case basis.
- The streets of mews buildings have been subjected to the most readily apparent incremental change over time. This is reflected in the number of buildings identified as making a negative or neutral contribution to the character and appearance of the conservation area. These streets are vulnerable to the erosion of their historic character through ad-hoc alteration, extension or neglect, and is in part associated with commercial, light industrial or private garage use. In some instances this has resulted in poor maintenance over long periods of time. There is therefore an opportunity for positive enhancement of character through refurbishment, sympathetic conversion or change in use within the mews streets. New development should celebrate and complement the more diverse palette of traditional materials and vernacular styles seen in these areas.
- There is a risk of harm to the significance of buildings through inappropriate internal alteration and maintenance which may be particularly pronounced in terraces let as flats or houses in multiple occupancy (HMOs). Any proposals for internal alteration of listed buildings should be informed by an understanding of the original fabric of the building and its significance. Where heritage at risk is identified, proactive engagement with landowners, landlords or tenants should seek to rectify any issues identified.
- Western Road contains a large number of commercial properties, many of which have modern inserted shopfronts and internal alterations which detract from the character and appearance of the area. The retention of early shopfronts should be encouraged through the inclusion of buildings on the local list. Proposals for new commercial uses, including the use of awnings and provision for external seating areas, should seek to include high quality frontages which respond to the character of the area.

OPEN SPACES

The open spaces of Hove Lawns, Brunswick Square Gardens, Adelaide Crescent Gardens, Palmeira Square Gardens and the Floral Clock are integral to the historic character of the conservation area, forming a key component of the planned layout of the town and the setting of the surrounding buildings. These spaces are all included on the local list. In general these are well maintained, however some issues were noted, including the poor condition of some internal paths, missing or damaged railings, wear to grass and borders at pedestrian cut-throughs, and damaged or vandalised benches, shelters and bins.

Ongoing maintenance is important to ensure that the appearance of these spaces is preserved and that damaged or deteriorating conditions do not detract from their significance and the setting of surrounding buildings. There is an opportunity for enhancement through the restoration of lost landscaping features and diverse planting, working in collaboration with local community and residential groups.

Public events and fairs to attract visitors should be carefully managed to ensure that there is no long-term damage to the landscape fabric, and to minimise disruption to local communities.

THE PUBLIC REALM

This central location within Brighton & Hove brings with it clear challenges in terms of managing and maintaining the public realm:

- On-street parking is present throughout, with pressure for space being a significant issue. The prevalence of parking is a negative aspect of the conservation area, but one which is unfortunately inevitable. Designated parking areas should be carefully managed and maintained to ensure that the impact is minimised wherever possible and that conditions do not deteriorate.
- Communal street bins are present in many of the residential streets and, along with the pressure for parking space, detract from the general appearance of the area and interpose in some key views. These are an inevitable feature given the density of the residential streets; however it is essential that these are managed and maintained in a way that minimises the impact upon the area resulting from deterioration of their condition and the accumulation of refuse in streets.
- There is a wide range of street furniture types throughout the conservation area. Listed and locally listed lamp post columns and pillar boxes are present in a number of areas, however many lamp posts are also present which, although not listed or locally listed, are similar in age and form. Retention and maintenance of these features, including regular repainting, is essential to preserve the contribution that these make to the character and appearance of the area and prevent further incremental loss.
- Modern road signage, bollards, bike racks, seating, bins and bus shelters are frequent and include a wide range of types and styles. There is a risk that a lack of coherent planning for these features will compromise the character of the area, resulting in cluttered streets and fragmented views due to incremental change. Removal of excessive street furniture is to be encouraged, and there is an opportunity for the controlling and design of new street furniture to create a locally distinctive public realm.
- Within the mews streets, the prevalence of privately owned garages and courtyards has led to a lack of consistent maintenance of floor surfaces and materials, including those along pavements at garage and workshop entrances. Opportunities for their repair and specifications for new materials should be encouraged to improve the general appearance and condition of these spaces.
- Vandalism and graffiti is a problem in some public spaces and along back streets, graffiti in particular being noted along Farm Road. Opportunities should be explored to limit vandalism and anti-social behaviour by increasing natural surveillance where possible, developing anti-graffiti measures and looking at other security measures.

Boundary revisions

As part of this assessment, consideration has been given to the potential requirement for revision to the conservation area boundary. The present boundary was drawn to encapsulate the full extent of the historic area of Brunswick Town and the land subsequently developed by Sir Isaac Lyon Goldsmid to its west and north.

The eastern boundary of the conservation area follows the historic parish boundary, marking the position from which Brunswick Town developed. While there has been some alteration to the building stock and layout of courtyards along this edge, its position is of historical importance, and its retention as the boundary of the conservation area is considered appropriate. Regency Square Conservation Area shares this boundary to the east.

The western boundary follows the rear property boundaries of buildings on the western side of St John's Road, laid out as part of the establishment of Adelaide Crescent and Palmeira Square and forming the western limit of the mews associated with these terraces. The buildings on this road therefore have group value with the terraces, and the boundary as currently defined forms a logical grouping.

The northern boundary follows Lansdowne Road (the northern limit of Goldsmid's terraces), before stepping southwards (Palmeira Gardens/Salisbury Road) reflecting the extent of development by the end of the 19th century. Again, the boundary as defined forms a logical grouping of streets and buildings associated with this later 19th century phase of construction.

The southern boundary is defined by the Hove sea wall at the southern edge of Hove Lawns, which are closely linked to the establishment of Brunswick Town and are a central component of the setting of buildings in the conservation area.

Overall, therefore, no revisions to the conservation area boundary are considered to be necessary.

Consultation

As part of the production of the draft document, an initial consultation process was undertaken via email and phone engagement with agreed key stakeholders to determine knowledge, issues and aspirations associated with the conservation area. The draft Character Statement was then the subject of a five-week formal public consultation exercise. Responses received from the public consultation have helped to inform the final Character Statement.

Action plan

This section and **Table 6.1** sets outs a series of actions which will be carried out to retain and enhance the landscape, historic and architectural character within Brunswick Town Conservation Area. It lists each broad objective, how each will be achieved and who is responsible for achieving them. Where appropriate a priority level is indicated and further considerations highlighted. The programme should be reviewed regularly.

The actions have been prioritised on criteria of importance and urgency as follows:

- **Low:** Actions which have a low impact on conservation area values
- **Medium:** Actions which have a moderate impact on conservation area values
- **High**: Actions which have a significant impact on conservation area values

Table 6.1: Conservation Area Action Plan

Ref.	Action	Resources	Priority	Notes
Objective 1: Utilise planning policy to maintain, preserve, protect and enhance the special character and appearance of the conservation area				
1.1	Ensure a balanced but robust approach to the application and enforcement of NPPF and Local Plan policies in planning decisions affecting the conservation area and its setting.	B&HCC	High	
1.2	Carry out 5 yearly reviews of non-designated buildings and structures of particular historic interest within the conservation area for potential local listing inclusion.	B&HCC	Medium	
1.3	All applications within the conservation area and setting require an appropriately detailed Heritage Statement in order to understand the impact of a proposed development on the area.	B&HCC / Applicants and Agents	High	Refer to paragraph 189 of the NPPF (impact on the significance of heritage assets or their settings).
1.4	Key views e.g. static, kinetic/dynamic, glimpsed, should be kept under review, particularly following any approved addition or removal of a building, structure, tree or infrastructure asset (including development outside of the conservation area).	B&HCC / Applicants and Agents	Medium	Key views identified within this document are not exhaustive. Refer to Historic England's Good Practice Advice in Planning Note 3: The Setting of Heritage Assets (2017). Reinstatement of lost views should be encouraged. As required, views must be considered within Design and Access or Heritage Statements.
1.5	Monitor the relevance and continuing usefulness of existing Article 4 Directions to ensure that they continue to control works that could threaten the character or special interest of the conservation area.	B&HCC	Medium	If an Article 4 Direction is applied, a planning application will be needed for any development listed within the Direction that would otherwise have been permitted development. Where permitted development rights change, the need for any new Directions should be considered.

Ref.	Action	Resources	Priority	Notes
1.6	Liaise with the Historic England Heritage At Risk officer (London & South East Region) to help secure the removal of any identified assets on the Heritage at Risk Register as required.	B&HCC/Historic England/Asset owners	High	
1.7	Ensure conservation area stakeholders are aware formal notice (section 211) is required for works to trees that have a trunk diameter of more than 75mm when measured at 1.5m from ground level (or more than 100mm if reducing the number of trees to benefit the growth of other trees)	B&HCC	High	Section 211 notification under Town & Country Planning Act 1990. Tree works to protected trees requires planning consent. Key arboricultural contact: arboriculture@brighton-hove.gov.uk
1.8	Where deemed appropriate seek inclusion of agreed historic features and open spaces on local and national heritage lists and Historic England's Register of Parks and Gardens of Special Historic Interest in England respectively.	Local community groups	Low	
Objective 2: Ensure sensitive design and character retention within the conservation area				
2.1	Use traditional materials and skills appropriate to the construction of the building or structure wherever possible.	B&HCC/Asset owners	High	Appropriate professional or craft skills and experience should be used in all work including inspection, maintenance and repairs.
2.2	Encourage reinstatement of lost features e.g. windows, doors, ironwork, shop fronts, decorative detailing, and tree plantings.	B&HCC/Asset owners	Medium	
2.3	Encourage replacement of inappropriate materials with area specific and era appropriate materials for structures and floorscape.	B&HCC/Asset owners	Medium	
2.4	Continue to maintain the open space and historic squares which help us to understand the historic development, context and design intentions within the area.	B&HCC/Asset owners	High	

Ref.	Action	Resources	Priority	Notes
2.5	For the public squares, any new design interventions should celebrate and restore the square's historic Georgian sinuous and geometric features whilst offering a place for people and nature. There is a preference for implementing diverse planting, full of native flowering and fruiting plants.	B&HCC	Medium	
Objective 3: Maximise funding streams and opportunities for the enhancement and maintenance of the conservation area				
3.1	Seek funding opportunities for any future enhancement schemes.	B&HCC	Medium	Review capital investment and explore potential Community Infrastructure Levy or developer contributions within the conservation area. Explore option to ringfence income from events held to benefit the immediate area. Other opportunities and online tools may include Grantfinder, Funds Online, Historic England, the National Lottery Heritage Fund and crowd-funding.
3.2	Seek appropriate environmental funding support and initiatives.	B&HCC	Medium	Considerations may include Trees for Streets and Plant For Our Planet.
Objective 4: Enhance public realm and open space management and maintenance				
4.1	In reference to climate change, tree strategies should remain in place within the City and the Council should continue to adopt the Arboricultural Association's *Biosecurity Position Statement* and Defra's *Tree Health Resilience Strategy.*	B&HCC	Medium	It is challenging to establish trees on the more exposed east side of the squares. Trees do not like being planted as single specimens within the coastal area but prefer to be in a small group to aid establishment. The elm was extensively planted at Hove precisely because they could tolerate coastal conditions.
4.2	The gardens should ideally be a robust, no-irrigation, future-proofed landscape, where all planting is closely fitted to the ecological and microclimatic conditions of the area. This will invariably lead to a lower-input but higher-impact gardens. Naturalised/meadow planting opportunities or within localised areas within the spaces should be explored.	B&HCC	Medium	

Ref.	Action	Resources	Priority	Notes
4.3	Regularly review and manage the risk of an incremental increase in unsightly signage, street furniture, vehicle parking and additional ancillary structures marring the setting of the open spaces.	B&HCC	High	
4.4	Continue to seek opportunities to develop and enforce a future coherent attractive design palette for benches, bins and site furniture.	B&HCC	Medium	
4.5	Viewpoints from principal approaches towards architectural eyecatchers and designed landscape features should be revealed where appropriate.	B&HCC	Medium	
4.6	Seek the opportunity for the open spaces to be included for assessment with the Green Flag Award scheme. The scheme is the benchmark national standard of open space and considers heritage values and other community benefits.	B&HCC	Medium	
4.7	Ensure regular monitoring, maintenance and if required reinstatement of historic seafront features. Ongoing marine environmental condition cause wear and tear and a requirement for repairs. Some of the structures affected include benches, painted railings and ornamental metal shelters and lighting columns plus lawns.	B&HCC	High	Refer to objective 3 actions.
4.8	Ensure regular monitoring, maintenance and if required reinstatement of historic features including floorscape/paving, railings, shelters and lighting columns.	B&HCC	High	Refer to objective 3 actions.
4.9	Ensure conservation area stakeholders are aware of historic specifications and era specific design e.g. historic use of York or Caithness flagstone for paving to limit and reduce risk of erosion of character within the conservation area.	B&HCC/Local community groups	High	Consider future online guidance for stakeholders.

Ref.	Action	Resources	Priority	Notes
4.10	Explore opportunities for limiting vandalism and anti-social behaviour by increasing natural surveillance and looking at other security measures.	B&HCC	Medium	
4.11	Carefully manage events and fairs to attract visitors but ensure that there is no long-term damage to the landscape fabric of the site and minimise disruption to local communities. This should be achieved through limits on size and frequency and through coordinated event and site management	B&HCC	Medium	English Heritage's 2010 *Temporary Structures in Historic Places* guidance document explores useful issues and recommendations related to temporary structures and events in an historic environment. Refer also to objective 3 actions.
Objective 5: Regular review and communication				
5.1	Apply the Character Statement and ensure it is readily available and accessible to relevant staff and by all the various stakeholders.	B&HCC	High	The increasing importance of digital access should be taken into account.
5.2	Consider effective monitoring of the impact of the Character Statement and its effectiveness.	B&HCC	Medium	Any data updates and recent policy/guidance should be identified. The Character Statement should be reviewed every 10 years or in response to changes that would make it significantly out-of-date.
5.3	Ensure appropriate engagement and consultation with the local community and amenity societies.	B&HCC	High	Consultation should be carried out in conformity with the council's adopted Statement of Community Involvement.
5.4	Encourage community groups to assist with applying the Character Statement and to collaborate on specific projects for the maintenance and improvement of public spaces as appropriate.	B&HCC / Amenity Societies and local community groups	Medium	Further information within COMA 2016 guidance *Community ownership and management of parks and green spaces.*

7 REFERENCES

Detailed historical studies exist for Brunswick Town which can usefully be read in conjunction with this character statement for more information regarding the architects, residents, buildings and history of the area. A summary is provided below of relevant resources which may provide useful additional reading.

Published Works:

Bingham, N, 1991, *C. A Busby: The Regency Architect of Brighton & Hove*. RIBA Heinz Gallery

Unpublished Works:

Harris, R, 2007, *Brighton & Hove Historic Character Assessment Report: Sussex Extensive Urban Survey*.

Internet Sources:

https://regencysociety.org/: The Regency Society is Brighton and Hove's oldest amenity society, formed in 1945. Alongside campaigning for the city's past and future heritage, the society's website includes details of events, print collections (Society of Brighton Print Collectors), a photographic archive and overviews of the city's architectural heritage.

https://georgiangroup.org.uk/: The Georgian Group is an English and Welsh conservation organisation created to campaign for the preservation of historic buildings and planned landscapes of the 18th and early 19th centuries. The Georgian Group has published advice sheets on the conservation and repair of Georgian period buildings for homeowners and professionals, which are available on their website.

https://historicengland.org.uk/listing/the-list/: Historic England maintains the National Heritage List for England. The online list incorporates a map search and contains the most up-to-date listing descriptions for buildings within the conservation area.

http://www.rth.org.uk/: The Regency Town House (13 Brunswick Square) is a charity working to restore the building and basement annexe, and is being developed as a museum and heritage centre with a focus on the architecture and social history of Brighton & Hove between the 1780s and 1840s. Their website includes information on the history of the Brunswick Estate, the care of historic properties and public participation events.

http://hovehistory.blogspot.com/: Detailed studies and social history of Hove, Brighton and the surrounding area with images and street-by-street analysis, by local historian Judy Middleton.

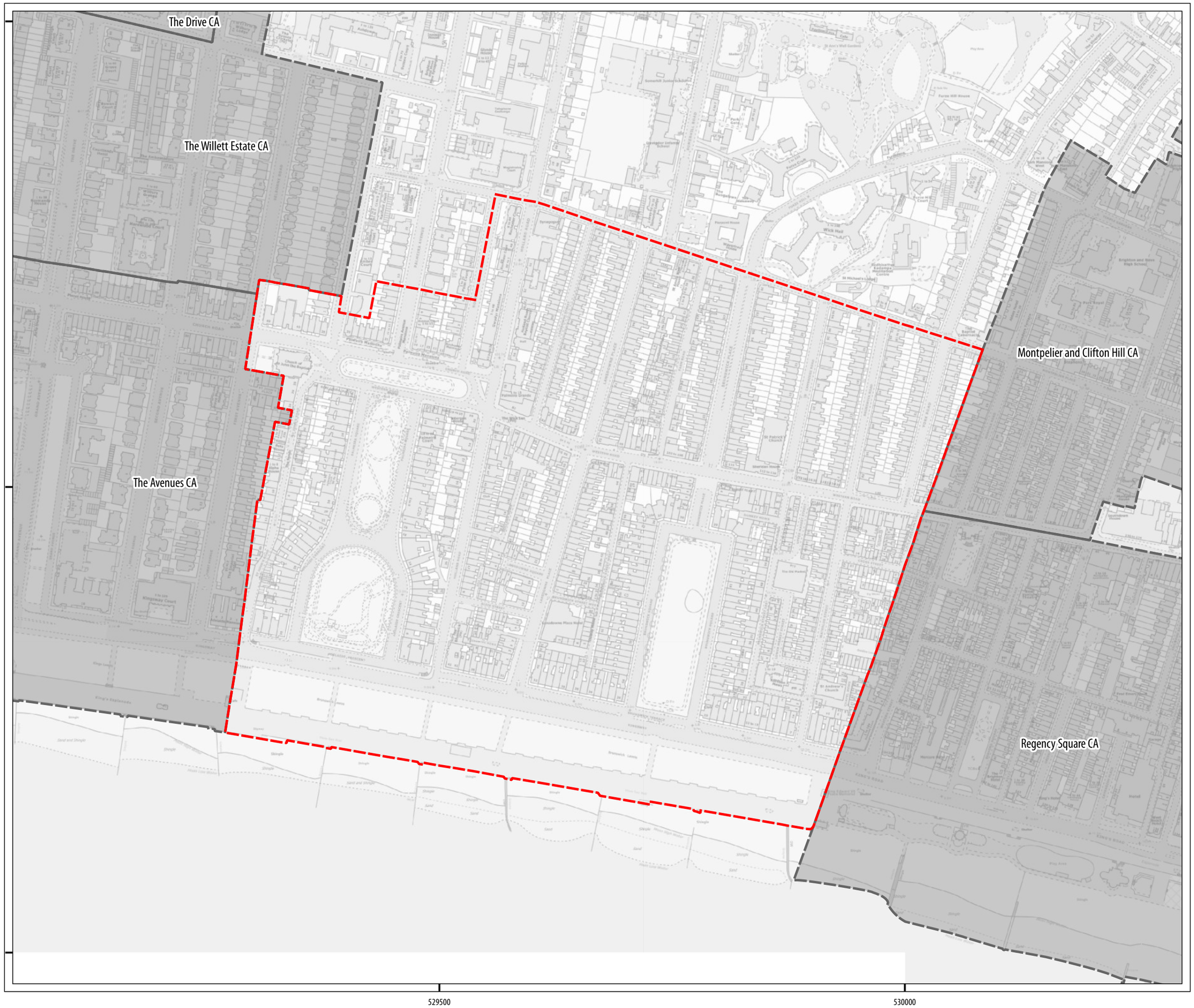
http://brightonhistory.org.uk/index.html: A repository of information on Brighton & Hove, including timelines, historic maps and information on architects, residents and local history.

http://friendsofbrunswick.co.uk/: Residents' Association website for Brunswick Square and Terrace.

http://www.fopa.co.uk/heritage/: Friends of Palmeira and Adelaide is a resident's association for Palmeira Square and Adelaide Crescent.

http://lansdowneplace.blogspot.com/: Lansdowne Area Residents Association (LARA) established more than ten years ago to provide a communal voice for residents in the area.

APPENDIX A
DRAWINGS



RSK
HEADLAND ARCHAEOLOGY
Spring Lodge
172 Chester Road
Helsby WA6 0AR
STEPHENSON HALLIDAY
Planning, Landscape & Environment
an RSK company

Key

- Brunswick Town Conservation Area
- Brighton and Hove Conservation Areas

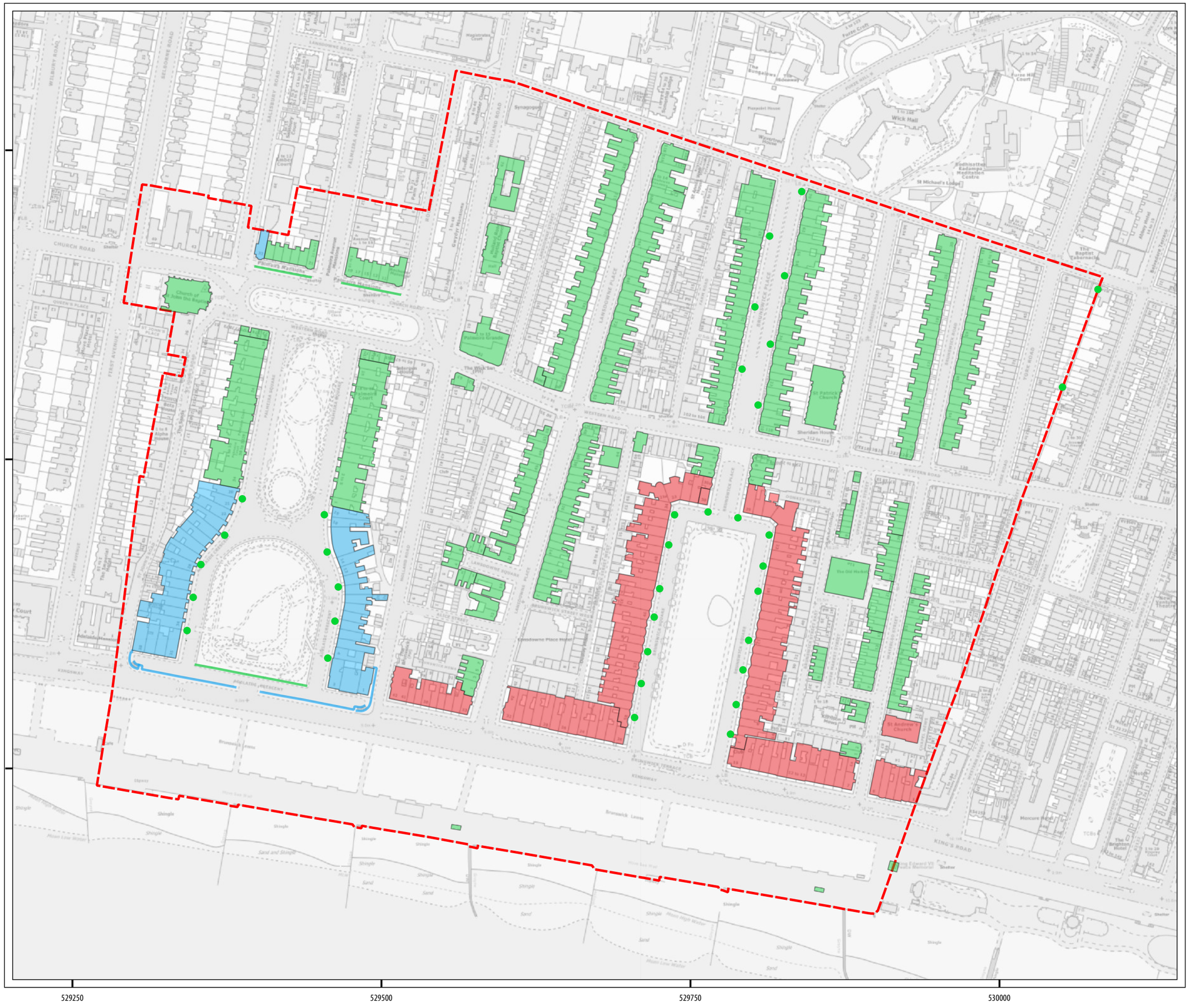


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1:4000 @ A3

0 100 200 m

Drawing 1: Brunswick Town Conservation Area Location Map



RSK

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Key

- Brunswick Town Conservation Area

Listed Buildings (Grade)

- I
- II*
- II

Listed Buildings- Linear (Grade)

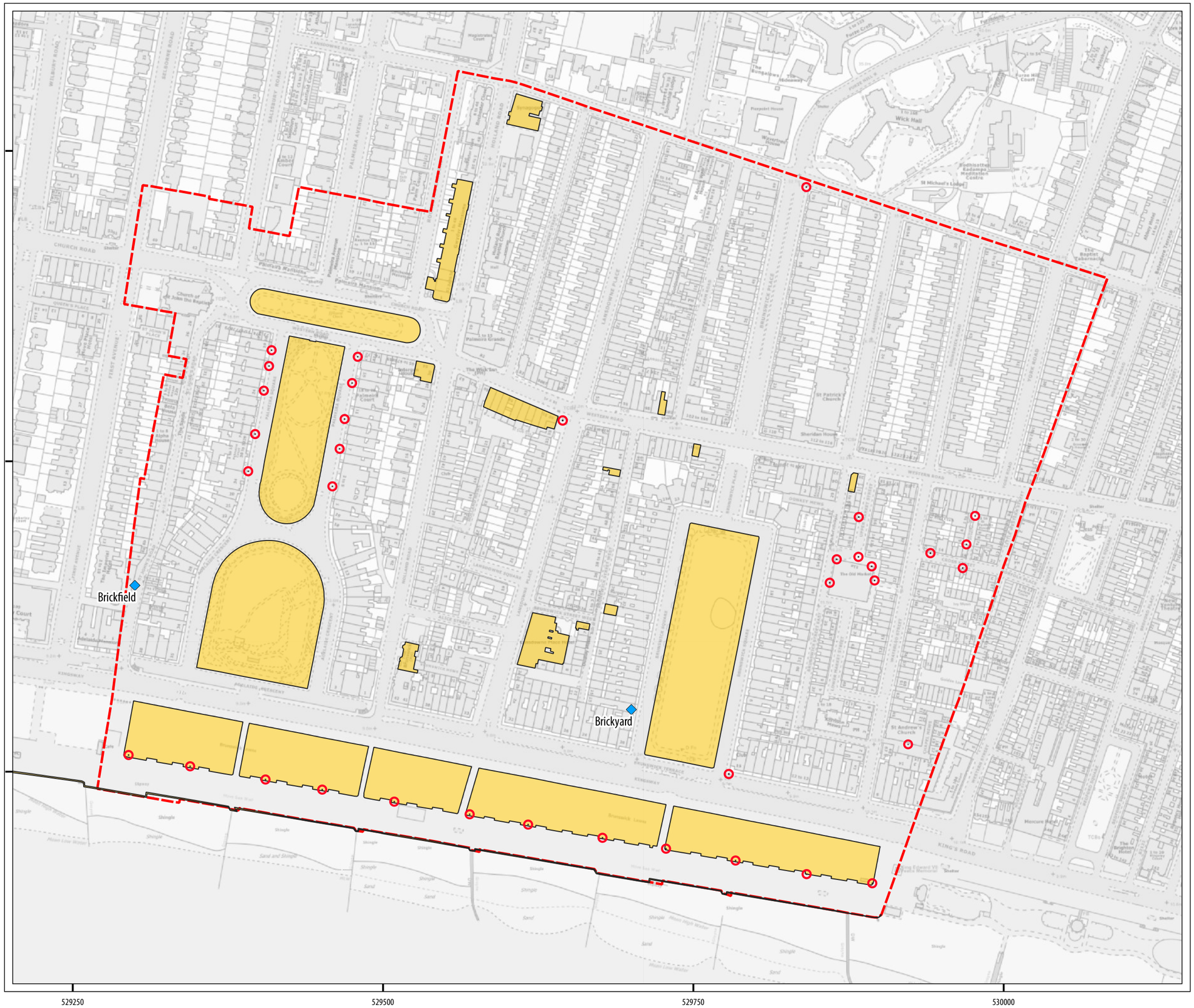
- II*
- II
- Listed Street Furniture (Grade II)

Contains OS data © Crown copyright and database right (2022)

1:3000 @ A3

0 100 200 m

Drawing 2: Designated Heritage Assets



241

RSK

HEADLAND ARCHAEOLOGY

Spring Lodge
172 Chester Road
Helsby WA6 0AR

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Key

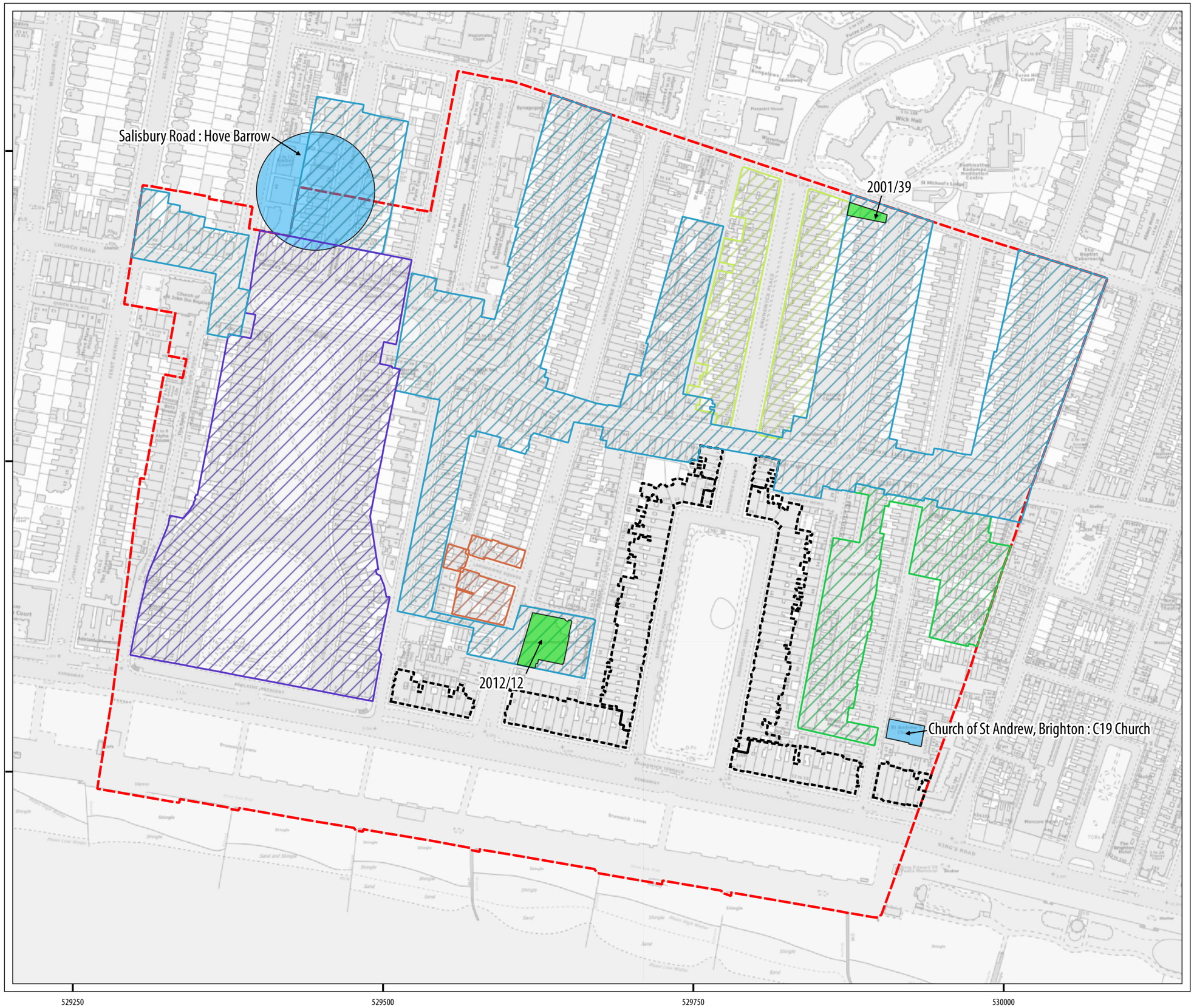
- Brunswick Town Conservation Area
- Locally Listed Heritage Assets
- Locally Listed Street Furniture
- Historic Environment Record Assets

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1:3000 @ A3

0 100 200 m

Drawing 3: Non-Designated Heritage Assets



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Key

- Brunswick Town Conservation Area
- Hove Borough Council Act 1976
- Tree Preservation Orders
- Archaeological Notification Areas

Article 4 Directions

- Adelaide Crescent, Palmeira Square & Palmeira Mansions
- Brunswick Comprehensive
- Brunswick Minor Works
- Brunswick Place (North)
- Lansdowne Square

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1:3000 @ A3

0 100 200 m

Drawing 4: Environmental and Planning Designations

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HEADLAND ARCHAEOLOGY
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an RSK company

Spring Lodge
172 Chester Road
Helsby WA6 0AR

Key

- Brunswick Town Conservation Area

Phasing (Minimum to Maximum Date Range)

- 1824-34
- 1830-34
- 1850-60
- 1850-76
- 1870-76
- 1876-98
- 1898-1911
- 1911-32
- 1932-51

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Base Map is the 1898 Ordnance Survey 2nd Edition map at a scale of 1:2,500

1:3000 @ A3

0 100 200 m

Drawing 5: Historical Development of Brunswick Town Conservation Area

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HEADLAND ARCHAEOLOGY
Spring Lodge
172 Chester Road
Helsby WA6 0AR
STEPHENSON HALLIDAY
Planning, Landscape & Environment
an RSK company



Key

- Brunswick Town Conservation Area
- Listed Buildings
- Listed Street Furniture (Grade II)
- Locally Listed Buildings
- Locally Listed Street Furniture
- Positive Buildings
- Neutral Buildings
- Negative Buildings
- Landmark Buildings/Structures
- Positive Open Spaces
- Significant Views

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1:3000 @ A3

0 100 200 m

Drawing 6: Conservation Area Quality

Brunswick Town Conservation Area Character Statement

Summary of Consultation Responses

Abbreviations: CAG= Conservation Area Group, BTA= Brunswick Town Association, RTH= Regency Town House

Source	Comment	Response	Change/ Amend	Section of Character Statement
CAG/BTA	The Group welcomes the Brunswick Town Conservation Area Strategy Document. It is outstanding in its understanding, empathy and appreciation of the importance of Brunswick Town to the City of Brighton and Hove.	Comment is noted and welcomed.	No	N/A
CAG/BTA	The use of maps to identify the different characteristics of the area are particularly helpful, especially as a reference document when considering applications.	Comment is noted and welcomed.	No	N/A
CAG/BTA	We particularly welcome the very strong guidance given to monitoring alterations to buildings and that ad hoc alterations need to be strictly monitored. Also the suggestion that internal alterations in the grand terraces should be pursued.	Comment is noted and welcomed.	No	N/A
CAG/BTA	We welcome the in-depth study of the Mews Buildings in Farm Road, giving guidance on possible developments. These Mews need to be added to the Local List, if not to Listed Buildings.	Comment is noted and welcomed.	No	N/A
CAG/BTA	There is strong supporting evidence for the maintenance of the facades of Western Road, particularly the south side.	Comment is noted and welcomed.	No	N/A
CAG/BTA	We commend and welcome the document in its entirety and wish to thank Brighton and Hove Council for commissioning this and we look forward to its implementation.	Comment is noted and welcomed.	No	N/A
CAG/BTA	Page 6 - seek to have the gardens registered.	Local community groups can explore this possibility.	Yes	Section 6, Table 6.1
CAG/BTA	Page 7 - include reference and photo of the Amber Cup.	Image of Amber cup inserted in Section 4 of report.	Amend	Section 4

Source	Comment	Response	Change/ Amend	Section of Character Statement
CAG/BTA	Page 7 - include more on the TPOs in the area.	TPOs are discussed in the statement, with a description of the two TPOs on page 7.	No	N/A
CAG/BTA	Page 17 - suggest wording on the panels of the Peace Statue be inserted.	Wording of the panels on the Peace Statue has now been added.	Amend	Section 5, Character Area 1
CAG/BTA	Page 22 - Insert the fact that the Waterloo Street Arch was formerly a rubbish tip and a garden has been created by the residents.	Wording to this effect has been added under 'Landscape and Key Views', Character Area 2.	Amend	Section 5, Character Area 2
CAG/BTA	Page 27 - Suggest photographs of the lighting columns in Brunswick Square and Palmeira Square.	Representative images have now been included.	Amend	Section 5, Character Area 2
CAG/BTA	Page 27 - Suggest upgrade listing of lighting columns in Palmeira Square to match those in Adelaide Crescent.	Local community groups can explore this possibility.	Amend	Section 6, Table 6.1
CAG/BTA	Page 48 - Include Lansdowne Area Residents Association (LARA).	Link and reference to LARA added to Section 7 of the report.	Amend	Section 7
Local resident	A painting order is in place on 13-23 Lansdowne Place.	The painting order is noted in the Action Plan and shown on Drawing 4. Specific references have been added to Article 4 directions in Section 5.	Amend	Sections 5, Character Area 2
Local Resident	Figure 15a incorrectly states that it shows properties 22-33, it actually shows 23-33.	Caption to the figure has been amended. Note that figure numbering has changed in the final report.	Amend	Section 5 Figure 16a (Formerly 15a)
Local Resident	13-23 [Lansdowne Place] have very rare pagoda roofs.	Additional description of the roofs to 13-23 Lansdowne Place added to Section 5.	Amend	Section 5, Character Area 2

Source	Comment	Response	Change/ Amend	Section of Character Statement
Consultation Portal 1	Think that the council should take its own recommendations seriously. There are numerous houses of multiple occupation that are run by the council, which are very poorly monitored generally, but specifically in this context of maintaining historical integrity. 68 Brunswick Place is a prime example.	Comment is noted. The issue of HMOs is commented on in Section 6 of the character statement. It is not the role of the Character Statement to change planning policy on land uses.	No	N/A
Consultation Portal 2	How is someone supposed to respond to this survey. Any chance of a summary or key points?	The comment is noted. The draft character statement, incorporating a summary and key points in Section 1 of the report, was provided as part of the consultation.	No	N/A
Consultation Portal 3	Not enough priority is being given to 4.8 - management of fairs and events. This should read HIGH not medium. Over the years The Lawns has been left to deteriorate into a dreadful state by the council. There are now huge gaps where railings have been damaged and not replaced. A lot of damage has been caused by the numerous events which are staged there throughout the summer. We are assured that organisers are charged for any damage their events may cause - but there is little evidence of any money spent to rectify damage after an event. Residents suspect the money (if collected at all) is used in other parts of the council's budget. It is time the council gave the Lawns some priority for the first time in DECADES.	Comment is noted. The council's events and seafront officers have been consulted on the wording and have confirmed that this is appropriate.	No	N/A

Source	Comment	Response	Change/ Amend	Section of Character Statement
Consultation Portal 4	The view north over Brunswick Square from Hove Lawns is completely marred by the 5 large communal bins immediately outside the southern gates of Brunswick Square gardens. These huge black ugly bins make it impossible to view the beauty of all the grade 1 architecture and the gardens from Hove Lawns and the promenade. Brighton and Hove are fortunate to have such architectural gems and the view north of the grade 1 area should be protected in the same way as the already protected vista from Western Road down to the sea overlooking Brunswick Square gardens.	Comment is noted. The issue of the communal bins is raised at relevant sections of the document and addressed under 'The Public Realm' in Section 6 of the Statement.	No	N/A
Consultation Portal 5	Some way of ensuring council look after their areas. This is particularly noticeable in the Hove lawns area where structures have been allowed to decay and be used by homeless including as toilets. Joined up thinking required as area has been allowed to become shabby and lack of maintenance has accelerated deterioration of structures. Also graffiti left for ages.	Comment is noted. The issue of vandalism, antisocial behaviour and maintenance is raised within the document and addressed under 'The Public Realm' in Section 6 of the Statement.	Amend	A new action 4.8 has been added to table 6.1 to complement action 4.10.
Consultation Portal 6	Ability to change windows in order to insulate homes.	Comment is noted. It is not the role of the character statement to set planning policy for alterations to buildings. A Supplementary Planning Document is already in place covering this.	No	N/A
Hove Civic Society	The draft statement is a very professional piece of work.	Comment is noted and welcomed.	No	N/A

Source	Comment	Response	Change/ Amend	Section of Character Statement
Hove Civic Society	Only comment that not enough is made of the gradual deterioration of many of the features in the conservation area that are so critical to an overall impression of a coherent CA. I am referring to rusting lamps, vandalised shelters, destroyed seafront promenade seats, lack of trees etc. I think it needs more than an action schedule to put this right. Perhaps the report could finish with suggestions for some key interventions that the local authority can do immediately together with local communities to improve the area. Perhaps even as an early bid for CIL funds.	Comment is noted. The issue of vandalism, antisocial behaviour and maintenance is noted at relevant sections of the document and addressed under 'The Public Realm' in Section 6 of the Statement.	Amend	A new action 4.8 has been added to table 6.1 to complement action 4.10. Reference to CIL funding has been added under action 3.1.
RTH	A little concerned about the quality of the introduction to the statement. Comments were offered in a reviewed copy of the character statement, with suggested amendments to Sections 1-4.	We are grateful for the comments received. The suggested wording has been reviewed and incorporated into Sections 1-4 of the character statement where relevant.	Yes	Sections 1-4
RTH	Omission: Initial Brunswick Town plan and differences with what built.	The initial Brunswick Town Plan is discussed in Section 4 of the report. Reference is made to some of the key differences between the initial plan and what was subsequently built. Further reading for those interested in gaining additional insight into the differences between the original plan and the final form of Brunswick Town is signposted in Section 7.	No	N/A

Source	Comment	Response	Change/ Amend	Section of Character Statement
RTH	Omission: The Great Stop and the financial/economic issues that ensue, including the early buildings North of Western Rd, failure of Brunswick Terrace West, etc.	It is not appropriate for the character statement to go into this level of detail for the historic background.	No	N/A
RTH	Omission: Developments in glass manufacturing technology and consequent changes in window design. Also surviving remnants evidencing evolution of designs within the estate.	Additional reference has been made to the transition in window design, replacement and loss of shutters in the relevant sections of the report.	Yes	Section 4, Section 5, Character Area 2
RTH	Omission: Nos. 7, 12, 47 and 53 in Brunswick Town [Square?], past understanding and actual issues relating to development.	This comment is noted; however, it is beyond the scope of statement and straying into individual building assessments at expense of the rest of the conservation area.	No	N/A
RTH)	Omission: John Soane and the 'volumetric' re east and west sides to north of Brunswick Square.	This comment is noted; however, it is beyond the scope of statement and straying into individual building assessments at expense of the rest of the conservation area.	No	N/A
RTH	Omission: 3rd floor development and servant provision.	Reference to the provision of accommodation for servants has been noted in Section 4 of the character statement.	Yes	Section 4

Source	Comment	Response	Change/ Amend	Section of Character Statement
RTH	Omission: Brunswick Square historic and recent planting issues.	An overview of the historic planting within Brunswick Square and loss of trees is noted in Section 4 of the character statement and Section 5, Character Area 2.	No	N/A
RTH	Omission: Early provision of gas, gas pipe routes through the estate, early option to supply individual properties, possible reuse of the pipe route today for services, etc.	Beyond the scope of the assessment. Straying into practical issues that impact on statutory regulations.	No	N/A
RTH	Omission: Brick and the No. 32 issue, brick sources, etc.	This comment is noted; however, it is beyond the scope of statement and straying into individual building assessments at expense of the rest of the conservation area.	No	N/A
RTH	Omission: Original Brunswick Town colour scheme, alt. to the scheme in the 1930s and options for today, tomorrow, including contrasts to the approach taken in Bath, York, Edinburgh, etc.	Information on the original colour scheme for Brunswick Town and changes over time culminating in the current colour scheme have been included.	Yes	Section 4, Section 5 Character Area 2
RTH	Omission: Low poor rate contributions in Hove, etc, advantageous to Charles Busby and Scutt's scheme, etc.	Reference has been made to the advantages of Hove for Busby and Scutt's scheme in Section 4 of the report.	Yes	Section 4
RTH	Omission: Brunswick Town with timber internal construction (the last of a type), Palmeira Square and Adelaide Crescent with masonry.	Reference to internal construction has been included in Section 4 of the report.	Yes	Section 4

Source	Comment	Response	Change/ Amend	Section of Character Statement
RTH	Omission: Lost lamp irons, poor and inappropriate replacements to much of estate, original irons, etc.	The comment is noted, but no change is proposed as this is too detailed a matter for this document.	No	N/A
RTH	Omission: Key residents, Charles Busby and Scutt, especially, including architect's home / office, garden separating Busby's home from the property intended for Scutt, etc.	Reference to Busby's home and office has been added to Section 5, Character Area 2. Other notable residents are commemorated by blue plaques and readers are signposted to extensive studies of former residents in Section 7 of the character statement.	Yes	Section 5, Character Area 2
RTH	Omission: Paving stone history, issues and challenges.	The comment is noted, but no change is proposed.	No	N/A
RTH	Clarification: The professed unity of design for Brunswick Town and Adelaide Crescent/Palmeira Square etc.	The comment is noted, and text checked for consistency throughout.	Yes	All Sections

Source	Comment	Response	Change/ Amend	Section of Character Statement
RTH	Clarification: Brunswick Town and the rest of the Conservation Area, which are mashed together, they need to be untangled.	The evolution of the conservation area as a whole is discussed in detail in Section 4 of the character statement. Drawing 5 provides a visual representation of the area's phasing. Additional text has been added to the introduction of Character Area 2, Section 5 of the report, to clarify which streets comprise the original extent of Brunswick Town.	Yes	Section 5, Character Area 2
RTH	Inadequate Treatment: Issues regarding the 'working areas' in Brunswick Town, especially the original 'stables' located in Brunswick Street East and West.	The comment is noted, but no change is proposed.	No	N/A
RTH	Inadequate Treatment: Bow front usage in Brunswick Town re. sea and promenade views, to compliment garden views, (e.g. use of mirrors and 'long' windows) etc	Further reference to the use of bow fronts has been included in the historical background in Section 4 of the character statement.	Yes	Section 4
RTH	Inadequate Treatment: Railing issues, inc. Daisy Nixon photo not used, height, use of aluminium, galvanised, resin, etc.	The comment is noted. It is a matter that is too detailed for the character statement and goes beyond the geographic boundaries of Brunswick Town.	No	N/A

Source	Comment	Response	Change/ Amend	Section of Character Statement
RTH	Inadequate Treatment: Recent 3rd floor development	It is unclear what this refers to but appears to be outside the scope of the character statement.	No	N/A
RTH	Inadequate Treatment: Call for changes to 'protection' legislation to better care for parts of the historic estate.	This comment is noted; however, it is beyond the scope of statement	No	N/A

Brighton & Hove City Council

Tourism, Equalities, Communities and Culture Committee

Agenda Item 12

Subject: **Update on Conservation Area at Risk**

Date of meeting: **16 June 2022**

Report of: **Director of Economy, Environment and Culture**

Contact Officer: **Name: Tim Jefferies**
Tel: 01273 293152
Email: tim.jefferies@brighton-hove.gov.uk

Wards affected: **Hangleton & Knoll, Hanover & Elm Grove, Regency, Queen's Park, St Peter's & North Laine, Westbourne.**

For general release

1. Purpose of the report and policy context.

1.1 This report provides an update on those conservation areas that are on the current Historic England register of heritage at risk, which is updated annually, and action that has been taken, or is being taken, to address the reasons for the 'at risk' status in each case. This is in line with the council's approach as set out in the published Conservation Strategy (2015)

2. Recommendations

2.1 That Committee notes the action being taken to address the reasons why each conservation area is deemed to be 'at risk' in each case.

2.2 That Committee notes that Historic England has been asked to remove the Queen's Park conservation area from the heritage at risk register for 2022, following the successful measures outlined in this report.

3. Context and background information

3.1 Historic England updates its heritage at risk register annually, publishing regional registers each autumn. Conservation areas are assessed against Historic England's criteria based upon information supplied by local planning authorities. There are currently six conservation areas in Brighton & Hove on the regional register for 2021:

- Benfield Barn
- East Cliff
- Old Town
- Queen's Park
- Sackville Gardens
- Valley Gardens

3.2 Officers have asked Historic England to remove the Queen's Park conservation area from the 'at risk' register for 2022 as a result of the measures taken to address the reasons for the 'at risk' status. In 2018 a Character Statement for the area was approved and published and in 2021 an Article 4 Direction was approved for the area, to restrict permitted development rights that were beginning to lead to an incremental loss of historic features. This came into force on 4 June 2022.

3.3 There has also been clear progress in respect of the Old Town and Valley Gardens conservation areas and these are moving towards a point where officers could recommend their removal from the 'at risk' register. In 2017 a Character Statement was published for the Old Town conservation area, followed by a Management Plan in November 2018. New development such as Hannington Lane and the conversion of the of the grade II listed Post Office buildings in Ship Street/Clarence Yard to mixed residential and commercial uses have re-invigorated the area. Nearby, the grade II listed Clarence House in North Street, which was long-vacant, is undergoing comprehensive restoration for residential and commercial uses.

3.4 The principal area of remaining concern in Old Town is Middle Street, which was identified in the Management Plan as a priority for improvement. Much of this concern relates to the long-vacant Hippodrome site. Good progress has been made with the carrying out of initial repairs to the building, including a new roof over the original, since urgent works were authorised in September 2020 and the site entered new ownership. Repairs are ongoing and planning applications for reuse and full restoration of the listed buildings are expected soon. In addition, a substantial scheme of repairs to the grade II* listed Synagogue has been agreed and is set to commence in late summer, whilst the former nightclub site near the southern end is undergoing redevelopment for the approved hotel use.

3.5 Valley Gardens conservation area has been at risk for a number of reasons but in particular the poor condition of the public realm, including the gardens. The successful implementation of the Valley Gardens phases 1 and 2 scheme (as supported by policy SA3 of City Plan Part One) has made a significant difference in this respect. The planned implementation of Phase 3 will see further significant improvement, especially to the settings of the Royal Pavilion and the War Memorial. The improvements to the public realm have encouraged private investment and there has been a clear improvement in the condition of the historic buildings fronting the gardens and a reduction in vacant buildings. The grade I listed Marlborough House remains long vacant and a matter of concern, though the building has been subject to repairs and is considered to be secure and weathertight.

3.6 Progress has also been made at Benfield Barn conservation area, where officers have worked with the lessee to achieve the removal of extensive ivy and other vegetation growth from the grade II listed barn and, subsequently, the clearance of overgrowth to the historic flint walls and enclosures to the rear of the barn, so that their condition could be assessed. Appropriate repair of these walls will be sought. In the longer term, policy for the sympathetic repair and re-use of Benfield Barn and its associated structures and walls is set out in policy SA7 of the submission version of City Plan Part Two, linked to limited development of Benfield Valley in a way that would preserve the semi-rural setting of the barn.

3.7 The ‘at risk’ status of East Cliff conservation area arises particularly from the condition and ‘building at risk’ status of the Madeira Terraces. A planning application for the stage 1 repair and restoration of 40 arches, to include a new lift, is expected shortly. Additionally, there is a need for an Article 4 Direction to control certain permitted development rights that are resulting in the incremental loss of original features, as previously highlighted in the East Cliff Conservation Area Study and the Conservation Strategy.

3.8 The ‘at risk’ status of Sackville Gardens conservation area, which contains a high proportion of non-listed single dwellinghouses, arises again from the need for an Article 4 Direction to control certain permitted development rights that are resulting in the incremental loss of original features to the houses, as highlighted in the Sackville Gardens Conservation Area Character Statement and the Conservation Strategy.

3.9 No further conservation areas are considered to warrant inclusion on the ‘at risk’ register at this time, but there are concerns over the Tongdean conservation area, where two of the original late Victorian and Edwardian houses have been demolished following planning approvals. Those applications attracted significant local support. Further loss of original houses may tip the balance to a point where insufficient architectural and historic interest remains. Ward councilors have been consulted on whether residents of the area wish to see continued conservation area designation and they have indicated continued support for the conservation area. This conservation area will therefore be carefully monitored.

4. Analysis and consideration of alternative options

4.1 This report is for information only.

5. Community engagement and consultation

5.1 No engagement or consultation was specifically undertaken in respect of this report, which is for information only. The Conservation Strategy of 2015 sets out the approach and priorities for addressing conservation areas at risk and was subject to public consultation. It will be reviewed by 2025. As stated in paragraph 3.9, ward councilors were consulted in respect of potential action on the Tongdean conservation area.

6. Conclusion

6.1 As set out in the Conservation Strategy, the council is committed to reducing the number of conservation areas at risk in Brighton and Hove, but some of these areas have faced complex challenges. We are now in a position to recommend removal of Queen’s Park conservation area from the Historic England ‘at risk’ register and strong progress has been made in particular towards removing Old Town and Valley Gardens conservation areas from the register.

7. Financial implications

7.1 The actions undertaken by the Local Planning Authority to address the reasons for conservation areas being at risk have been funded from within the revenue budget of the Planning service and particularly that of the Policy, Projects and Heritage team, except where approved capital projects (such as Valley Gardens phase 1 and 2 and phase 3 and Madeira Terraces restoration) have been referenced. This will continue to be the case and no new or additional financial implications have been identified at this stage.

Jill Scarfield Date consulted 1/6/22

8. Legal implications

8.1 The council has a duty under section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to review its conservation areas, from time to time, to determine whether any parts or further parts should be designated as conservation areas. Section 71 of the Act places a duty on the council from time to time to formulate and publish proposals for the preservation and enhancement of conservation areas.

Hilary Woodward Date consulted 19/05/22

9. Equalities implications

9.1 None have been identified that are specific to this report.

10. Sustainability implications

10.1 An active approach to conserving and enhancing mixed-use conservation areas at risk, such as Old Town, Valley Gardens and East Cliff, will help the smaller ‘high street’ local businesses in those areas to thrive.

1. Background documents [delete if not applicable]

1. The Conservation Strategy (2015)

Brighton & Hove City Council

Tourism, Equalities, Communities and Culture Committee

Agenda Item 13

Subject: **Second Homes and Implementation of Principal Residence Policy**

Date of meeting: **16 June 2022**

Report of: **Executive Director, Economy, Environment & Culture**

Contact Officer: **Name: Helen Gregory**
Tel: 01273 292293
Email: helen.gregory@brighton-hove.gov.uk

Ward(s) affected: **All**

For general release

1. Purpose of the report and policy context

1.1 This report responds to a Notion of Motion (NoM) referred to the March 2022 TECC Committee from 3 February Council. The NoM supported the implementation of a 'principal residency policy' applicable to new homes delivered in the city to reduce the levels of second homes and enable increased primary residence and year-round community benefits.

1.2 The NoM, included in Appendix 1, requested a report to be submitted to Housing and TECC Committees outlining possible planning policy options that could be considered to implement a principal residence policy and model the impact of such an approach on both affordability and availability in the next five years. This report identifies the evidence and justification which would be required to support such an approach and sets out planning policy options along with a timetable for potential implementation.

2. Recommendations

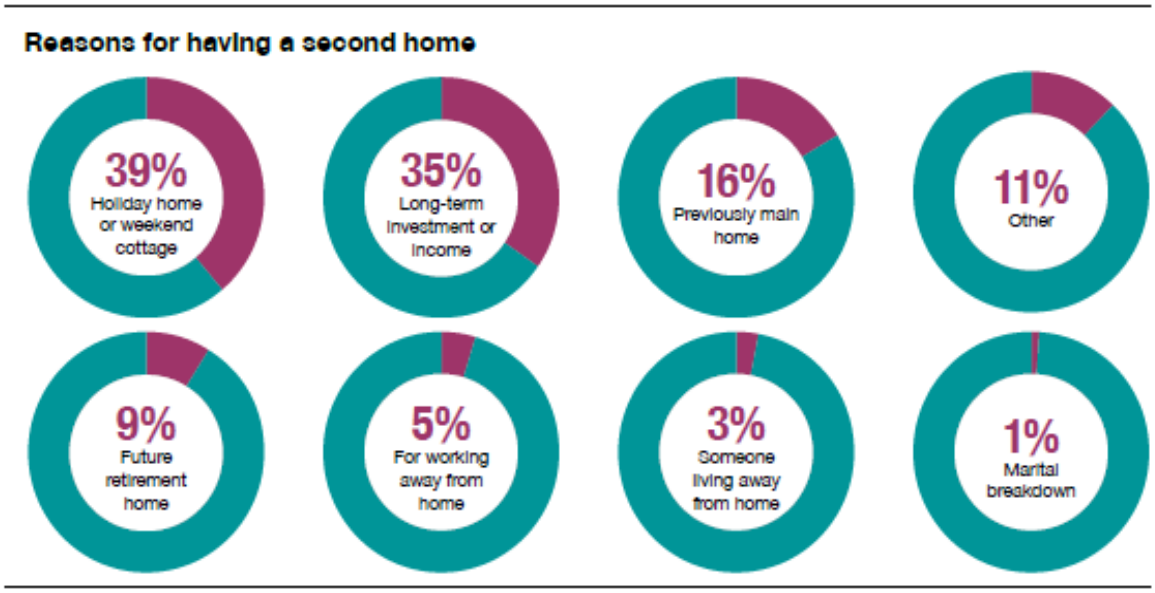
2.1 That Committee notes the policy option analysis in paragraphs 3.18 – 3.22 and the recommendation for a combination of Options 2 and 3 to be the preferred policy option for further consideration during the city plan review.

2.2 That Committee agrees to officers undertaking further actions set out in the report at paragraphs 3.8 in terms of further research and analysis as part of the City Plan Part 1 Review.

3. Context and background information

3.1 The NoM reflected concerns raised by housing campaign group ACORN[1] with the number of second homes in the city and how new dwellings might be safeguarded for permanent residents given the city's housing affordability issues and the need to support existing residential communities.

3.2 A second home usually describes a property that is not the owner's sole or main residence. The English Housing Survey 2018-19[2] identified the following reasons for having a second home:



3.3 Second homes can be rented out as short term holiday let accommodation. From April 2023, second homeowners will need to demonstrate that holiday lets are being rented out for a minimum of 70 days a year to qualify for small business rates relief.

3.4 A second home that is frequently occupied can bring economic benefits to the community through occupiers supporting local businesses and services. Second homes that are unused for much of the year provide little or no benefit to the community. Large numbers of second homes and holiday lets can reduce the availability of long term private rental housing and have an adverse impact on local communities and the sustainability of local facilities. If not well managed, short term holiday lets can cause anti-social behaviour.

Second Home ownership in Brighton & Hove

3.5 There is no single data set which accurately identifies the number of second homes in a local area. Local authorities who have introduced restrictive policies have had to draw on a number of data sets which generally correlate to identify local 'hotspots'. Census data, council and business tax

[1] Founded in Bristol in 2014, ACORN is a mass membership organisation and network of low-income people organising for a fairer deal for communities
[2] 2020_EHS_second_homes_factsheet.pdf (publishing.service.gov.uk)

data are commonly used and examined at the parish level. Appendix 2 provides a high-level analysis of the current available data sources.

3.6 For Brighton and Hove, the 2011 Census data indicates that the proportion of household spaces 'that are not usually occupied, either because they are second or holiday homes or because they are left vacant', was 4.2% of the city's households. This was a small increase since 2001 (3.8%).

3.7 The council's 2018 Visitor Accommodation Study Update estimated there were 1,500-2,000 short-term holiday let properties actively being marketed in the city. In March 2022, the website airdna.co indicates 3,118 properties actively being marketed[3]. This increase is not surprising given the city is an important tourist destination and pandemic staycation trends.

Evidence Gaps

3.8 Analysis of successfully adopted planning policies indicates that a threshold or trigger of 'harm' or tipping point for making communities socially unviable is typically 20% of local dwellings in second home ownership[4] and evidence of growth in number of second homes over time. Looking at evidence used to justify the introduction of such policies (included in Appendix 3) indicates the following analysis will be needed:

- Analysis of 2021 Census data to show how far numbers of second homes have increased.
- A review of data at ward level to identify if there are local hotspots which are reaching/exceed a threshold of 20% of homes as having no usual residents.
- The impact of second and holiday homes on local communities (resident population rates), the economy and local services,
- The impact on housing affordability and availability.

Review of policies introduced elsewhere

3.9 At the national level, the Government's Tourism Recovery Plan[5] includes a commitment to consult on the possible introduction of a Tourist Accommodation Registration Scheme in England, including consideration of the effect that short-term letting has on housing supply. The Levelling Up and Regeneration Bill indicates that amendments will be made to the Local Government Finance Act 1992 to allow councils to apply a council tax premium of up to 100% for empty homes after one year (as opposed to the current two years) and to introduce a new discretionary council tax premium on second homes of up to 100%. The decision on whether to apply a premium, and the level, will be a matter for each billing authority. The Bill does not contain any cap in relation to the number of days a second home must be occupied before becoming liable for a council tax second homes premium.

3.10 Appendix 3 provides a review of local planning authorities and local communities that have introduced local or neighbourhood plan policies to

[3] Airbnb Data on 3,118 Vacation Rentals in Brighton And Hove | MarketMinder (airdna.co)
[4] a 2003 document 'An Effective way to Sustain Rural Communities' suggested a 15% threshold.
[5] The Tourism Recovery Plan,11 June 2021

restrict the numbers of second homes, largely through a 'Principal Residence Policy' (PRP).

3.11 PRP has been introduced in very small rural or coastal communities and largely through neighbourhood plans. There are no known cities/ large urban authorities with a PRP.

3.12 PRP is implemented by way of planning condition or Section 106 agreements on grant of planning permission. They apply to new build housing only and the restrictions can be in perpetuity. Evidence of compliance is in the form of documented evidence provided to the authority on request. Councils need to enforce compliance for PRP to be effective.

3.13 A PRP cannot apply to the existing stock of housing including existing second homes and would not prevent the purchase of existing housing stock for use as second homes. New build housing will only form a small proportion of the total dwelling stock in the city. As such, the impact on affordability in a large urban area over time may be limited.

3.14 Appendix 3 includes the example of London Borough of Islington's 'Wasted Housing Supply' Supplementary Planning Document which is used to address 'Buy to Leave', where individuals or companies buy new residential dwellings for speculative investment purposes only, leaving the home vacant. The SPD does not have the full weight of a development plan policy and the practical issue of enforcing the s106 requirement of full occupation is not known. The evidence for buy-to-leave in the city is limited and anecdotal and is unlikely to justify taking the Islington approach.

3.15 There is a lack of published evidence indicating how effective the PRPs have been on reducing rates of second home ownership; improving housing affordability and supply or the impact on the viability of new development. Robust evidence of displacement impact to existing homes or neighbouring areas is lacking. Neither is there published evidence on how successfully the policies have been enforced.

3.16 Research by the London School of Economics in 2019 suggested that house building in St. Ives, Cornwall had slowed, that existing homes and homes in nearby towns were becoming the focus of second home purchases. In response, Cornwall Councillors and St Ives Neighbourhood Planning Group felt it was too early to tell with some positive impacts noted such as new builds addressing local community needs[6].

3.17 Dorset Council concluded in its review of second home policy options[7] not to include a PRP in its local plan concerned that it may not impact on second home demand, it may shift second homes to alternative locations/ existing homes and uncertainty as to whether it would impact on affordability.

Potential planning policy options to consider for Brighton & Hove

[6] Has St Ives' second home ban backfired? | Financial Times (ft.com) and Second homes ban in St Ives, Cornwall backfires according to new study | Falmouth Packet

[7] Dorset Council Local Plan Second Homes Background Paper, 2020/21:

3.18 The potential for a PRP can be included as a relevant issue to be considered through the City Plan Part 1 review process. To be successful a local plan policy will need to be found 'sound' at examination and the examiner will look at the evidence that underpins any proposed policy. Evidence of harm that second homes and holiday home markets are causing to local communities would need to be demonstrated and reasonable alternatives explored. The following planning policy options could be considered:

3.19 **Option 1 – City Wide principal residency policy** - current evidence suggests a city-wide policy is unlikely to be justified.

3.20 **Option 2 – Supportive Policy in City Plan to guide Neighbourhood Plans** - should the further review of evidence identify local hotspots which are reaching/exceed a threshold of 20% second homes, a supportive policy could guide neighbourhood plans to bring forward PRP.

3.21 **Option 3 – Neighbourhood Plan policy –** neighbourhood forums could include a policy in their Neighbourhood Plans to restrict second homes. This option would only be appropriate if data showed that the proportion of second homes in the ward or neighbourhood areas were close to or had exceeded a threshold of approximately 20%.

3.22 The timetable for the implementation for Option 1 and 2 would follow the published timetable for the City Plan Part 1 Review as set out in the latest published Local Development Scheme. Consultation on a draft Plan is currently anticipated to take place in late 2023. Adoption of the Plan is estimated to be 2025. The timetable for Option 3 would depend on a neighbourhood forum's timetable for plan preparation. It is recommended that a combination of a supportive policy in the new city plan (Option 2) for neighbourhood plans to bring forward their own policy (Option 3) is the preferred option to consider further. Councillors will be engaged on the city plan review at key stages.

4. Analysis and consideration of alternative options

4.1 This report has considered the evidence and analysis that would be required to justify and support the policy option for a PRP.

4.2 The evidence so far on second homes in the city would indicate that a city-wide restriction of new build market housing through a principal residency policy would be difficult to justify. Further research is required to clarify the latest data on second homes in the city and to identify whether there are particular local 'hotspots' causing harm to local communities in order to justify introducing a policy through the City Plan Part 1 Review/ neighbourhood plans.

5. Community engagement and consultation

5.1 As part of plan preparation, any new proposed policy would be subject to several rounds of public consultation followed by independent examination.

6. Conclusion

6.1 This report responds to the Notice of Motion put to the March TECC Committee. The NoM asked officers for a report outlining the planning policy options and evidence gaps/ requirements that would be required to introduce a policy to restrict the number of second homes in the city.

6.2 The report outlines the current available evidence on the proportion of second homes in the city and indicates that further evidence and analysis is required. It sets out examples of policies which have been successfully introduced by local planning authorities and local communities elsewhere and the evidence/ justification that was required to adopt those policies. The report suggests planning policy options and a preferred option to be explored if further evidence would support restricting second homes.

7. Financial implications

7.1 There are no direct financial implications arising from this report. The cost of officer time, document production and further research and analysis associated with the recommendations in this report will be funded from existing revenue budget within the Planning service. Any significant variations to budget will be reported as part of the council's monthly budget monitoring process.

Name of finance officer consulted: John Lack Date consulted: 10/05/22

8. Legal implications

8.1 As noted in the body of the report, a Principal Residence Policy would need to form part of a local or neighbourhood plan and be justified by appropriate evidence.

Name of lawyer consulted: Hilary Woodward Date consulted: 6/5/22:

9. Equalities implications.

9.1 Any new policy to be introduced as part of the City Plan Part 1 Review would be subject to a Health and Equalities Impact Assessment.

10. Sustainability implications

10.1 Any new policy to be introduced as part of the City Plan Part 1 Review would be subject to a sustainability appraisal to test options and reasonable alternatives and the social, environment impacts of drafted policy.

Supporting Documentation

1. Appendices

1. Notice of Motion
2. High Level Analysis of Second Homes data in Brighton and Hove
3. Review of Principal Residency Policies

Brighton & Hove City Council

Tourism, Equalities, Communities & Culture Committee

Agenda Item 75(d)

Subject: **Stop people being priced out of our city. Ban the sale of new homes as second homes.**
Notice of Motion referred from Council on the 3 February 2022

Date of meeting: **24 March 2022**

Ward(s) affected: **All**

For general release

1. SUMMARY AND POLICY CONTEXT:

1.1 To receive the following Notice of Motion which was debated at and referred from the full Council meeting held on the 3 February 2022.

2. RECOMMENDATIONS:

2.1 That the Committee responds to the motion concerning the sale of new hones as second homes either by noting it or where it is considered more appropriate, calling for an officer report on the matter as requested, which may give consideration to a range of options.

3. CONTEXT / BACKGROND INFORMATION

3.1 The following resolution from the full council meeting held on the 3 February 2022 for the committee to consider is detailed below:

In order to stem the rise of second home ownership which is having a severely detrimental effect on housing supply and affordability, this Council:

1. Supports the implementation of a principal residency policy whereby new open-market housing planning permission will only be granted where there is a condition restricting occupancy as a Principal Residence – the purpose being to reduce the levels of second homes and enable increased primary residence and year-round community benefits;

2. Requests the Housing and Tourism, Equalities, Communities & Culture committees to call for a report to be submitted to meetings of each of the committees within the next six months to outline all possible policy steps that could be considered in order to implement this policy and model the impact of such an approach on both affordability and availability in the next five years;

3. Requests that this report will highlight:
    - The planning policy changes required;

- Examples of Planning Authorities where such outcomes have been successfully achieved;
- Any evidence gaps or reports required to meet standards of evidence;
- A timetable for implementation for this Authority and potential mitigations required – such as a balancing policy for the development of holiday lettings.

Supporting Information:
Principal residences are defined as those occupied as the residents' sole or main residence, where the resident spends the majority of their time when not working away from home or living abroad.

https://www.ft.com/content/2128f460-67b0-445b-a684-bf87560a081d
https://www.theargus.co.uk/news/19378734.families-priced-brighton-hove
https://www.theargus.co.uk/news/19042360.rising-rent-costs-outpacing-wages-brighton-hove/
https://commonslibrary.parliament.uk/research-briefings/cdp-2022-0001/
https://www.theargus.co.uk/news/19211154.one-every-37-homes-brighton-hove-empty-figures-show/
https://www.airdna.co/vacation-rental-data/app/gb/south-east/brighton-and-hove/overview

BRIGHTON & HOVE CITY COUNCIL

COUNCIL

6.30pm 3 FEBRUARY 2022

HOVE TOWN HALL - COUNCIL CHAMBER

MINUTES

Present: Councillors Robins (Chair), Mears (Deputy Chair), Allcock, Appich, Atkinson, Bagaeen, Barnett, Brown, Childs, Clare, Davis, Deane, Druitt, Evans, Fishleigh, Gibson, Grimshaw, Henry, Hills, Hugh-Jones, Lloyd, Meadows, Mac Cafferty, McNair, Miller, Nemeth, Peltzer Dunn, Powell, Shanks, Simson, C Theobald, West, Wilkinson and Williams

PART ONE

77 STOP PEOPLE BEING PRICED OUT OF OUR CITY. BAN THE SALE OF NEW HOMES AS SECOND HOMES.

77.1 The Notice of Motion as listed in the agenda was proposed by Councillor Williams on behalf of the Labour Group and formally seconded by Councillor Childs.

77.2 Councillor Gibson spoke in favour of the motion and Councillor Mears questioned how the sales could be recoded properly and state that she could not support the motion.

77.3 Councillor Williams noted the comments and sought the council's support for the motion.

77.4 The mayor then put the following motion to the vote:

In order to stem the rise of second home ownership which is having a severely detrimental effect on housing supply and affordability, this Council:

1. Supports the implementation of a principal residency policy whereby new open-market housing planning permission will only be granted where there is a condition restricting occupancy as a Principal Residence – the purpose being to reduce the levels of second homes and enable increased primary residence and year-round community benefits;

2. Requests the Housing and Tourism, Equalities, Communities & Culture committees to call for a report to be submitted to meetings of each of the committees within the next six months to outline all possible policy

steps that could be considered in order to implement this policy and model the impact of such an approach on both affordability and availability in the next five years;

3. Requests that this report will highlight:

- The planning policy changes required;
- Examples of Planning Authorities where such outcomes have been successfully achieved;
- Any evidence gaps or reports required to meet standards of evidence;
- A timetable for implementation for this Authority and potential mitigations required – such as a balancing policy for the development of holiday lettings.

77.5 The mayor confirmed that the motion had been carried by 23 votes to 11 against.

Appendix 3 - Review of Principal Residency Policies adopted or being introduced in England

Local Authority/ Neighbourhood Plan Area	Policy	Stage	Threshold/ trigger	Other evidence	Community Impacts identified	Method of Implementation
St Ives Area Neighbourhood Development Plan 2015 – 2030 (covering St Ives and Carbis Bay)	H2 – Principal Residence Requirement Proposals for holiday accommodation will not be permitted unless it is located on an established holiday complex (this aspect of the policy was requested to be added by the examiner)	Made plan December 2016	2011 Census showed that St Ives and Carbis were in the top 5 settlements in Cornwall with the highest proportion of second homes and holiday lets (25%).	Between 2001 -2011 the number of dwellings not occupied by a resident household grew by 67%. Housing stock rose by 684 but the number of resident households grew by 6%.	The socio-economic effects of such a high proportion of holiday properties are being felt by local community - consultation responses.	100% Principal residence occupancy on new open market housing, excluding replacement dwellings – without price controls or any local connection requirement. Implemented by condition or obligation. Occupiers required to keep proof that they are meeting the obligation – verifiable evidence (eg Local electoral register, and attend local services) and obliged to provide this proof if/when requested by Cornwall Council. Does not impose an arbitrary limit on minimum number of days of occupation.
Other Cornwall Parishes Various Neighbourhood	Similar to H2 above	Made NPs		A range of data sets set out in this briefing note produced by	Loss of community facilities, decline in	Similar policy to St Ives

DPs as of April 2021: Parishes within St Minver, Rame Peninsula Roseland Peninsula, Crantock , Fowey, St Agnes, Mevagissey				Cornwall: Second Homes in Cornwall	school numbers and closure of seasonal facilities – from local knowledge and consultation	
North Northumberland Coastal Area Neighbourhood Plan	Policy 14 covering parishes of North Sunderland, Bamburgh and Beadnell Principal Residence housing is that which is occupied as the sole or main home of the occupants and where the occupants spend the majority of their time when not working away from home.	Made July 2018	Census data showing percentage of households with no usual resident – Neighbourhood Area as a whole 39.6% with one Parish (Beadnell) at 55.3%	Housing Evidence Paper	Loss of primary school in the 1980s (Beadnell), gradual loss of facilities in the village; now only one shop open during the holiday season. Residents are unable to rely on local services and facilities for their day to day needs	Excludes replacement dwellings, first and future occupation restricted in perpetuity and secured prior to grant of PP through appropriate planning obligations.
Salcombe Neighbourhood Plan Area, Devon	SALC H3	Made 2019 but seeking to modify the plan policy SALC H3	The level of second homes in Salcombe was quoted in 2017 by South Hams District Council as 38.45%. The NPG calculated in	NPG undertook a review of the electoral register and the database of residential addresses in the parish and	The consequence of the high value placed on market housing which attracts	The modification relates solely to policy SALC H3 Principal Residence requirement for new housing, and replaces the requirement for a planning

			2016 the figure to be 57 %.	analysis of properties rated for business rates and registered as holiday homes. 65% of survey respondents supported the PRP	primarily second home owners is the lack of supply of properties for younger working people and families. the aim is to help local people purchase a home in the Parish.	condition, S106 agreement or other legal agreement, with a requirement for a S106 agreement only.
South Huish Neighbourhood Plan – a parish in the South Hams district, Devon a coastal community in AONB	Policy SH H2 Principal Residence	Adopted May 2021	Two thirds of the properties in the parish are second homes	More than 40 per cent of the parishioners are retired, the 2011 census reported that 38.1 per cent of the population was 65 and over - one of the highest in England	Housing Needs Survey	New open market housing, excluding replacement dwellings, will only be supported where there is a restriction to ensure its occupancy as a principal residence guaranteed through a planning condition or legal agreement. New unrestricted second homes will not be supported at any time
Southwold Neighbourhood Plan 2020-2039	Policy SWD4 Also has a policy on holiday lettings (SWD5) which only apply when	Made Feb 2022	Southwold is a coastal community with of 50% household spaces with no usual residents, the highest proportion in the whole of England and	Additional research – street by street surveys of current uses and properties sold between 2006-2016.	Forecast impact on primary school place requirements. Social isolation and quality of live for	All new housing (except for like for like replacements) whether newly constructed or created from changes of use and/ or conversion of existing buildings. Would

	a material change of use applies		Wales (an increase from 38% in 2001).		Southwold's elderly population and business viability	apply to affordable housing.
Wirksworth Neighbourhood Plan 2015-2028 - Derbyshire Dales	Policy NP4 in the Wirksworth Neighbourhood Plan states that planning permission for new dwellings will be subject to a restriction to ensure their occupation only as principal residence homes	Adopted 2015	There is no official figure for the number of second homes in the plan area. Looked at council tax and business rate data. Likely that the numbers registered for those purposes (4 to 5% of the homes in the plan area) underestimates the actual number of second homes in particular streets.		Local people were concerned that Wirksworth was moving towards being a town which has an older population and an absent population	Not specified in Plan. There may be a few cases where developments are specifically intended to for other residential types e.g. log cabins as holiday homes. The policy will not apply to such developments.
Northumberland Local Plan 2016-2036	Policy HOU10 applies to parishes identified in most up to date census as having 20% or more household spaces with no usual residents. New market dwellings will only be supported where first and future occupation is restricted in perpetuity to ensure that each new dwelling	Adopted March 2022	The Census 2011 identified that across the County 6.4% of household spaces had no usual residents. At parish level a number are identified with 20% of more household spaces with no usual residents, others had more than 50%.	Council tax registered dwellings as second homes. Number of Holiday homes identified from business rates No of second and holiday homes as % of household space	Loss of sense of community and risk loss of critical services/ scaled back to reflect size of local population but then come under increasing pressure during summer months as population	Restricted as principal residence in perpetuity and secured through s106 agreement

	is occupied only as a 'principal residence'			House price to incomes affordability ratio	increases significantly. Many smaller properties unaffordable to the local population.	
Lake District National Park Local Plan 2020-2035	Policy 15: Housing	Adopted May 2021	According to the 2011 Census, 24 per cent of the housing stock in the Lake District has no permanent resident. For some Parishes much higher levels exist. It is generally accepted that if the percentage of second homes is more than 20 per cent then the sustainability of the settlement is affected	Household income to house price ratio trend; local need and supply studies	Local communities are shrinking or demographic make-up is changing which impact on local services and facilities. Concerned with the availability of housing that a full cross-section of a balanced community should ordinarily be able to afford.	New permanent homes are secured in perpetuity for permanent occupation with eligibility restricted to a geography that is tailored to local circumstances. Secured through condition or s.106 agreement. As well as new builds, this includes the sub-division of existing houses, changes of use and the conversion of traditional buildings. Housing SPD includes details on local connection criteria and planning controls; Supplementary Planning Document (lakedistrict.gov.uk)
Purbeck Local Plan 2018-2034	The submitted Plan proposes a policy (policy H14) to restrict new housing permitted in the Area of Outstanding Natural Beauty, on	Examination – Main Mods stage. Inspector didn't consider it reasonable/	Average second home ownership in Purbeck is 7.3%, above the regional average of 6.6%. Figure ranges across parishes, rising	Background Paper: Second Homes Background Paper (November 2017) (publichealthdorset.	Considered impact on affordability and housing supply	The condition or obligation will require that any new housing to which this policy applies is occupied as a principal residence. Occupiers of such homes

	small sites (as set out in policy H8) and on rural exception sites (as set out in policy H12) to be occupied only as a principal residence. Does not apply to new homes which are commercially let for holiday makers.	proportionate to subject replacement dwellings to the restriction of the policy.	up to 28% in Studland. The proportion of second homes is particularly high in the Area of Outstanding Natural Beauty (AONB), where around 91% of the District's second homes are located.	org.uk) looked also at electoral roll data.		will be required to keep evidence that they are meeting the condition or obligation - by verifiable evidence which could include, being registered on the local electoral register and being registered with a local GP.
Dorset Council Local Plan	None – following Evidence gathering for new Dorset Wide Local Plan -reviewing the issue given that PRP is being proposed in Purbeck LP.		Evidence shows that the second homes issue is highly localised issue in the district with specific coastal and AONB areas having high rates. Background paper did not recommend inclusion of PRP in Dorset Local Plan.	Second Homes Background Paper January 2021: 9e6c81c7-b186-cad3-b5c9-99dab34d40f7 (dorsetcouncil.gov.uk)	Research concluded: the policy can negatively impact affordability, and may shift demand for SH both to alternative locations and onto the existing housing stock. Although the policy is intended to positively impact communities and the local economy, research indicates that in	

					reality, this may not be the case as it does not appear to effectively reduce second homes demand in the first place	
Yorkshire Dales National Park	Evidence Gathering Stage – looking at whether to continue with local occupancy policy/ or replace with principal residence policy or neither	Evidence Gathering stage	SHMA - According to the 2011 census, 20.7% of dwellings across the YDNP are second homes, holiday homes and vacant dwellings: Richmondshire had the highest proportion at 31% with Lancaster the lowest at 7%. Eden, South Lakeland and Craven all had around 16%. This compares with the English average of only 4%.	Estate agents report a continuing high demand for second homes, holiday lets and investment properties in the National Park.	Large numbers of second homes and empty villages are harmful to community vitality and viability.	
Lynton and Lynmouth Neighbourhood Plan 2013-2028	Policy H3 - Open market housing without a restriction to ensure its occupation as a principal residence will not be permitted.	Made in 2013	Census data 28% of all household spaces in the parish have no usual residents; this is a significant proportion of the housing stock and is almost 3 times higher	Consultation responses; legal advice on appropriateness of policy	Principal residence housing is supported by the Plan only in order to provide cross subsidy for affordable	Planning Condition

			than the percentage for North Devon as a whole		housing or other development directly benefiting the community	
Exmoor National Park Authority Local Plan 2011-2031	HC-S4 Principal residence Housing – following the example of PRP implemented in the Lynton and Lynmouth NP	July 2017	19.2 % of homes in the National Park with no usual residents, at the parish level Lynton and Lynmouth have 28.5% no usual residents	During 2001 – 2011 some 263 dwellings were built within the National Park, however the population recorded in the Census for these dates demonstrates a decline in the National Park population by 600. Viability assessment - agents and developers who advised the Authority on the viability assessment of the Plan agreed that a 5% reduction in the value of new dwellings subject to the principal residence requirement would be likely. This would	Brendon, where 33% of homes have no usual residents has no convenience store. Other effects are said to include the closure of local schools and shops and a general decline in social well-being. The intention is to ensure that any new market homes are lived in by people who will contribute to the local area.	Will only apply to new dwellings within the National Park and principally where they enable the delivery of local affordable homes. Through condition. Principal Residence housing will also apply to any new dwelling units created through the subdivision of existing dwellings (HC-D14) and the conversion/change of use of hotels/guesthouses to dwellings and in accordance with the tests set out in policy RT-D3 Safeguarding Serviced Accommodation

				have a small positive impact on affordability.		
Islington Borough Council - Preventing Wasted Housing Supply Supplementary Planning Document	SPD applies to new residential developments of 20 units over across the whole borough.	July 2015	Evidence of buy to leave in new developments.	Analysis of overall number of units with nobody on the electoral register, across a range of developments completed since 2008.		S106 agreements – the obligations and evidence requirements are set out in the SPD: 20190926preventingwastedhousingsupplyspdjuly2015.pdf (islington.gov.uk) The freehold / head lease owner (as the case may be) of the development will be required to include such an obligation in the lease/sub lease of the individual dwellings and to provide the council with reasonable evidence of compliance with this obligation. The Owner or developer will be required to publicise the details of this obligation in their sales

Appendix 2 – High Level Analysis of Second Homes data in Brighton and Hove

According to the **English Housing Survey**, in 2018-19, 2.4 million households in England reported having at least one additional residential property of which 772,000 were second homes not let through the private rented sector. 27% of these second homes were in the South West whilst the South East had 14%.

Census data: The 2001 Census data for Brighton and Hove showed that in total there were 118,953 household spaces in Brighton & Hove, 114,479 had residents living in them, the remaining were either vacant (3,571 household spaces or 3.0% of all household spaces) or were 'second or holiday homes' (903 household spaces or 0.8% of all household spaces.[1]).

The 2011 Census indicated that the proportion of household spaces 'that are not usually occupied, either because they are second or holiday homes or because they are left vacant', was 4.2% of the city's households, a slight increase since 2001.

Council tax data: the ONS data includes rates of second home ownership by local authority area in England and Wales suggests a correlation between tourist hotspots and second home ownership. In September 2021, Brighton & Hove had a second home ownership rate of 1.7%, lower than Chichester 5.8 %, Isle of Wight 4.3%, Cornwall 5.1%, Scarborough 7.3%, North Norfolk 9.8% and the City of London 27.6%.

Vacant property: Government data suggests there were 4,598 vacant properties in Brighton and Hove in October 2021, of which 1,354 were long term vacant. Council Tax data suggests 3,659 dwellings were classed as empty on 4 October 2021, equivalent to 2.8 % of housing stock, higher than the England average of 2.6%. The figures reported by Council Tax are known to contain a degree of inaccuracy and do not reflect the true number of long term empty properties in the city. This is caused generally by a lack of incentive and oversight of some owners to update council tax teams when their properties are brought back into use, particularly properties that are empty between 6 months and 2 years where there is no difference in the council tax charged.

The housing market requires a small proportion of vacant dwellings to enable property turnover for the market to function efficiently and a council study in 2008 considered the figures suggested a fairly efficient use of housing stock[2]. Over the past three years 430 properties have been brought back into use. This has been achieved through providing advice and assistance to encourage owners to bring their properties back into use and utilising enforcement powers where necessary as well. Once a property has been empty over two years, a council tax premium is charged as well to help maximise the number of homes available in Brighton and Hove.

Short term holiday lets: The council's 2018 Visitor Accommodation Study Update estimated there were 1,500-2,000 short-term holiday let properties actively being

[1] BHCC 2001 Census Briefing 4 – Housing 4_Housing.pdf (brighton-hove.gov.uk)
[2] Brighton & Hove Strategic Housing Market assessment, DTZ Final Report April 2008 Final Report April 2008 - origi.PDF (brighton-hove.gov.uk)

marketed in the city, including around 250 properties suitable for larger groups. The study noted that numbers increased during summer months. In March 2022 the website airdna.co indicated 3,118 properties actively being marketed[3]. This increase is not surprising as the city is an important tourist destination. The pandemic travel restrictions saw the trend in second home, Airbnbs and holiday pandemic staycation in certain tourist hotspots in England significantly increase.

[3] Airbnb Data on 3,118 Vacation Rentals in Brighton And Hove | MarketMinder (airdna.co)

Brighton & Hove City Council

Tourism, Equalities, Communities, and Culture Committee

Agenda Item 14

Subject: **Local Enforcement Plan and Proactive Enforcement Projects**

Date of meeting: **16th June 2022**

Report of: **Executive Director Economy, Environment and Culture**

Contact Officer: **Name: Marina Brigginshaw**
Tel: 01273 291297
Email: marina.brigginshaw@brighton-hove.gov.uk

Ward(s) affected: **All**

For general release

1. Purpose of the report and policy context

1.1 Enforcement action under the Town and Country Planning Act 1990 and Planning (Listed Buildings and Conservation Areas) Act 1990 is discretionary, but the investigation of complaints and the consideration of action is not. The National Planning Policy Framework identifies that Local Planning Authorities should consider publishing a Local Enforcement Plan to manage enforcement proactively in a way that is appropriate to their area.

1.2 In 2018, the Council approved its Planning Enforcement Policy for the City. This report introduces an updated and revised policy for publication, which takes into account the outcomes of the last 4 years and forms the basis of the modernisation programme for planning enforcement. It also explores the options for proactive enforcement in the future and how updates will be provided to Planning Committee.

2. Recommendations

2.1 That Committee approves the Local Enforcement Plan, included at Appendix 1 of this report, subject to any minor grammatical, non-material text and formatting agreed by the Head of Planning in consultation with the Chair of the Committee prior to publication.

2.2 That Committee notes that proactive projects are to be introduced as and when resource capacity is created.

3. Context and background information

3.1 In September 2018, the Council agreed the latest iteration of the Planning Enforcement Policy for the City. This document set out the priorities for

investigating complaints, service standards and when enforcement action should be taken for a breach of planning control. This document was a step change in planning enforcement policy and focussed upon customer service and in particular managing communications with complainants.

3.2 Whilst legislation has not changed since the implementation of the 2018 policy, it is common practice to review policy periodically to check that it is meeting requirements. In addition, in 2021 the service area embarked on a planning enforcement modernisation programme. Essential to this process is the review of the 2018 policy, in order to build in the necessary processes to facilitate modernisation. Further background information and context relevant to the proposed changes to the Local Enforcement Plan is provided at Appendix 2.

3.3 The aim of the review is to provide good customer service for both complainants and alleged contraveners whilst creating capacity within current staff resources. By creating capacity, the service area has an opportunity to work on proactive projects. The new document seeks to manage expectations, focus on cases that are expedient to take action and reduce resource requirements on cases where action cannot be taken. A review of communication standards is also included.

3.4 The new Local Enforcement Plan, at Appendix 1, is intended to be published in a web-based format and introduces:

- A greater level of detail as to what is a breach of planning control and the factors that will be taken into account when considering whether it is expedient to take enforcement action;
- A detailed explanation as to how an investigation will be conducted, including when a site visit will be undertaken, when informal negotiations will take place to resolve a breach of planning control and the circumstances when formal enforcement action will be taken;
- What constitutes a criminal offence in relation to planning breaches, how investigations will take place and how the public interest test will be considered;
- New service targets and updated targets for communications to allow for early engagement;
- How complaints to multiple departments will be dealt with: and
- Fees for certain service requests such as withdrawing an enforcement notice or verifying compliance.

3.5 It is proposed that information concerning the performance of the Enforcement Service will be reported to the Planning Committee through the Development Management Performance & Development Quarterly Report. In addition, there will be periodic reviews of the Plan.

Conditions monitoring and other proactive projects

3.6 The National Planning Policy Framework identifies that a local enforcement plan should identify how the Local Planning Authority will monitor the implementation of planning permissions. When capacity is created,

monitoring of major permissions or permissions with Construction Environment Management Plans will be the priority.

3.7 It is proposed that if further capacity is created, the following projects will be subject to further consideration:

- Short term holiday let regularisation.
- Buildings/ areas requiring maintenance and improvement.
- Conservation area improvement
- Compliance with historic notices

4. Analysis and consideration of alternative options

4.1 Whilst the current enforcement policy goes someway to help meet stated objectives, identified in Appendix 1, the new Local Enforcement Plan is tailored to better meet these objectives. The Plan meets current legislation and national policy and whilst there is an option to undertake less negotiation, when it is considered expedient to take enforcement action, this overall may cause delays through resulting appeals. Therefore, it is considered that the Plan creates a balance between informal resolution and taking formal action where it is expedient to do so.

4.2 The Plan also identifies expediency in greater clarity. There is an option to identify more circumstances where it would be expedient not to take action, because enforcement action is discretionary. However, the reasons for expediency relate to the development plan, material considerations, national planning policy and guidance as well as matters that have been subject of case law. It also deals with issues of public interest and therefore the reasons for expediency seek to achieve a balanced reasonable outcome.

5. Community engagement and consultation

5.1 The Council receives customer feedback on planning enforcement cases on a regular basis. This feedback has been used to identify matters that are raised on a relatively frequent basis that need to be addressed. In the main, feedback focuses on the discretionary nature of planning enforcement and the time it takes to resolve complex enforcement cases. Further comments have been made about cases where a number of services deal with a complaint. The Local Enforcement Plan seeks to address these common themes and explicitly addresses questions and issues that are commonly raised.

5.2 Whilst customer feedback is mainly associated with complainants the Plan also provides more clarity for those people and bodies who have breached planning control. This is based upon feedback, where it is apparent that contraveners need to know when enforcement action will be taken.

5.3 These insights, as well as a review of current practices, formed part of Members Workshops in February and April 2022. These workshops gave an opportunity for all Members, including councillors from the Green Group, the Labour Group and the Conservative Group, to contribute to the principles of

the proposed local enforcement plan. In response to the consultation, it was raised that there was a need for earlier engagement with complainants as well as redefining priorities based on the level of harm caused. A particular emphasis was given to the impact upon living conditions as a result of the breach. This feedback has had a direct impact upon the Plan, with a review of priorities and an emphasis on impact upon communities; as well as a change in the way which complainants are contacted. The expediency considerations were refined during the consultation process in order to better ensure that a balanced decision could be made, based on discussions in the sessions.

5.4 In terms of priorities for proactive projects some topic areas included, short term holiday lets, empowering communities to help deal with untidy land; and previous suggestions from Members relating to ensuring extant enforcement notices had been complied with.

6. Conclusion

6.1 The Local Enforcement Plan will help guide investigations as well as decision making for enforcement cases. It will help manage customers' expectations and provide a framework to achieve better customer service. Ultimately the Plan will support modernisation of the service and assist in managing resources and caseloads to move from a complaint orientated service to encompass some proactive projects.

7. Financial implications

7.1 There are no direct financial implications arising from this report. The work programme is contained within the current resource and it is only if additional capacity is created that additional projects can be implemented. Any significant variations to budget will be reported as part of the council's monthly budget monitoring process.

Name of finance officer consulted: John Lack Date consulted (19/05/22):

8. Legal implications

8.1 There are no direct legal implications arising from the report as enforcement action is regulated by relevant legislation but legal resources may be required in in respect of individual cases.

Name of lawyer consulted: Alison Gatherer Date consulted (17/05/22):

9. Equalities implications

9.1 The Planning Enforcement Service is complaint led and therefore customers, to an extent, are self-selecting. The Local Enforcement Plan identifies that equalities information about complainants will be collected as well as information from alleged contraveners after a case has been completed. This will allow the service to better understand the customer

base and any alterations that may need to be made to create better access to the service and communications concerning planning enforcement.

10. Sustainability implications

10.1 In accordance with national policy enforcement decisions, in terms of whether it is expedient to take action, are made in accordance with the development plan unless material considerations indicate otherwise. This is captured within the Local Enforcement Plan. Development plan policy is subject to a sustainability appraisal. In addition to this sustainability is a material consideration and decisions will be made in this regard.

11. Other implications

Social Value and procurement implications

11.1 None identified.

Crime & Disorder Implications

11.2 None identified.

Public Health Implications

11.3 None identified.

Supporting Documentation

1. Appendices:

1. Draft Local Enforcement Plan
2. Planning Enforcement Context

Local Enforcement Plan

Brighton & Hove City Council

June 2022

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1. Introduction

Brighton and Hove City Council, as the Local Planning Authority, has the duty to determine whether a breach of planning control has taken place and if so whether expedient take enforcement action. As part of its role, it also undertakes investigations concerning unauthorised works to listed buildings as well as other planning breaches. This document is the Local Enforcement Plan for Brighton and Hove City, excluding the area covered by the South Downs National Park Authority.

Background

The National Planning Policy Framework identifies that effective enforcement is important to maintain public confidence in the planning system.

Local planning authorities have responsibility for taking whatever enforcement action may be necessary, in the public interest, in their administrative areas. However, whilst all relevant cases received will be investigated, enforcement action is discretionary and should be exercised in a proportionate way. National Planning Practice Guidance advises that the Local Planning Authority has discretion to take enforcement action when it is expedient to do so having regard to the development plan and any other material planning considerations.

The National Planning Policy Framework guides local planning authorities to publish a local enforcement plan to manage enforcement in a way that is appropriate to their area. The local enforcement plan is a material planning consideration.

This document is the Local Enforcement Plan for Brighton and Hove City excluding the South Downs National Park Authority area. Planning enforcement decisions will have regard to this Plan as a material planning consideration.

Planning enforcement is subject to various legislation, but of importance are the enforcement provisions contained within the Town and Country Planning Act 1990, as amended and the Planning (Listed Buildings and Conservation Areas) Act 1990. Further, national policy is contained within the National Planning Policy Framework and guidance is provided through the National Planning Practice Guidance. It is often the case that legislation and national guidance are subject to change. Where this takes place, the legislation and national guidance these will take precedence.

2. Aims and Objectives

The content, procedures and policies within this Local Enforcement Plan seek to meet the aims of the Planning Enforcement Service, which in turn is based upon the legislation, national policy and guidance for planning enforcement and local circumstances.

The aims and objectives of the Planning Enforcement Service are:

1) **To focus resources and prioritise planning enforcement cases where it is expedient to take enforcement action and where it is in the public interest to prosecute criminal offences relevant to planning breaches. To achieve this we will seek to:**
   - **prioritise cases and action, based on the level of harm caused;**
   - **where resources permit, introduce a proactive approach to planning enforcement prioritising cases dependant upon local circumstances and the level of harm;**
   - **reduce the number of enquiries that are not matters dealt with the Planning Enforcement Service;**
   - **reduce the number of cases received that result in a conclusion of no breach;**
   - **close cases, where it is not expedient to take action; and**
   - **reduce, where possible, any duplication of resources with other departments or agencies; and**
2) **To manage customer expectations, and provide good customer service, we will:**
   - **clarify the discretionary nature of planning enforcement and identify as early as possible when it is expedient to take action or not;**
   - **explain to customers, early on in the investigation, what the next steps are and possible outcomes;**
   - **to respond to customer enquiries in a timely manner; and**
   - **take a joint approach with other departments and agencies.**
3) **To apply a consistent approach. Where it is expedient to take action we will aim to negotiate a solution, where possible, but identify situations where it will be necessary to take enforcement action to remedy a breach or prosecute a criminal offence.**
4) **To treat all customers, including complainants and contraveners, in a fair and inclusive manner and make decisions taking into account all relevant factors and circumstances.**
5) **To introduce a paid for service to respond to customer enquiries concerning compliance with notices and conditions as well as withdrawing notices after the notice has taken effect.**

3. Planning Breaches

Types of planning breach

Planning breaches dealt with by the Planning Enforcement Team at Brighton and Hove City Council include:

- **breaches of planning control;**
- **unauthorised works to listed buildings;**
- **unauthorised advertisements;**
- **untidy land and poorly maintained buildings; and**
- **criminal offences relevant to these matters.**

Why is it important to explain the differences between the types of breaches?

Planning breaches, as described in this document, are treated differently in law. This means that each type of breach will be treated and considered differently as described below.

Breach of planning control

A breach of planning control is defined by the Town and Country Planning Act, 1990 as amended as:

- the carrying out of development without the required planning permission; or
- failing to comply with any condition or limitation subject to which planning permission has been granted.

Unauthorised development

Carrying out of development without the required planning permission or in breach of a planning condition or limitation is also known as unauthorised development.

Where it is alleged that a breach of planning control may have occurred, it is necessary for the Local Planning Authority to first consider whether development has taken place. Section 55 of the Town and Country Planning Act 1990, as amended, identifies what constitutes development for planning purposes.

Development can take the form of:

- Operational development;
- Material change of use

Operational development is concerned with external physical changes and material changes of use relate to how buildings and land are used. Certain matters may not constitute development for planning purposes. This includes where operations do not materially affect the external appearance of the building; the change of use is not material; or the development is so minor it is considered to be de minimis. Please see Section 55 of the Town and Country Planning Act 1990 for a full explanation as to what constitutes development.

Once the Local Planning Authority has identified that development has taken place it is then necessary to determine whether planning permission is required from the Local Planning Authority.

Planning permission is not required from the Local Planning Authority where:

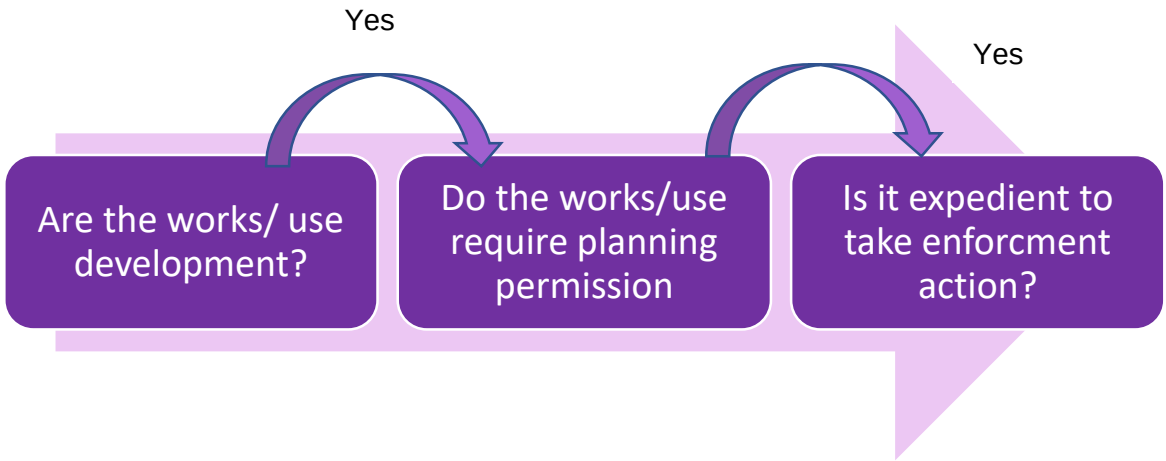
- General Permitted Development Order grants planning permission, known as permitted development;
- an enforcement notice allows for the development to take place, by under enforcing development;
- The development is immune from enforcement action.

We use both case law and appeal decisions to help us interpret whether development has taken place and whether planning permission from the Local Planning Authority is required. This interpretation can change as case law and appeal decisions update our understanding. However, it is often the case that planning permission is not required from the Local Planning Authority because it is permitted development.

In some cases, development is subject of a Lawful Development Certificate which confirms whether planning permission is required.

If it is considered that planning permission is required for the development, it is then necessary to consider whether it is expedient to take enforcement action. If it not expedient then no further action will be taken. Expediency

Figure One: Steps for considering unauthorised development



Breach of Condition.

Planning permission may be granted subject to conditions. To attach a condition, there are certain tests identified in the National Planning Policy Framework that need to be met. Similarly planning permission granted by legislation (permitted development) is subject to conditions and limitations. Failing to comply with any condition or limitation subject to which planning permission has been granted is known as a breach of condition.

For enforcement action to take place it is necessary to ensure that the condition has met the tests identified in the National Planning Policy Framework. Breach of conditions are also subject to immunity. If a breach of condition has taken place for 10 years, or 4 years relating to a change of use to a dwelling house, then the breach may be lawful and enforcement action cannot be taken.

Whilst conditions attached to planning permission from the local planning authority may be in breach, it remains necessary to consider whether it is expedient to take enforcement action. This includes consideration of the development plan at the time of the breach as well as other material considerations. It will not be expedient to take enforcement action on a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area.

Unauthorised works to listed buildings

Works to listed buildings are controlled through the Planning (Listed Buildings and Conservation Areas) Act 1990. Listed building consent is required for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest. This can include physical works to the interior of a building which cannot be seen from the outside.

There is no immunity for unauthorised works to listed buildings. However, the date of when the building was listed is important because it is the features in place at the time of listing that are considered to constitute the character of the listed building.

In many cases, but not all the time, works can be both a breach of planning control and unauthorised works to a listed building. However, if the breach only relates to works to a listed building then the scope of considerations is limited to its impact on the listed building.

In the case of unauthorised works to a listed building, it will be necessary to consider whether it is expedient to take enforcement action, having regard to the effect of the works on the character of the building as one of special architectural or historic interest. Regard must be given to the grounds of appeal that exist under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Breaches of conditions attached to Listed Building consents and unauthorised works for the demolition or alteration of listed buildings can also be criminal offences, which are subject to different considerations, please see evidential and public interest tests.

Unauthorised advertisements

Advertisements, which include flags, shop signs, awnings and estate agent boards, are different than breaches of planning of planning control.

Advertisements do not require planning permission. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) regulates whether advertisement consent is required.

However, it can be the case that signage on a listed building requires both advertisement consent and listed building consent.

Advertisement considerations are limited to amenity and public safety, although development plan policy is a material consideration. The display of an advertisement without consent may also be a criminal offence, which is subject to different considerations, please see evidential and public interest tests.

Untidy land and poorly maintained buildings

Under Section 215 of the Town and Country Planning Act 1990, as amended, if it appears to the local planning authority that the amenity of a part of their area, or of an adjoining area, is adversely affected by the condition of land in their area, they may seek to remedy the condition of the land.

It is necessary to justify that amenity is adversely affected by the condition of the building or land so the land should be visible from public vantage points. Case law has a significant part to play in the interpretation of this part of the legislation, but it generally means where there is a need for repair, maintenance and sometimes clearance of land.

4. Matters not investigated by the Planning Enforcement Team

The Planning Enforcement Team receive numerous enquiries everyday about matters taking place in the City. Not all of the complaints we receive are about planning breaches.

Examples of matters that are not planning breaches which are not investigated by the Enforcement Team:

- **works or a use that has not commenced;**
- **rumours that work will take place;**
- **concerns regarding the Party Wall Act 1996;**
- **health and safety issues not related to a planning breach (please contact the Health and Safety Team);**
- **concerns regarding vermin not related to a planning breach;**
- **legal disputes not related to a planning breach;**
- **landownership and boundary disputes;**
- **dangerous structures and building control matters;**
- **noise, light and odour nuisance not associated with a planning breach;**
- **Parking and highway obstruction issues not related to a planning breach;**
- **high hedges;**
- **works to trees not associated with a planning breach; and**
- **Antisocial behaviour not associated with a planning breach.**

If the Service receives a complaint that is not a planning breach, we will not commence an investigation. However, if it is a matter that may be dealt with by another service area, we will:

- let you know that it is not a planning breach dealt with by the Planning Enforcement Team;
- not commence a planning enforcement investigation;
- send the complaint and details to the service area we believe may be able to assist with your enquiries;
- let you know we have passed on your details; and
- close the case.

If the complaint is both a planning breach and another matter that maybe dealt with by another service area we will:

- Open an investigation for the planning breach only;
- Send the complaint and details to the service area we believe may be able to assist with your enquiries concerning non- planning matters;
- Let you know that we have passed on your details;
- Investigate the planning breach and liaise with other relevant departments.

Planning legal agreements

A Section 106 legal agreement is a contract between parties which usually includes (but not limited to) the Council, a developer and/or a landowner. The Planning Enforcement Team does not enforce against a breach of a Section 106 legal agreement. However, if a breach of a Section 106 legal agreement is identified by the Planning Enforcement Team this matter will be reported to the relevant persons within the Council for consideration with regard to a potential breach of contract.

5. Making a Complaint

Prior to making a complaint

Before making a complaint, you may wish to look at the Planning Register to see if planning permission, listed building consent or advertisement consent has been obtained. You can also see if a lawful development certificate has been approved.

There are several operations/ changes of use that can take place that do not require planning permission. This is called permitted development. To give you an idea as to what is permitted, prior to making your complaint, you can look at examples using the following link: Planning portal

You may also wish to speak to the person(s) you are making a complaint about, if you feel that you can. You may be able to resolve your concerns by talking it through.

Complaint form

Our preference is that all complaints are made on the on-line complaint form which can be accessed using the following link https://www.brighton-hove.gov.uk/planning/planning-enforcement-complaint. The online complaint form will ask for personal details including information required for equalities monitoring.

We will not accept emails or other forms of submission except where the complainant has genuine issues with gaining access online. If this is the case, the Council will fill in a form on behalf of the complainant.

Anonymous complaints

Anonymous complaints will not be recorded and an investigation into the allegation will not commence. This is because we may need to validate the allegations made, ask for details and verify the harm being caused.

Complainant details

Complainant details and the nature of the complaint will be recorded and kept on file. In most cases complainant details will not be disclosed. However, we may be required to disclose the nature of the complaint or information provided to us. If this is the case, we will do so without providing personal data.

However, there may be circumstances where we may be required to disclose personal information, for example as part of a prosecution case. If you contact the Council regarding a criminal matter, we may also ask you to provide a witness statement, for the case to progress.

If you make a complaint to the Planning Enforcement Team, but your concerns relate to another service we will forward on your complaint and details to that other service area within the Council.

Complaints from other service areas

Occasionally we will be forwarded information from another service area about a complaint that maybe a planning breach. In these circumstances, we will ask the complainant if they wish for the Planning Enforcement Team to open a case and record their details.

In certain circumstances, where the same breach can be dealt with by two or more departments under different legislation it may be necessary to identify a lead enforcement department. This may be necessary to avoid duplication. However, if the outcomes of the case will be different it may be necessary for both (or more) departments to consider the breach and liaise with each other.

Where there are two or more departments investigating a breach, this can often be difficult for both the complainant and the contravener to navigate because different teams will be working with different legislation which aim to achieve different results. We will aim to achieve a coordinated approach to investigations where possible, however this may impact upon timescales.

Re-opening of cases

After a decision has been made to close a case because it is considered that there is not a breach or it is not expedient to act, cases will not normally be reassessed. Cases will only be re-opened in the circumstances where it has been alleged that a thorough investigation has not been carried out, with associated relevant evidence to back the claim; or where it has been identified that it is not expedient to take action that new material information is provided to challenge the conclusion. However please note that decisions are a matter of planning judgement taking into account case law and appeals and whilst an outcome may be disappointing the Council cannot take action if it is considered that there is not a breach, or it is not expedient to take action.

6. No breach

After a complaint has been received and an investigation has taken place, a significant proportion of cases result in a conclusion that there is no planning breach. It will be for the case officer to determine whether there has been a breach, taking into account legislation which is interpreted taking into account case law and appeals concerning similar matters.

A decision of no breach will be concluded when:

- **There is no / not enough evidence to conclude that the allegation has taken place.**
- **The evidence provided by the complainant cannot be verified.**
- **Information is requested from the complainant, to confirm the breach, and not received after one month of the request.**
- **The alleged works are not development or, in the case of a listed building, do not affect its character as a building of special architectural or historic interest.**
- **The development is permitted development.**
- **The advertisement does not require or has deemed consent.**
- **The development has been granted planning permission or listed building consent, as relevant.**
- **The advertisement has consent from the Local Planning Authority.**
- **The untidy land is not considered to be of a condition that adversely affects the amenity of the area.**
- **The building is not considered to be sufficiently deteriorated to adversely affect the amenity of the area.**
- **An Enforcement Notice allows for the development to take place (including under enforcement).**
- **The Enforcement Notice/ Breach of Condition Notice/ Section 215 Notice has been complied with.**
- **Enforcement action cannot be taken because it is immune from enforcement action.**
- **The part of the listed building of concern was in place at the time of listing.**

Immunity

Where there has been a breach of planning control involving operational development, legislation prevents enforcement action being taken after the end of the period of four years beginning on the date on which the operations were substantially completed. Where there has been a breach of planning control resulting in a change of use of any building to a use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach. In most other cases, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach. This includes breaches of conditions and other changes of use.

7. No Further Action

Where an investigation is carried out and a planning breach has been confirmed by the Local Planning Authority the next step is consider whether it is expedient to take enforcement action. This is because enforcement action is discretionary and, in relation to certain formal enforcement action, it is necessary for the Council to justify that it is expedient. If it is concluded that it is not expedient no further action will be taken. This does not mean the breach is lawful; it means that the Council will not pursue the matter.

It will not be expedient to take enforcement action for planning breaches* taking into account the following:

1) Development is in accordance with local plan policy.
2) In accordance with the Town and Country Planning Act 1990 and Planning and Compulsory Purchase Act 2004 material considerations outweigh development plan policy.
3) It is considered that unconditional planning permission would be granted for the development.
3) There is a trivial or technical breach of planning control which causes no material harm or adverse impact on the amenity of the site or the surrounding area.
4) An advertisement would be acceptable taking into account its affect on amenity and public safety.
5)The harm is temporary in nature and there is an operational requirement for the breach. The acceptability of the temporary nature of the breach will be dependent on the level of harm caused, what is lawful and the consideration of other suitable methods to achieve the operational requirement.
6) In relation to operational development there are a number of other similar breaches or permissions in the area, which have already changed the character of the area.
7) Enforcement action would cause severe hardship that outweighs the harm caused and does not prejudice any future prospects.
8)The remedy would have consequences that would in itself cause harm in planning terms.
9)The enforcement action would be disproportionate to the scale of the breach or the harm arising.
10) The Local Planning Authority is reliant upon the complainant to verify the breach (and are unable to evidence the breach in any other way) and the complainant wishes to remain anonymous.
11) The complaint has been made for the purposes of removing a competitor and no other harm is identified and/ or verified.
12) The complainant is a landowner who has yet to try civil legal processes to rectify the breach.

***excluding prosecutions which will be considered under evidential and public interest tests**

Landownership and disputes

The Local Planning Authority often receive complaints from landowners regarding their own land/ property. Sometimes it is seen as a more economic option than dealing with the situation through civil legal processes. Where this is the case, and the civil legal process has not been pursued, we would normally consider that it is not expedient to take action. This is because there is another mechanism to deal with the issue without the need for planning intervention.

Also, it is the case that if an investigation progresses and the Council serves a Notice it will be served on the landowner as well as other interested parties. The Notice will then stay with the land and if a prosecution is recommended, it may be necessary to consider prosecuting the landowner. This means that public money is being used to pursue a private interest and is usually not considered to be in the public interest. Therefore, where a landowner submits an enforcement complaint upon their own land, we ask that they find a solution to stop the breach before seeking our help.

Evidential and Public Interest Tests

Criminal investigations and subsequent prosecutions are not subject to expediency considerations.

Criminal prosecutions are subject to trial at court and subject to different tests than breaches of planning control and other methods of regularising planning breaches. For a suspect to be found guilty of an offence it must be proven beyond reasonable doubt not on the balance of probabilities.

Balance of probabilities is a test that is used when considering whether a breach of planning control is immune from enforcement action by virtue of time. This is because no enforcement action after a certain length of time depending on the type of breach of planning control. Balance of probabilities is a judgement that is made as to whether an event or account is more likely than not to have occurred. Beyond reasonable doubt is a higher standard.

The first element that needs to be considered is the evidential test. This is a question of whether there is credible and reliable evidence to provide a realistic prospect of conviction. In this regard the defence of the suspect must be taken into account as well as evidence not used as part of the prosecution case. If the evidential test is not met then the public interest test will not be considered and the case will be closed.

The second, public interest, test is whether it is in the public interest to prosecute and for the matter to be considered by the court. In considering the public interest test the person authorising the prosecution must balance the factors for and against prosecution including:

- the harm caused as a result of the offence;
- the degree of the breach;
- the knowledge of the breach;
- the suspect has failed to comply, in part or in full, with a statutory notice;

- there is evidence that the offence was premeditated;
- the level of cooperation to remedy the harm;
- the suspect's level of involvement;
- there are grounds to believe that the suspect was motivated solely by personal gain; and
- a prosecution would have a significant positive impact on maintaining community confidence.

8. What enforcement powers can be used for planning breaches

If it is considered expedient to take enforcement action, there are a number of formal enforcement actions that can be taken depending on the circumstances:

Breaches of Planning Control – Operational Development/ Material Changes of use

Enforcement Notices

If it is considered expedient to do so, the Local Planning Authority may issue and serve an enforcement notice on the landowner and other interested parties. The Council must justify that it is expedient to serve a notice and write a report recommending that a notice be served, which is agreed under delegated powers. Because the notice can be appealed on a number of grounds the following must be justified:

- that a breach has taken place and the evidence available proves, on the balance of probability, that it is not immune from enforcement action;
- the reasons for serving the notice including identifying that development is contrary to development plan policy and identifying any other material planning considerations; and
- what is required to be undertaken as part of the notice (for example we cannot ask for a better quality development than that was there previously), including the consideration of lesser steps if appropriate.

The Council may under enforce as part of an enforcement notice. This means the steps to remedy the breach are less than the steps that would be required to remove or cease all of the unauthorised development. It may be expedient to require lesser steps.

There are two dates on the enforcement notice. The first date is the date that it is issued and the second is the date the notice takes effect. If a valid appeal is submitted prior to a notice taking effect, the terms of the notice are held in abeyance until the appeal has been decided.

As it is the responsibility of the Council to identify the breach and the remedy required and to defend this at appeal, we are unable to take enforcement action simply based on the wishes of the local community. If we do not consider that there is a breach, the matter is not expedient or lesser steps should be taken, we will explain this to complainants as we cannot progress a case that would fail on appeal.

Stop Notices

In very exceptional circumstances, the Local Planning Authority may consider serving a stop notice. The purpose of a stop notice is to require relevant activity to cease before the expiry of the period for compliance specified in an enforcement notice.

In order to serve a stop notice the Local Planning Authority must justify its decision and identify why it is essential to safeguard amenity or public safety in the

neighbourhood; or to prevent serious and irreversible harm to the environment and the surrounding area. A stop notice is required to be served alongside an enforcement notice.

As an alternative to a stop notice a local planning authority can consider serving a temporary stop notice, which does not require the service of an enforcement notice. However, a temporary stop notice expires 28 days after the display of the notice on site. Again, a temporary stop notice can only be served where it is essential to safeguard amenity or public safety in the neighbourhood; or to prevent serious and irreversible harm to the environment and the surrounding area.

In both cases, consideration must be given to the economic impact of the notice as it can have a significant economic effect on businesses and individuals. It is for this reason that these notices are only used in very exceptional circumstances and the notice must be justified as being essential.

If an enforcement notice is overturned or amended on appeal or a stop notice is withdrawn the Council may be liable to compensation owing to the loss or damage the claimant has suffered.

Breaches of Planning Control – Breaches of Condition

For breaches of condition the Local Planning Authority has two options to remedy the breach one is to serve a breach of condition notice and the other an enforcement notice. It will be at the discretion of the Local Planning Authority as to the most appropriate form of action. In accordance with this policy, it is necessary to justify the decision to take enforcement action by considering the expediency of formal action.

Breaches of Planning Control – Injunctions

The most serious form of enforcement action is to serve injunction against a breach of planning control or an apprehended breach of planning control. In these cases, the Local Planning Authority must apply to the High Court or County Court for an injunction under the Town and Country Planning Act 1990. This can be a protracted and legally technical process and therefore prior to the use of injunctions other formal enforcement measures should be considered first before considering the use of an injunction.

Unauthorised Works to listed buildings

There are various formal mechanisms to deal with unauthorised works to listed buildings.

If a person undertakes certain works to a listed building, which affect its character as a building of special architectural or historic interest, without the necessary consent, it is a criminal offence under the relevant Act. Further, if a person executing or causing to be executed any works in relation to a listed building under a listed building consent fails to comply with any condition attached to the consent, they shall also be guilty of an offence.

Whilst it is an offence to undertake certain works to a listed building, legislation allows for remedial action to be specified within a Listed Building Enforcement Notice

in order to resolve the impact of the works. Therefore, the Local Planning Authority must make a decision as to how it will approach unauthorised works to listed buildings.

Theoretically, a punitive approach can be taken through prosecution, however this will not resolve the unauthorised works and in many cases it may be more suitable to require remedial works to be undertaken via a Listed Building Enforcement Notice. There is also the option to serve a Listed Building Stop Notice. The provisions regarding these types of notices are very similar to those outlined as breaches planning control but deal specifically with listed buildings.

Unauthorised Advertisements

It is a criminal offence to display an unauthorised advertisement. However, prosecution can only be initiated within six months of the date of the offence becoming known to the local planning authority and within three years of the offence taking place.

There are also provisions within legislation that allow removal notices to be served which require the removal of unauthorised advertisements.

However, advertisements are not considered in the same way as breaches a planning control and it is necessary to justify enforcement action taking into account the impact upon amenity and public safety.

Untidy land and poorly maintained buildings

If it appears to the local planning authority that the amenity of a part of their area, or of an adjoining area, is adversely affected by the condition of land in their area, they may serve on the owner and occupier of the land a notice under Section 215 of the Town and Country Planning Act 1990 as amended. The notice shall require such steps for remedying the condition of the land in a specified timescale. If any owner or occupier of the land on whom the notice was served fails to take steps required by the notice within the period specified in it for compliance with it, they shall be guilty of an offence. In the event that the notice has not been complied with the Council also has power to enter the land and take the steps to remedy the harm and recover from the owner of the land any expenses incurred.

When the notice has been complied with a new investigation and notice will be required for any new breaches, even if they were similar to that previously encountered.

Concealment

If a breach of planning control has become immune by virtue of time, but where evidence exists that this has been concealed, the Council will consider applying to the magistrates' court for a planning enforcement order. However, this will only be considered in the case of an unauthorised dwelling which is now contrary to policy, or where other development causes significant harm when it becomes unconcealed and it is expedient to take enforcement action.

9. How will planning breaches be investigated and resolved?

The way in which planning breaches are investigated and resolved will be dependent on the type of planning breach that is alleged. This is because different breaches will require different styles of investigation.

Site Visits

Not all investigations will result in a site visit. It may be the case that officers have enough information to make an informed decision without the need for visiting the site. The decision to undertake a site visit will be made on a case-by-case basis by the case officer. If it is considered that a site visit is necessary, which means entering private property, this may result in a delay in the investigation and reaching a conclusion as to whether there is a planning breach.

If it has already been concluded that a breach is not taking place will not investigate further, including a site visit. We are also not able to grant complainants entry onto land that we are investigating.

Rights of Entry

Under the Town and Country Planning Act, 1990 and Planning (Listed Buildings and Conservation Areas) Act 1990 the Enforcement Team have rights to enter land and buildings to carry out certain enforcement duties. In most cases, it will be necessary to give 24 hours' notice to exercise that right to entry to a residential property. However, if entry is refused after providing 24 hours' notice the Council may seek a warrant to enter the premises without consent from the owner.

Planning Contravention Notices and Section 16 Notices

Planning contravention notices and section 16 notices are both formal notices which require certain information to be provided to assist with a planning enforcement investigation.

These notices do not require works to cease but are simply a method to obtain information. It is an offence not to provide information, however. Therefore if you receive a Section 16 Notice or a Planning Contravention Notice it is important for you to answer these within time and accurately.

If you do not respond either in time or accurately, it is a criminal offence and we will instigate an investigation into the alleged offence and will progress the matter further.

Breach of Planning Control

<u>Operational development and Section 215</u>

Operational development usually involves physical works to an external part of a building or land. Where it is alleged that operational development has taken place, we will ask for photographs so that we may assess the works that have taken place. From these photographs we may be able to determine whether there has been a breach of planning control. We may also look at other evidence to determine whether there has been a breach planning control. In the absence of such information, we will

arrange a site visit to see the works that have been undertaken and the harm being caused.

Sometimes the work will not have progressed enough to decide that a breach of planning control has taken place. We are unable to take enforcement action through the service of an enforcement notice where the breach has not taken place or where the harm is not evident.

There are many reasons why it is concluded that there is no breach please see Section 5. No Breach.

Landowners and developers undertake works at their own risk. We cannot insist that works stop unless the local planning authority is prepared to serve a stop notice. However, landowners may wish to stop works to reduce their risk of progressing a development which will subsequently be required to be removed. The fact that the works have been completed will not prevent enforcement action being taken if it is deemed expedient to do so.

Where there has been a breach of planning control an assessment will be made of the harm caused by the breach taking into account the local development plan and any other material considerations. It will be considered whether it is expedient to take enforcement action see Section 6. No Further Action. If it is not expedient to take enforcement action the case will be closed and the persons involved informed.

If it is considered expedient to take enforcement action, further consideration will be made as to whether works can be undertaken to mitigate the harm. In circumstances where it is it considered expedient to take enforcement action, the landowner will be advised of the conclusions and will be given an opportunity to resolve the situation. This may include resolution by mitigation; resolution by submitting a planning application for conditional permission; or resolution by removing the breach. The resolution will include an agreement as to a suitable time scale identified by the Local Planning Authority.

If this time scale is not complied with, without reasonable excuse, the Local Planning Authority will prepare a case to serve an enforcement notice to remedy the breach of planning control. It will be for the Local Planning Authority to consider if the excuse is reasonable. Please note that in many circumstances this information can be either personal and/or sensitive and therefore it may be that we cannot provide the complainant this information.

Investigations regarding untidy land and possible service of Section 215 notice will follow a similar process to that of operational development.

Material Change of Use

To determine whether there has been a material change of use, it may be necessary to compare the use of the land or building prior to the change with the current use.

It is often the case that these changes are witnessed by members of the community. As Council Officers investigating breaches of planning control cannot do this covertly (unseen) there is a reliance upon witnesses providing information. Therefore, in

order to investigate a material change of use it will usually be the case that we will ask for evidence to be provided by the complainant and possibly others. Depending on the breach concerned we may require up to three months' worth of information concerning the alleged breach of planning control.

For example, if an allegation is made of a business at a residential premises it may be necessary to ask for information relating to deliveries, employees and other people visiting the premises. This is because we are comparing the use at present with what would be expected in a household in the area.

In addition to this, it is likely that we will serve a planning contravention notice on the landowner or those persons with a material interest in the land. This will ask a number of questions about the use of the land.

From all of this information, including if necessary a site visit, it will then be determined whether there has been a breach planning control.

It may be the case that by reducing the activity the breach of planning control is resolved or maybe deemed to be suitable and not require action. Alternatively, a planning application with conditions may be a suitable resolution to the situation. If a material change of use has been identified there will be a discussion with the landowner as to whether there is a need to reduce the activity/use, submit a planning application with suitable conditions or change the use back to its lawful use in order for it to be suitable. This will be subject to a time scale. If the use has not reduced, an application submitted, or the use is not reverted back to the lawful use to that agreed within the time scales provided enforcement action will be recommended, subject to consideration of expediency.

Breach of conditions

There are different types of conditions that can be breached. These can include non-compliance with approved plans, breaches relating to times of construction, or breaches of physical details. Breaches that involve non-compliance with plans or other physical details will be treated in a very similar way to that of breaches of planning control involving operational development. Breaches of conditions that involve matters such as opening times and construction times will be treated similar to that of material changes of use and may require the provision of evidence from the community in the area.

There may be circumstances where it is deemed not expedient take enforcement action if there is a breach or an alternative solution is negotiated that overcomes concerns raised by the Council. However, if it is identified that there is a breach that requires to be remedied and this is not undertaken in the time scale specified then enforcement action will be recommended. If an application is submitted to vary or remove a condition as a result of the investigation, the matter will be considered on a case-by- case prior to progressing enforcement action.

Verification of Information/ Evidence

Officers will make all reasonable attempts to verify information provided by complainants, including asking other parties to corroborate allegations. If the Officer

through the investigation identifies that the information provided is incorrect or misleading or if a breach is not found, the case will be closed.

Corroboration may include serving a planning contravention notice relating to all relevant breaches of planning control. A planning contravention notice is a document served on landowners and other relevant parties requesting information in relation to that breach.

In circumstances where alleged breaches cannot be proven/ corroborated independently the contravener's response in the planning contravention notice will be given significant weight. Please note planning contravention notices can only be used for alleged breaches of planning control.

Why Does the Local Planning Authority Use Informal Negotiations

In relation to breaches of planning control, we can only seek remedial measures. It is also necessary to ensure that the measures are proportionate and take into account the circumstances of the situation. Legislation does not provide us the powers to punish breaches of planning control, and we can only resolve breaches where it is expedient to do so. Therefore we seek where possible to conduct negotiations in order to resolve breaches of planning control and in particular any harm that is being caused by the breach planning control. It is generally a quicker and more cost-effective way of dealing with the situation. However it must be associated with time scales. This allows us to progress to formal enforcement action if deemed necessary.

When are Informal negotiations used

Informal negotiations are used in planning breaches where there is no significant irreversible harm caused. In circumstances where significant irreversible harm is taking place we will identify this with the landowner/ interest parties and explain that we are preparing to take formal enforcement action without negotiation. Negotiation will also not be undertaken where there is a reasonable prospect of immunity being reached by the development, in circumstances where it is considered expedient take enforcement action. Negotiation will also not be used where the landowner or other relevant persons are not engaging with the Planning Enforcement Team and it is expedient to take enforcement action. This includes non-response to communications including but not limited to planning contravention notices.

It will be for the Local Planning Authority to determine what is significant irreversible harm taking into account the circumstances of the case but will include the consideration of the actual impact upon amenity of those persons affected by the breach.

Untidy land and poorly maintained buildings will be treated in the same way as breaches of planning control.

Regularisation

If it is considered not expedient to take enforcement action, officers will not invite a retrospective application before closing the case. The case will be closed, but the contravener will be advised they may apply for planning permission

If harm is identified and it is considered that, potentially, conditional permission would be granted then officers can invite an application and await the outcome prior to considering enforcement action. The case will be closed when the application has been submitted and determined. Unless a condition is directly breached at that time, the case will be closed on approval. If the application is refused, then consideration will be required as to whether it is expedient to pursue enforcement action.

If harm is identified and it is considered that planning permission will not be granted and it is considered that it would be expedient to take action an application will not be invited and remediation will be identified with a timescale. The contraveners will be asked their intention and a suitable timescale for remediation identified.

A retrospective planning application has been submitted – will this stop formal enforcement action?

There may be circumstances where a landowner applies for planning permission for the development, which has been deemed to be unacceptable in planning terms by the enforcement officer. Alternatively, a landowner may apply for permission for an alternative scheme.

Urgency of action in these circumstances will generally be dependent on the level of harm. If the harm is significant and on-going then formal enforcement action should be taken. However, if a decision is taken on a planning application within 8 weeks (or if determined by committee longer) and the harm is not urgent there will be discretion to await the outcome of the application. However, unless there are overriding circumstances, if the planning application is refused enforcement action will not be deferred for an appeal to be lodged and determined. If it is considered expedient to take action, and there is a prospect of the development becoming immune then formal enforcement action will not be deferred.

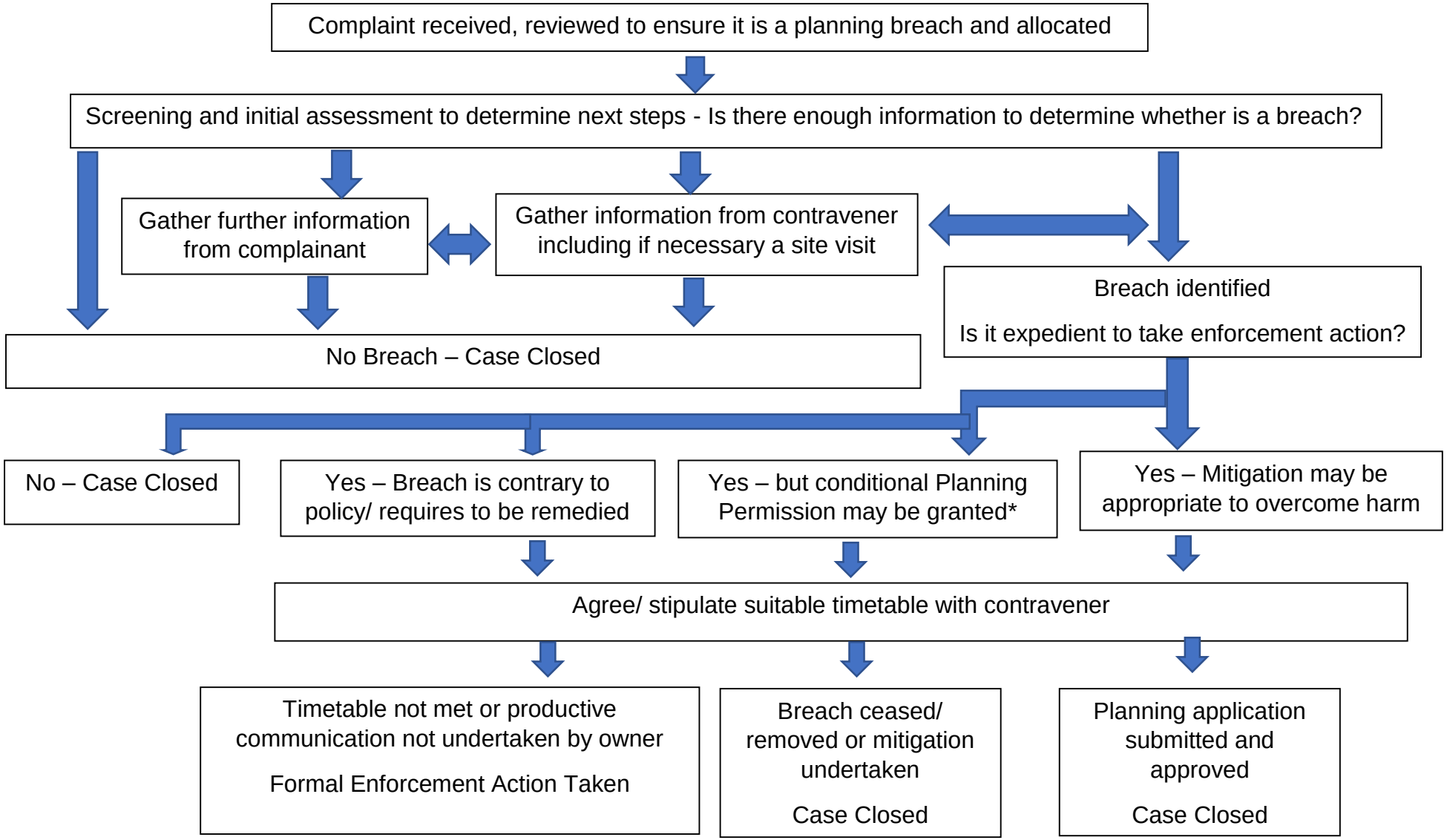
A Lawful Development Certificate/ Planning Application for an alternative scheme has been submitted – will this stop formal enforcement action?

If an application is submitted for an alternative solution, which the Local Planning Authority considers has a reasonable prospect of being approved, further discussions should be undertaken. This would include discussing a reasonable timescale for submission of an application and works to meet the terms of the application. If neither of those timescales are met then enforcement action should be taken. It may also be necessary to serve an enforcement notice if the original development is nearing immunity or where other circumstances require a notice to be served.

I have submitted an appeal to a retrospective planning application – will this stop enforcement action?

Unless there are overriding circumstances, if the application is refused enforcement action will not deferred for an appeal to take place and enforcement action should be taken swiftly.

Figure One: Enforcement Process Breaches of Planning Control and Section 215



Unauthorised works to listed buildings

Unlike breaches of planning control unauthorised works to listed buildings are a criminal offence, but like breaches of planning control they can be remedied through the service of a formal notice.

Each investigation relating to unauthorised works to a listed building therefore will need to be treated as an investigation into an offence. However, we do appreciate that prosecuting an offence will not necessarily remedy the situation.

We will first determine whether unauthorised works to a listed building requires listed building consent. If it is the case, we will consider whether it is expedient to take action. If it is considered expedient to take action we will initially consider whether works can be undertaken to remedy the harm or resolve the breach. If it is the case that harm can be remedied, we will provide an opportunity to the relevant person to undertake those works to an agreed timescale. However, if works are not undertaken, and/ or productive communication does not take place enforcement action through a notice will be sought.

In addition to this, the Council may also consider whether the evidential test and the public interest test has been met to also pursue a prosecution.

However, if works are being undertaken to a listed building which in the opinion of the Council cannot be remedied, or if unauthorised works to a listed building is undertaken in the knowledge that it is a breach and permission is not obtained prior to undertaking the works then the Council will consider whether the evidential test and the public interest test has been met to prosecute the relevant parties.

Unauthorised Advertisements

Similar to unauthorised works to listed buildings, the display of advertisements without consent is a criminal offence but with legislation allowing for formal action to remedy the harm. However, unlike listed buildings there is a statutory time limit for prosecuting advertisements.

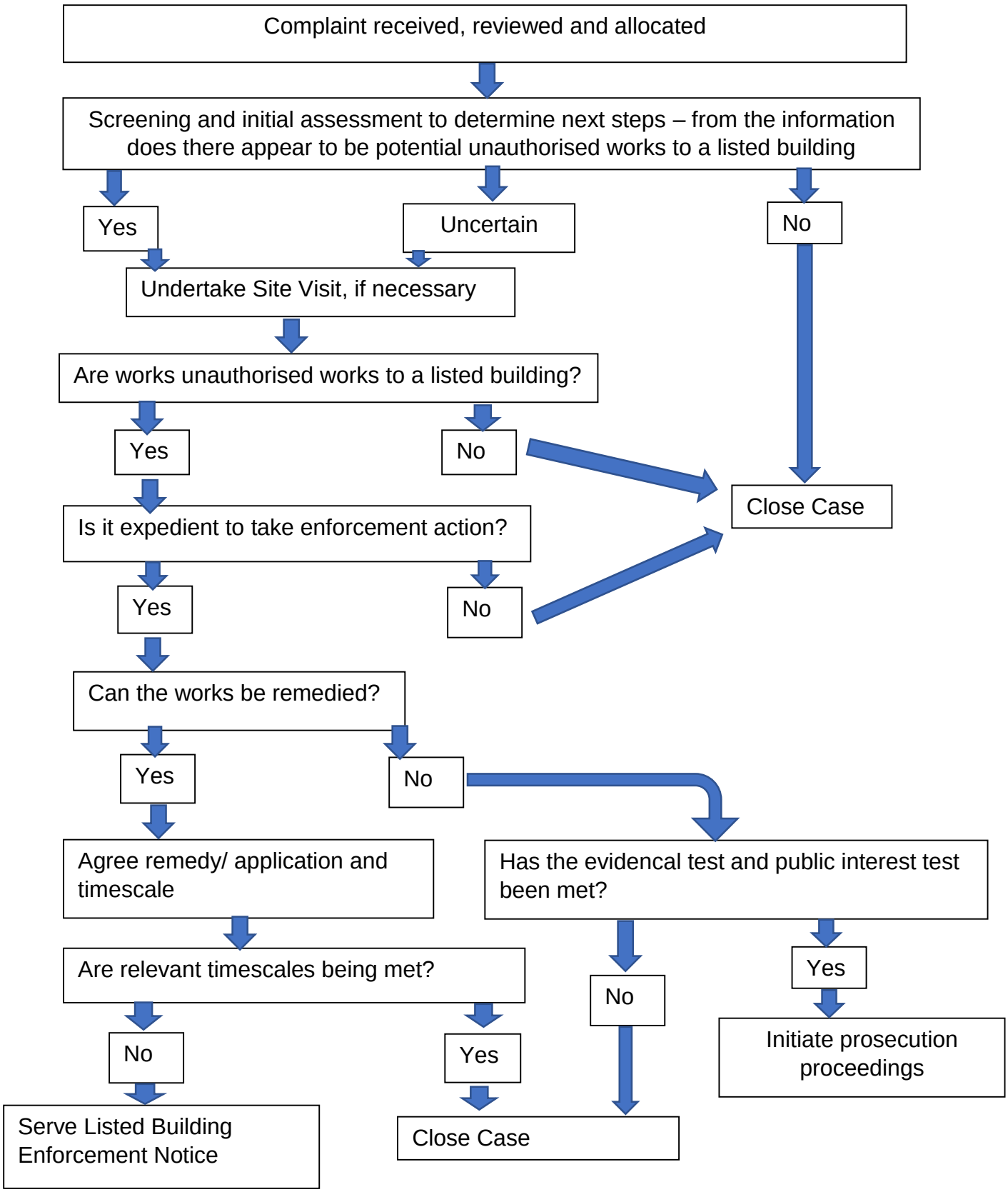
If advertisements are outside the statutory time frame for prosecution the Council will consider whether it is expedient to take action and, if justified, allow time for remedial works to take place. If the works do not take place the service of a relevant notice will be recommended. If advertisements are within the statutory timeframe, we will still consider whether it is expedient to take action, liaise with the landowner but if there is no response or compliance prosecution will take place subject to the evidential test and the public interest test. If the Council becomes aware that unauthorised advertisements are being erected in the knowledge that permission is required but not obtained, subject to the evidential test and the public interest test prosecution proceedings will be initiated.

When are Informal negotiations used

In circumstances where there is unauthorised works to a listed building or an unauthorised advertisement, consideration will be given to the level of harm being caused. If it is considered there is a wilful breach in these circumstances and/ or the

level of harm is significant negotiations will not be progressed and criminal investigation and prosecution will be undertaken where the evidential and public interest tests are met. In circumstances where it is considered that the unauthorised works to a listed building and unauthorised advertisement can be remedied our preferred approach will be through informal negotiations.

Figure Two: Unauthorised Works to a Listed Building



Breaches of extant notices and other investigations into a criminal offence

A breach of an extant notice will be treated differently to other types of breaches. As a remedy has already been sought, the Council will not seek to negotiate a solution but proceed to criminal investigation and if the evidential test and the public interest test are met a prosecution will be initiated.

The following procedure will take place for a breach of extant notice and any other relevant criminal investigations:

- **Receive complaint that an offence has taken place.**
- **Where possible seek to verify the offence. If the verification rests with the complainant, then a witness statement needs to be taken. Even if a witness statement is not taken the information provided must be kept and potentially disclosed.**
- **Arrange site visit. In most cases a site visit is important.**
- **Any covert surveillance to be undertaken in accordance with Regulation of Investigatory Powers Act (RIPA) where appropriate.**
- **Undertake necessary investigation.**
- **Invite suspect to interview on disk and under caution (Police and Criminal Evidence Act – (PACE) compliance) or undertake a written interview.**
- **Compile all evidence and if necessary ask further questions of clarification of suspect.**
- **When all the information is gathered, consider both the evidential test and the public intertest test and seek agreement as to whether the matter is passed to the prosecutor.**
- **Update suspected offender.**
- **Prosecutor to further consider case under the public interest test.**
- **Prosecution proceedings instigated or not, depending on the outcomes of consideration.**

10. Customer Service

The Enforcement Team have a variety of customers with different interests. These include:

- The complainant;
- The local community
- The contravener;
- Third parties involved in the contravention but not an interested party; and
- The Planning Agent/ or other Professional representative.

Each customer has certain expectations and in enforcement cases it is often the case that these expectations conflict. In some cases, customers will seek prioritisation without knowledge of other cases with greater priority. Therefore, it is necessary to prioritise competing demands based on the harm being caused by the breach that is being alleged. As the Enforcement Team is the only body aware of the types of breaches being dealt with at any one time and it will be for the Team to prioritise cases. This means we may have to say that your case is not a priority at this time. This does not mean that we will not investigate your complaint, but it may mean that there may be other cases where our urgent intervention is necessary at that time to prevent serious and irreversible harm.

In addition to this, owing to the mechanisms in place the planning enforcement system is relatively long and protracted. Planning enforcement is subject to a number of steps along the way to resolution. Each step can take time and may, in certain circumstances, be out of the control of the Planning Enforcement Team. As a result, a complex planning enforcement case can take time to resolve. That is why we seek to resolve cases through negotiation where possible.

Priorities

Cases will be investigated, taking into account the following priorities.

Level 1 Priority - Significant live works to listed buildings; breaches of Construction Environment Management Plan (CEMP)/ Demolition Environment Management Plan (DEMP) where there is immediate harm such as potential highway safety breaches and other breaches where there is immediate harm to human health or irreparable harm to the environment, especially sensitive designated sites.

Level 2 Priority – Operational development, material changes of use and breaches of conditions and breaches of notices that are currently taking place and have a proven impact upon amenity of occupants or adjoining neighbours. Works to listed buildings that are currently taking place or have taken place in the past but are causing harm to the fabric of the building.

Level 3 Priority - Operational development, material changes of use and breaches of conditions that are currently taking place.

Level 4 Priority – Historic breaches, including works to listed buildings

Level 5 Priority – Advertisements and Section 215 untidy land and buildings

Investigations Non- Criminal Planning Breaches

We aim that:

- All complaints will be acknowledged, and an officer allocated within 3 days of receipt;
- All complaints will be subject of a desk-top initial assessment within 10 days, unless it is considered that a more urgent assessment is required as it is a Level 1 Priority, and an update provided to the complainant within 15 days. In this update the complainant will be made aware when it is anticipated the next contact will be made. In normal circumstances this will be within 8 weeks, however there may be circumstances where this will be a longer period, for example where we have asked for further information, and this will be explained to the complainant.
- It may be the case that additional updates will be provided, and this will be arranged between the officer and complainant.
- However, in addition to the above, at a minimum the complainant will be contacted:
  - Within 7 days after a case is closed;
  - After an Enforcement Notice, Breach of Condition Notice or Section 215 Notice is served;
  - If a timescale for compliance is agreed between the Council and contravener.
- The contravener will be contacted:
  - Prior to a report for an Enforcement Notice, Breach of Condition Notice or Section 215 Notice being finalised;
  - Within 5 days after a case is closed (if they have been made aware of the complaint).

In circumstances where an initial complaint is made, and then further allegations are made this may delay both the initial update and the subsequent 8 week update. All references to days (and weeks) relate to working days and do not include weekends and public holidays.

<u>Resolution of Breaches</u>

We are unable to provide a timeframe by which a case will be resolved. However, we will monitor the timescales of resolution of the priority levels. Our aim overall is to:

- Confirm if there is a breach of planning control, involving operational development, breach of conditions, breach of advertisement regulations, unauthorised works to listed buildings for 90% of cases within 8 weeks of a complaint being allocated.
- Confirm if there is a breach of planning control, involving a material change of use, within for 90% of cases within 16 weeks of a complaint being allocated.
- Resolve 50% of breaches of planning control involving operational development, breach of conditions, breach of advertisement regulations, unauthorised works to listed buildings within 12 weeks from a complaint being

allocated (this does not include the submission of a planning application or listed building consent where appropriate).

Investigations into Criminal Planning Breaches

We aim that:

- All complaints will be acknowledged and an officer allocated within 3 days of receipt;
- All complaints will be subject of an initial desk-top assessment within 10 days and an update provided to the complainant within the 15 days. In this update the complainant will be made aware that a criminal investigation is taking place and when it is anticipated the next stage of contact will be made.
- It may be the case that additional updates will be provided and this will be arranged between the officer and complainant.
- However, in addition to the above, at a minimum the complainant will be contacted:
  - Within 10 days after a decision is made to refer the case to the legal team or a decision is made not to prosecute the case;

In circumstances where an initial complaint is made, and then further allegations are made this may delay both the initial update and the subsequent update. All references to days (and weeks) relate to working days and do not include weekends and public holidays.

- The alleged offender will be contacted:

  - Prior to a report to refer the case to the legal team has been written;
  - Within 5 days after a decision is made to refer the case to the legal team or a decision is made not to prosecute the case;

Whilst we do appreciate that complainants wish to be kept up to date, we will only inform the complainants after the contravener has been served a notice or a suspected offender has been made aware of a Council decision to prosecute. In addition to this we will not release sensitive and personal information about the alleged contravener/ offender to the complainant.

Customer Satisfaction

The Council will, from time to time, seek feedback on customer service. However, this will only take place after a live enforcement case is closed and not during the investigation. We will not request feedback on the outcome of the case but on the customer experience.

Reporting

Information concerning the performance of the Enforcement Service will be reported to the Planning Committee through the Development Management Performance & Development Quarterly Report.

11. Paid for Services

In addition to investigating complaints the Planning Enforcement Team deal with enquires concerning:

- Confirmation of compliance with notices;
- Requests for withdrawing notices; and
- Confirmation of compliance with conditions.

These are services to be paid for on request.

Compliance with Notices

The Enforcement Register holds information on all of the notices served on properties within the city, excluding planning contravention notices. When a notice is complied with the date of compliance is added to the register. However, this is compliance at one point in time and for most notices, the notice remains with the land.

On enquiry regarding compliance with a notice, we will look up the notice on the register and if available electronic records and let you know what we have on file. However, any investigation with regards current compliance will require a site visit and will be subject of a fee.

Withdrawing Notices

The Council will only withdraw an enforcement notice, breach of condition notice, listed building enforcement notice and stop notice in certain circumstances prior to the notice taking effect. After the notice has taken effect if the landowner or other interested party wishes to have a notice withdrawn it will need to be subject of consideration. This will involve applying to the Council to have the notice withdrawn stating reasons why it should be withdrawn with an associated fee. The Council will then consider if the Notice should be withdrawn.

Compliance with conditions

If an owner or other interested part wishes for a letter from the Council confirming that conditions have been complied with, it will be necessary for an application to be made. This will state the relevant conditions with an appropriate fee.

Timescales and Fees

The timescales for considering the above, with associated fee, will be advertised on the Council’s website.

Appendix 2

Local Enforcement Plan, Planning Enforcement Context

1.0 Introduction

1.1 This document provides background information and context relevant to the proposed changes to the Local Enforcement Plan.

2.0 Resources and case load

2.1 The Planning Enforcement Team currently consists of an FTE Team Leader and 1.6 FTE Senior Planning Officers and 2 FTE Assistant Planning Officers. The majority of cases investigated by the team are complaint led, as opposed to self-generated. Whilst the number of cases received varies year on year, from January 2019 to December 2021 the team received 1965 new cases. This means on average the team receives 54 new cases per month.

2.2 These new cases, in workload terms, are considered in the context of the outstanding cases held by the officer. Of the cases received from 1st January 2019 to 31st December 2021 it took on average 143 days to close the case with 41% of cases closed within 8 weeks. Some 12% of cases received remain outstanding. This means that there are cases that can take months and sometimes more than one year to resolve. However, these lengthy timescales can be because of period of inactivity on a case. For example, if a retrospective planning application has been invited and is being considered, an appeal has been lodged or if compliance with timescales in a notice is awaited which for residential cases can be lengthy. This means that a full-time equivalent case officer generally can have around 100 cases at any one time.

2.3 Currently there are around 450 cases allocated to the team. This is a significant reduction compared to some 550 cases around a year ago. Whilst there has been a concerted effort to make a decision on cases, there remains outstanding historic cases still being worked on that require resolution.

3.0 Enforcement Investigations resulting in a conclusion of no breach

3.1 Planning enforcement cases vary in type and complexity. The majority of cases received are breaches of planning control. These can include for example fences, extensions, and dormer windows. However, they can also include changes of use such as houses in multiple occupation, short term holiday lets, and businesses being run from home. Breaches of planning control also include breaches of condition, including, on larger developments, matters such as construction hours and noise. Each case is required to be investigated on its own merits but in many cases they result in a conclusion that there has been no breach. Of the cases closed since January 2019, the majority (45%) were closed because the investigation showed that there was no breach. There are a number of reasons for this outcome but it can be because the complaint received is not a planning matter, the breach alleged was not unauthorised because it was permitted under legislation, or the

development is immune from enforcement action owing to the time it had been unauthorised.

3.2 It can take time to determine whether there has been a breach of planning control, particularly if there is an allegation of a material change of use. As the Local Planning Authority is unable to control matters that are not a breach and as they form a majority of cases, an aim in the enforcement plan is to reduce these types of matters being reported. This will be through communications and the modernisation programme, but it is an important part of the plan to explain about these matters, as it is an issue that is often queried.

4.0 Types of breaches

4.1 Whilst the majority of cases dealt with by the Planning Enforcement Team are breaches of planning control, other types of planning breaches investigated include unauthorised works to listed buildings, untidy land (under Section 215 of the Town and Country Planning Act 1990), unauthorised advertisements and breaches of statutory planning notices. Unauthorised works to listed buildings do not have immunity from action, unlike breaches of planning control. These types of cases make up a proportion of historic breaches currently held by the Planning Enforcement Team.

4.2 It is not a criminal offence to breach planning control and the actions that can be taken are remedial and not punitive in nature. Enforcement action can only be taken through the issue of an enforcement notice where is it expedient to do so.

5.0 Expediency

5.1 Expediency is a common term in planning enforcement, but it is also enshrined in legislation. The National Planning Policy Framework advises that enforcement action should be proportionate, and the National Planning Practice Guidance explains that planning authorities have discretion to take enforcement action, when they regard it as expedient to do so having regard to the development plan and any other material considerations. A local enforcement plan is also material in considering whether it is expedient to take enforcement action.

5.2 Since January 2019, 23% of cases were closed because it was not expedient to take action (this included other planning breaches not falling within the remit of breaches of planning control). This means there is a planning breach but the circumstance of the breach means it does not warrant action being taken. It is often the case that this is a contentious part of a planning enforcement investigation. As part of a case, the team often receive communications from complainants who query the concept of expediency and ask for the Council to take action even if it not expedient to do so and in some cases request that informal action be taken that would go beyond that which planning legislation will allow. In order to assist with this situation, and allow officer time to focus on expedient matters, it is proposed through the local enforcement plan to provide more clarity with regards to expediency and how

a decision concerning expediency impacts upon informal negotiations. This should, as a result, help improve decision making and manage customer expectations. In addition to this, it may assist in resolving historic cases held by the team.

6.0 Full Compliance

6.1 Some 22% of cases closed since January 2019 were as a result of full compliance. This could have been due to either informal negotiations or compliance with a Notice. Since January 2019 some 81 enforcement notices (included listed building enforcement notices), 7 breach of condition notices, 6 Section 215 notices, and 1 Stop Notice has been served. This means in most cases informal negotiations are used to resolve breaches of planning control where it is expedient to take action.

6.2 It can be the case that customers request that immediate action be taken, without informal negotiations being sought. If it expedient to take action it can often be the case that informal negotiations are a quicker route to resolving the breach. This is because there is a right for relevant parties receiving a notice to appeal. Once the appeal is lodged it holds any remedial steps in abeyance. This has meant in some of our cases that the resolution has been on hold for a number of months and in certain cases over a year. However, to provide certainty for all parties including complainants, contraveners and any other bodies it has been clarified in the policy where informal negotiations will not be used or when notices will be served. This includes where it is expedient to take action and significant irreversible harm is taking place, or where there is a reasonable prospect of immunity being reached by the development, or where the landowner or other relevant persons are not engaging with the Planning Enforcement Team.

7.0 Criminal investigations

7.1 Criminal investigations are treated differently to that of breaches of planning control. This is because different legislation is associated with criminal investigations. However, the main difference is that a criminal investigation will result in a decision as to whether the Council will prosecute an individual which may result in a trial at court. This includes the consideration of the evidential and the public interest test. These are not the same as determining whether there is a breach of planning control and expediency. For the first time the evidential and public interest test is identified within the Council's Local Enforcement Plan. This provides any person who is potentially committing a criminal act, in planning enforcement terms, an understanding of the situation and process. It also provides any complainant with the necessary information to understand the process which is followed.

8.0 Working with other departments

8.1 Planning enforcement can cross over with other enforcement functions of the Council. Sometimes different legislation can achieve the same outcome, but it is often the case that a development in breach of planning control can be in

breach of other legislation which seeks to achieve a different outcome. This can cause confusion for customers including both contraveners and complainants. The aim of the plan is to avoid duplication where possible, and to identify a lead enforcement agency in these circumstances and to identify where liaison between services will take place.

9.0 Customer Service

9.1 The 2018 policy identifies priorities and allocates a timescale to visit a site in accordance with that priority. There are three priority levels but in practice most cases fall within the mid category, and this is because the priority is based upon the information that is received from the complainant.

9.2 The proposed Local Enforcement Plan also identifies a priority but does not associate a time scale with it. The process requires an initial desk top assessment by an officer and contact with the complainant within a specified timescale. At this stage the priority of the case can be identified. The new updates which occur sooner in the process will overcome an issue with the previous policy which meant a complainant was not contacted until 8 weeks post acknowledgement, which usually resulted in communications requesting an update. It also acknowledges that in many cases further information is required from the complainant. The Plan also clarifies that not all cases will result in a site visit and low priority cases may take longer to resolve. This change in policy seeks to help prioritise those cases which require formal enforcement action and as a result manages customers' expectations.

9.3 In this iteration of the Plan, service targets for resolution of cases have also been included to help consideration of whether resources match case load and also to give an indication to customers as to timescales that are being achieved in cases.

Brighton & Hove City Council

Tourism, Equalities, Communities and Culture Committee

Agenda Item 15

Subject: **Sports Facilities Contract Extension – Freedom Leisure**

Date of meeting: **16th June 2022**

Report of: **Executive Director, Economy, Environment & Culture**

Contact Officer: **Name: Mark Fisher**
Email: mark.fisher@brighton-hove.gov.uk
Name: Kerry Taylor
Email: kerry.taylor@brighton-hove.gov.uk

Ward(s) affected: **All**

For general release

1. Purpose of the report and policy context

1.1 Wealden Leisure Ltd trading as Freedom Leisure manage the council's sports facilities pursuant to two contracts with the council, both on very similar terms. The current contract with Freedom Leisure commenced on 1st April 2011 in relation to all the facilities listed in 3.1 below (except Portslade Sports Centre). An additional contract with Freedom Leisure to manage Portslade Sports Centre commenced in 2016 to run concurrently with the existing contract. These two contracts are referred to as the Sports Facilities Contract.

1.2 Under the terms of these contracts there is provision to extend for a further 5 years. At a special Policy & Resources Committee on 14th August 2020 a three-year extension with an associated re-negotiated management fee was agreed. This took into account the significant impact on the Sports Facilities Contract from the initial Covid 19 lockdown period (21st March – 25th July 2020). The aim was to minimise the impact of financial pressures created by the Covid-19 pandemic by extending the contract over a three-year period. A further package of financial assistance was agreed at the Policy and Resources Committee on 29th March 2021 taking into account the significant impact on the business created by successive lockdowns and the associated slow return of users over 2021/22. Both of these contract extensions expire on the 31st March 2024. There is provision within the current contract for an extension of up to a further 2 years.

1.3 Despite the Government allowing sports facilities (including gyms and swimming pools) to re-open from 25th July 2020, subsequent lockdowns and tier measures were introduced in November 2020, December 2020 and January 2021 – April 2021. These have had a continued negative impact on our Sports Facilities Contract with Freedom Leisure. In addition, the current cost of utilities and increased staffing costs will have a significant impact on the financial position of the contract into 2022 and beyond.

1.4 The Council Sports Facilities Investment Plan (2021-2031) was agreed by Policy & Resources Committee in June 2021. This sets out the Council's priorities to modernise and improve the indoor leisure facilities portfolio in the city. The delivery and implementation of this plan is influenced by the management arrangements that are to be put in place in the future.

2. Recommendations

That the Tourism, Equalities and Communities and Culture Committee:

2.1 Recommends to Policy & Resources Committee that it agrees to exercise the option to extend the Sports Facilities Contract with Freedom Leisure by two years until 31st March 2026 and that it agrees the variation in the management fee set out in Part 2, subject to the recommendation at 2.2 below.

2.2 Recommends to Policy & Resources Committee that it grants delegated authority to the Executive Director Economy, Environment & Culture to agree changes to the management fee set out in Part 2, following consultation with the Leaders Group.

That the Policy & Resources Committee:

2.3 Agrees to exercise the option to extend the Sports Facilities Contract with Freedom Leisure by two years until 31st March 2026 and agrees the variation to the management fee set out in Part 2, subject to the recommendation at 2.4 below.

2.4 Grants delegated authority to the Executive Director Economy, Environment & Culture to agree changes to the management fee set out in Part 2, following consultation with the Leaders Group.

3. Context and background information

Sports Facilities Contract

3.1 The sports facilities included within the Sports Facilities Contract are:

- King Alfred Leisure Centre
- Moulsecoomb Community Leisure Centre
- Paddling pools (Hove Lagoon, King's Road, The Level Water Feature Saunders Park)
- Portslade Sports Centre (added from 2016)
- Prince Regent Swimming Complex
- Stanley Deason Leisure Centre
- St Luke's Swimming Pool
- Withdean Sports Complex

3.2 Freedom Leisure commenced operation of the Sports Facilities Contract on 1st April 2011 and initially under the terms of that contract a payment was made by the Council to Freedom Leisure. Following the capital development

at Withdean Sports Complex in 2013, the arrangement was varied resulting in a financial return to the Council (to support the payment of the capital loan).

3.3 There is provision in the existing contract for an extension of the initial term by up to five years on the existing terms and conditions. The current contract has been extended previously for a three year period and there is provision within the existing contract to extend this for a further two years.

3.4 Once the council has served notice to extend the contract, the parties are required under the terms of the contract to "discuss and use reasonable endeavours to agree any variation to the Management Fee which is reasonable to take account of any material changes in the costs of the Contractor in providing the Services". This negotiation will take into account previous financial performance (if applicable) and the expected cost of providing the service which will apply for the remainder of the contract.

Sports Facilities Investment Plan

3.5 The council is aware that the facilities managed under the Sports Facilities Contract are ageing and their condition is deteriorating. The most recent facility to be built was the Moulsecoomb Community Leisure Centre which opened in 1991.

3.6 In 2019 the council commissioned a Sports Facilities Investment Plan together with an appraisal of management options, so that the future of the sports facilities could be determined. The Sports Facilities Investment Plan (SFIP) was agreed by Policy & Resources committee in June 2021. This work included detailed condition surveys on all the facilities to inform the SFIP. Work on the implementation of this plan continues to progress and the extension of this contract provides continuity whilst future operating models for new facilities are tested.

Impact of Covid-19 Pandemic

3.7 Covid-19 had a significant impact on the operation and management of the Council leisure facilities over the last two years. Lockdown for sports facilities was introduced on Friday 21st March 2020 when everything closed. This constituted a Force Majeure Event under the terms of the Sports Facilities contract. Consequently, Freedom Leisure were excused from performing their obligations under the contract for the period during which sports facilities were not allowed by law to open.

3.8 This was a very challenging financial period and in order to mitigate costs Freedom Leisure furloughed all apart from two staff of those directly employed pursuant to the Sports Facilities Contract in Brighton & Hove. The two remaining staff were overseeing the closed facilities together with members of the council's Sports Facilities Team in order to reduce costs. However, it wasn't possible to avoid all costs while the facilities were closed, such as utilities, although they were minimized.

3.9 The impact of Covid still remains a risk to the future operation of the service. However, the leisure centres are starting to see improvements in usage and participation and are currently operating at an average of 75% of pre-covid business across the various activity areas.

Utility costs

3.10 The biggest risk to leisure operators currently is the escalating costs associated with utilities. Freedom Leisure retain the risk on utility costs on this contract. Leisure providers (both inhouse and externally commissioned) are being adversely and disproportionately affected because leisure centres have high energy demands, especially for those facilities with swimming pools. Energy costs are typically a leisure operator's second highest cost after staffing costs. This is further exacerbated because the sports facilities portfolio is ageing and energy inefficient.

3.11 Leisure providers are mitigating the costs through the implementation of energy efficiency improvements, but they are unable to accurately budget forecast for gas and electricity costs because the price is fluctuating erratically. This is particularly impacting providers who buy electricity and gas supplies on a day ahead rate. Providers, like Freedom Leisure, on a fixed price contract have some short term protection (until Sept 2022), but the risks to providers and councils are being stored up for when the fixed element ends. Prices could stabilise by then, but they would need to drop significantly to reduce the risk.

4. Analysis and consideration of alternative options

4.1 Negotiations have been on-going with Freedom Leisure to seek a solution to the current very difficult financial situation to enable an agreed contract extension position to be achieved.

4.2 In the current economic climate, a contract extension is considered to be a more stable and appropriate solution than the other alternative options which include considering the transfer of the services back in house, creating a local authority trading company or commencing a new procurement process.

5. Community engagement and consultation

5.1 Not applicable.

6. Conclusion

6.1 The granting of a two year extension to Freedom Leisure for the Sports Facilities Contract will enable a financially sustainable position to be reached between both parties and allow for the future leisure centre provision requirements to be developed and progressed as set out in the Councils agreed Sports Facilities Investment Plan.

7. Financial implications

7.1 These are included in the part 2 of this report.

Finance Officer Consulted: John Lack Date: 26/05/22

8. Legal implications

8.1 The Council is entitled to extend the contract without the agreement of Freedom Leisure. However, the parties must reach agreement on the Management Fee which should reflect the cost of providing the service. The Covid-19 pandemic and rising utility costs constitute material changes which will need to be factored into the discussions.

8.2 The proposed variations to the contract with Freedom Leisure are within the scope of the original contract and are therefore contract modifications which are permitted by the Public Contracts Regulations 2015.

Lawyer Consulted: Alice Rowland Date: 09/05/22

9. Equalities implications

9.1 The council seeks to provide a range of opportunities for residents to participate in sport and community activities across the city. Sports facilities are fundamental to that provision.

10. Sustainability implications

10.1 A key focus of this report is the financial sustainability of the Sports Facilities Contract. However, there has been significant investment in the sports facilities to improve environmental sustainability such as LED lighting, inverters on pumps and more thermally efficient glazing.

10.2 Additional works to the sites are also proposed from funding that was applied for and successfully secured form the council's carbon neutral fund.

10.3 Site by site energy audits have also recently been commissioned by Freedom Leisure in partnership with Brighton & Hove City Council to assess the current energy usage of the sites and consider what other capital investments could be implemented to improve the energy usage of the sites.

11. Other Implications

Social Value and procurement implications

11.1 The procurement of the original contract was carried out in 2010 before social value considerations were embedded as part of the tendering processes. However, through their Active Communities Plan, Freedom Leisure deliver many sessions and activities for a wide range of targeted groups within local communities and also support the NHS with social prescribing and GP exercise referral schemes.

Public health implications:

11.2 The sports facilities are key locations in the city for regular participation in sport and physical activity. The Covid-19 pandemic has heightened the awareness of the importance of regular participation in sport and physical activity to health and well-being. The leisure centres play a significant role in contributing towards improving the mental and physical well-being of residents across the city.

Supporting Documentation

Appendices:

1. None

Background Documents

1. None

Document is Restricted