

Planning Committee

Date: **5 June 2024**

Time: **2.00pm**

Venue **Council Chamber, Hove Town Hall**

Members: **Councillors:** Loughran (Chair), Allen (Deputy Chair), Earthey, Galvin, Nann, Robinson, Shanks, C Theobald, Thomson and Winder

Conservation Advisory Group Representative

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AGENDA

123 PROCEDURAL BUSINESS

(a) Declaration 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 or Lobbying

- (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.

- (d) All Members present to declare any instances of lobbying they have encountered regarding items on the agenda.

(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 2 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 public.

A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.

124 MINUTES OF THE PREVIOUS MEETING

7 - 16

Minutes of the meeting held on 8 May 2024.

125 CHAIR'S COMMUNICATIONS

126 PUBLIC QUESTIONS

Written Questions: to receive any questions submitted by the due date of 12 noon on 30 May 2024.

127 TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS

128 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

Please note that the published order of the agenda may be changed; major applications will always be heard first; however, the order of the minor applications may be amended to allow those applications with registered speakers to be heard first.

Public Speakers Note: Any persons wishing to speak at a meeting of the Planning Committee shall give written notice of their intention to do so to the Democratic Services Officer **four clear days** before the meeting (normally, the Committee meets on Wednesdays which means the notice has to be **received by 5.30pm the preceding Friday**). To register to speak please email Democratic Services at: democratic.services@brighton-hove.gov.uk

(Speakers are to be allocated a strict 3 minutes to address the committee. If more than one person wishes to speak, the 3 minutes will need to be shared, or one person can be elected by communal consent to speak for all).

129 DEFERRED ITEMS

A BH2023/03236 - Emblem House, Home Farm Business Centre, Home Farm Road, Brighton - Full Planning **17 - 80**

MAJOR APPLICATIONS

B BH2023/03130 - Portslade Village Centre, 3 Courthope Close, Portslade - Full Planning **81 - 128**

MINOR APPLICATIONS

C BH2024/00507 - 62 Albion Hill, Brighton - Full Planning **129 - 150**

D BH2023/03054 - Racehill, Warren Road, Woodingdean, Brighton - Full Planning **151 - 168**

E BH2023/03417 - 132 Kings Road, Brighton - Full Planning **169 - 190**

F BH2023/03418 (LBC) - 132 Kings Road, Brighton - Listed Building Consent **191 - 202**

G	BH2024/00213 - 7 Meadow Close, Hove - Householder Planning Consent	203 - 214
H	BH2024/00154 - Grange Court, 91 Payne Avenue, Hove - Full Planning	215 - 228
I	BH2024/00617 - 8 & 9 Lucraft Road, Brighton - Full Planning	229 - 248

130 TO CONSIDER ANY FURTHER APPLICATIONS IT HAS BEEN DECIDED SHOULD BE THE SUBJECT OF SITE VISITS FOLLOWING CONSIDERATION AND DISCUSSION OF PLANNING APPLICATIONS

INFORMATION ITEMS

131 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE **249 - 254**

(copy attached).

132 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

(None for this agenda).

133 APPEAL DECISIONS **255 - 256**

(copy attached).

Members are asked to note that plans for any planning application listed on the agenda are now available on the website at: <http://www.brighton-hove.gov.uk>

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The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fourth working day before the meeting.

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FURTHER INFORMATION

For further details and general enquiries about this meeting contact Shaun Hughes (email shaun.hughes@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

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- Do not re-enter the building until told that it is safe to do so.

Date of Publication - Tuesday, 28 May 2024

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 8 MAY 2024

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Loughran (Chair), Allen (Deputy Chair), Earthey (Substitute), Hill (Substitute), Nann, Robinson, Sheard (Substitute), C Theobald, Winder and Thomson

Officers in attendance: Jane Moseley (Planning Manager), Katie Kam (Lawyer), Steven Dover (Planning Officer), Wayne Nee (Principal Planning Officer), and Shaun Hughes (Democratic Services Officer).

PART ONE

104 PROCEDURAL BUSINESS

a) Declarations of substitutes

104.1 Councillor Sheard substituted for Councillor Cattell. Councillor Hill substituted for Councillor Shanks. Councillor Earthey substituted for Councillor Fishleigh.

b) Declarations of interests

104.2 None for this meeting.

c) Exclusion of the press and public

104.3 In accordance with Section 100A of the Local Government Act 1972 ("the Act"), the Planning Committee considered whether the public should be excluded from the meeting during consideration of any item of business on the grounds that it is likely in view of the business to be transacted or the nature of the proceedings, that if members of the public were present during it, there would be disclosure to them of confidential information as defined in Section 100A (3) of the Act.

104.4 **RESOLVED** - That the public are not excluded from any item of business on the agenda.

d) Use of mobile phones and tablets

104.5 The Chair requested Members ensure that their mobile phones were switched off, and where Members were using tablets to access agenda papers electronically ensure that these were switched to 'aeroplane mode'.

105 MINUTES OF THE PREVIOUS MEETING

105.1 **RESOLVED** – The committee agreed the minutes of the meeting held on 3 April 2024.

106 CHAIR'S COMMUNICATIONS

106.1 There were none.

107 PUBLIC QUESTIONS

107.1 There were none.

108 TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS

108.1 There were no site visit requests.

109 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

109.1 The Democratic Services officer called the agenda applications to the committee. The following items were not called for discussion and were therefore taken to be agreed in accordance with the officer's recommendation:

- Item G: BH2024/00243: 10 Tumulus Road, Saltdean, Brighton
- Item H: BH2023/03111: 22 Eley Crescent, Rottingdean, Brighton

All other applications were called for discussion, including major applications and those with speakers.

A BH2023/02835 - Royal Pavilion Gardens, Pavilion Buildings, Brighton - Full Planning

1. Item A: BH2023/02835 (PLA): Royal Pavilion Gardens, Pavilion Buildings, Brighton was **withdrawn** after the agenda was published.

B BH2023/02836 - Royal Pavilion Gardens, Pavilion Buildings, Brighton - Listed Building Consent

1. Item B: BH2023/02836 (LBC): Royal Pavilion Gardens, Pavilion Buildings, Brighton was **withdrawn** after the agenda was published.

C BH2023/02349 - Enterprise Point And 16-18 Melbourne Street, Brighton - Full Planning

1. The Case Officer introduced the application to the committee.

Answers to Committee Member Questions

2. Councillor Allen was informed that the flexible floor space conforms to policy and the use is considered more efficient. Co-living is new to Brighton and the concept is not referred to in policy. The use is sui generis and there is no strict requirement for mixed use. The Principal Planning Officer noted that there was a potential for the concept of co-living in the city as there a large number of residents in private rented accommodation, Homes of Multiple Occupancy (HMOs) and small flats. Co-living has the potential to free up housing stock.
3. Councillor Winder was informed that the rooms vary in size with an average of 23.5sqm. The use is sui generis housing, and any change would require planning permission. The applicant stated that there would be 10sqm of storage space in each unit with flexible spaces within the units, and each would have a small kitchen and bathroom. Each floor will have a communal living space. There would be no age limit to the development.
4. Councillor Nann was informed that the between 9 and 10 single persons would share the communal kitchen spaces located on each floor. It was noted that it was possible that as many as 24 could use the communal facilities if couples lived in the units. The case officer noted that student accommodation does have small cooking facilities in each room as well as the communal facilities. Units will be rented, and rent will cover all utilities and communal spaces and co-working areas. The Principal Planning Officer noted that the units will not be at the cheaper end of the market price. The Planning Manager noted the authority had no control over rents and this was not a planning matter.
5. Councillor Robinson was informed that the desk units in the co-working space could be used by non-residents. The agent informed the councillor that council tax will be paid by the management of the building.
6. Councillor Theobald was informed by the agent that similar schemes were starting up across the country.
7. Councillor Hill was informed that 13 trees would be lost, and most were near the boundaries of the site. Six trees are to be pruned and replacement planting forms part of the development. Trees will be assessed before removing. It was noted that the condition covering biodiversity net gain would look at trees. The S106 agreement does not cover education improvements for the nearby school. The shared boundary with the school will be improved by condition, which includes screening. The school was consulted at pre application discussions. The agent confirmed that each unit had room for a small fridge/freezer. The agent confirmed that there would be a loading bay and drop off spaces. It was noted that Highways have no objections and details of deliveries were to come by condition.
8. Councillor Earthey was informed that it was not possible to provide affordable housing on the site, but a commuted sum contribution has been calculated. A Community Infrastructure Levy would also be required. The Principal Planning Officer noted the development was sui generis, the sums offered were accepted and no viability assessment was undertaken. The Housing Enabling Officer noted the commuted sums would be used where they were most needed in the city.

9. Councillor Loughran was informed by the agent that all the units would be accessible with flat entrances and exits so could in theory be used for accommodating older people. All of the studio flats will be adaptable.

Debate

10. Councillor Theobald noted that they had voted for the scheme before, and they considered the current building to be blight on the city landscape. The councillor considered there were lots of facilities and the commuted sum was good. The councillor supported the application.
11. Councillor Allen considered the existing building bleak, and the principle of development was good. The loss of employment along Lewes Road was a concern. The councillor supported the application on balance.
12. Councillor Thomson stated they have reservations about the scheme and the loss of trees but was reassured that the conditions were good. The scheme was experimental, and it was concerning that there was no policy for co-living. The councillor supported the application on balance.
13. Councillor Sheard considered the existing building was not fit for purpose. A concern regarding demand for the building was expressed. The works space areas were good; however, the councillor did not support the application.
14. Councillor Nann considered the development was profit orientated and deeply depressing, adults in student accommodation.
15. Councillor Robinson was not depressed by the new concept, considered the development would serve a purpose and they supported the application.
16. Councillor Winder wished the scheme was more creative in design and style. The councillor considered the area needed improvements.
17. Councillor Earthey considered the development to not be inappropriate and will fill the gap in affordable housing.
18. Councillor Hill considered if the committee voted against the scheme as the rents were too high, this reason would not stand at appeal. The councillor had reservations; however, they supported the application.
19. Councillor Loughran expressed concerns regarding food cooking and storage. The councillor reluctantly supported the application.

Vote

20. A vote was taken, and by 9 to 1 against, the committee agreed to grant planning permission.
21. **RESOLVED:** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to be **MINDED TO**

GRANT planning permission subject to a s106 agreement and the Conditions and Informatives as set out in the report, **SAVE THAT** should the s106 Planning Obligation not be completed on or before the **31st July 2024** the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 13.1 of the report.

D BH2024/00477 - 3 Westmeston Avenue, Saltdean, Brighton - Full Planning

1. The Case Officer introduced the application to the committee.

Speakers

2. Bruce Geddes addressed the committee as a neighbour and stated that they considered the normal protocol was to start works after gaining planning permission. It was noted that demolition had taken place before this application had been submitted to the planning department and it appeared the developer had not given the correct information as the consultation defers from plans submitted. The roof and landscaping have changed, and it appeared the developer was building whatever they cared to. A temporary stop notice should be served, and new drawings asked for. It was considered that the planning process was being manipulated. Real details should be provided.
3. Filip Singh addressed the committee as the applicant and stated that the situation was unfortunate. Unforeseen cracks and inappropriate wall materials led to demolition after there had been honest effects to remodel the property. The development adheres to the approved designs. The neighbours and community have been engaged with and the development has been adapted to reflect concerns raised. It was considered objections had been received to this scheme, when others had in the street had received none. The committee were asked to consider the facts and not objections based on bias.

Answer to Committee Member Questions

4. Councillor Allen was informed by the neighbour that the property overlooks the neighbouring properties. The property was built in the 1950s and the plot subdivided many years ago. This property is close to others. The rear extension is not shown on drawings. The extension will project beyond the rear building line of the neighbour. A balcony is also proposed to the rear. The distance to the boundaries to the development are less than 1m.
5. Councillor Robinson was informed by the case officer that the development was approved in February 2024.
6. Councillor Thomson was informed by the case officer that there is no balcony proposed. The neighbour considered they were adversely affected by the development and so were numbers 1 and 5.
7. Councillor Earthey was informed by the case officer that the plans were final and that enforcement officers had been on site to check the scheme accorded with the previously approved plans which it did, other than demolition. The Planning Manager noted that enforcement action can be taken if the development differs from the plans. The applicant stated they were the final plans and that Building Control had approved them.

8. Councillor Theobald was informed that the development is the same as the February 2024 approved plans in form and mass. The materials have been changed to black UVPC. The neighbour stated that the roof included a lantern, and the roof was not flat as shown in the plans. The applicant stated that this was not the case, and that the development was not finished yet and the roof will be flat.

Debate

9. Councillor Earthey considered the application to be a disturbing case as the demolition had not been approved. The councillor noted that the area included many bungalows, and they were likely to be developed. Considering the age of the walls etc, the councillor suggested that other developments look at the structural integrity of the dwellings first before submitting plans. The councillor considered the application no worse than others.
10. Councillor Allen was disappointed to see the construction works but they considered the objectors had not shown the harm and there was no solid reason for a refusal. The Community Infrastructure Levy (CIL) would be welcomed in the area.
11. Councillor Theobald considered the application was difficult to decide as they disliked retrospective applications. However, they considered the application difficult to turn down.
12. Councillor Robinson noted the development was the same as in February 2024 and most of the concerns raised were not planning matters. The councillor supported the application.
13. Councillor Winder stated that they were unhappy with the development.
14. Councillor Loughran noted that a Temporary Stop Notice should perhaps have been issued but the proposals were clear.

Vote

15. A vote was taken, and the committee agreed unanimously to grant planning permission.
16. **RESOLVED:** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives in the report.

E BH2024/00077 - West House, 34B Preston Park Avenue, Brighton - Full Planning

1. The Planning Manager introduced the application to the committee.

Speakers

2. Ward Councillor Pickett stated that they considered the development to be reasonable with solar panels etc and contiguous with the existing building, however, there will be a harmful loss of amenity and be overbearing for the neighbours on this heavily developed plot. The gardens have been subdivided into two dwellings and any more massing

would be too close to neighbours. It was noted that the Heritage team considered there was no impact on the street, however, this is not the case. There are two parking bays at the front of the building which are involved in a legal tangle regarding ownership. The councillor requested the committee to wait for more information on the impact of the development on parking.

3. Rory Aitkenhead addressed the committee as the agent and stated that the parking issues for 35B and 34B were unrelated to the development. Numbers 34 and 36 were to the front of the plot and therefore not relevant to the development. The application property is 10m away from other buildings. This application reflects the changes requested by the planning officers from the first application to extend the property and is smaller. The footprint of the dwelling stays the same. The committee were asked to grant planning permission as there was no reason to refuse.

Answers to Committee Member Questions

4. Councillor Thomson was informed by the agent that the distance between buildings remained unchanged from the existing. The case officer stated that the distance between buildings was considered on a case-by-case basis, and the frontages are not relevant. It was noted that there no new windows in the proposals.
5. Councillor Nann was informed that the Heritage Team considered there was no harm to conservation area as there was no view of it from the street.
6. Councillor Robinson was informed that there was considered to be no harm to numbers 34 and 34B as there were no windows proposed.
7. Councillor Hill was informed that there was a statutory duty to look at the possible harm to the conservation area and here there was considered to be no harm. They were advised that the Council was taking a more relaxed approach to development in the conservation area where it was not visible from the street following a number of appeal decisions.
8. Councillor Theobald was informed that there was no height alteration and this scheme had been reduced from the previous application to extend and this was to reduce the visual impact.
9. Councillor Loughran was informed that the development was small.

Debate

10. Councillor Thomson noted there were no windows proposed and the extension was small. The councillor supported the application.
11. Councillor Hill considered the design to be good as were the proposed UVPC panels. The councillor did not consider the development to have a significant impact and were the committee to refuse the application it would be won at appeal.
12. Councillor Loughran expressed concerns that the design was not good enough, the development would be overbearing, overlook neighbours, would not be high quality

design and would be contrary to policies DM18 and DM20. Harm would be caused by the close proximity to the neighbours and the lack of space around buildings. The councillor did not support the application.

Vote

13. A vote was taken, and by 5 to 5, with the casting vote given by the chair, the committee did not support the recommendation to grant planning permission.
14. A motion to refuse the application was proposed by Councillor Loughran and seconded by Councillor Nann as the application was contrary to policies DM18 and DM20.
15. A recorded vote was taken and Councillors Winder, Nann, Earthey, Theobald, Loughran voted for the refusal. Councillors Robinson, Allen, Thomson, Sheard and Hill voted against the motion to refuse the application. The chair had the casting vote and voted for the motion to refuse the application.
16. **RESOVLED:** The committee has taken into consideration and does not agree the reasons for the application to be granted. The application is refused. The final decision wording is to be agreed with the proposer and seconder.

F BH2023/03432 – Flat 13, St Gabriels, 18A Wellington Road, Brighton – Full Planning

1. The Planning Manager introduced the application to the committee.

Answers to Committee Member Questions

2. Councillor Robinson was informed that the sound insulation proposed was better than usual. The case officer had visited the site and there were no rooflights proposed to keep the external changes to a minimum.
3. Councillor Thomson was informed that the total number of residents in the entire building was not known. It was noted that there was room for 5 persons.
4. Councillor Winder expressed concerns and considered that half a subdivision would be better.
5. Councillor Sheard expressed concerns and was informed that the third bedroom was acceptable in space size with 15sqm floor space. The height standards under policy DM1 are acceptable. The Planning Manager stated that over 75% of the floor area needs to have a height of 2.3m or more which it did.

6. Councillor Earthey considered the usable volume of the development to include lots of unusable space.
7. Councillor Winder was informed that the heat levels of living under the roof and insulation needed would be covered by Building Regulations.
8. Councillor Robinson was informed that the floor area would be 127sqm.
9. Councillor Loughran was informed that the development more than met the minimum communal space requirements of 20sqm per person with 35sqm per person.
10. Councillor Nann was informed that the floor area was acceptable and met requirements. The space standards are acceptable.
11. Councillor Theobald noted that the report found the floor space was adequate.

Debate

12. Councillor Hill considered the sound aspects of the development to be a concern given it was a HMO rather than a single household, however, they considered the space to be good. The councillor supported the application.
13. Councillor Robinson considered the ceiling heights to be generally acceptable other than in the shared spaces which appeared cramped. The councillor did not support the application.
14. Councillor Sheard was against the application. They understood it met the 75% requirement for floor space to be over 2.3m But the circulation spaces and third bedroom would have large areas where people of average height would have to bend down and this would be concerning in an HMO. The internal corridor is less than 2.3m in height. There will be an increase in noise pollution, and this would impact on future occupiers.
15. Councillor Thomson considered the sloping ceilings hard to ignore. The councillor did not support the application.
16. Councillor Loughran considered HMOs need more circulation space and that it would be contrary to policy DM1. There would be a lack of light, overheating, poor head heights and low living standards which would affect health/wellbeing. The councillor did not support the application.

Vote

17. A vote was taken, and by 3 to 7 the committee voted against the officer recommendation.
18. A motion to refuse the application was proposed by Councillor Sheard and seconded by Councillor Thomson as the development was considered to be contrary to policies DM1, DM20 and DM21.

19. A recorded vote was taken, and the following councillors voted for a refusal: Robinson, Thomson, Winder, Nann, Sheard, Earthey and Loughran. The following councillors voted against the refusal: Allen, Theobald and Hill.

20. **RESOLVED:** The committee has taken into consideration and does not agree to **GRANT** planning permission and refuses the application as contrary to policies DM1, DM20 and DM21.

G BH2024/00243 - 10 Tumulus Road, Saltdean, Brighton - Full Planning

1. This application was not called for discussion and the officer recommendation was therefore taken as having been agreed unanimously.

H BH2023/03111 - 22 Eley Crescent, Rottingdean, Brighton - Full Planning

1. This application was not called for discussion and the officer recommendation was therefore taken as having been agreed unanimously.

110 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

110.1 The Committee noted the new appeals that had been lodged as set out in the planning agenda.

111 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

111.1 The Committee noted the information regarding informal hearings and public inquiries as set out in the planning agenda.

112 APPEAL DECISIONS

112.1 The Committee noted the content of the letters received from the Planning Inspectorate advising of the results of planning appeals which had been lodged as set out in the agenda.

The meeting concluded at 6.00pm

Signed

Chair

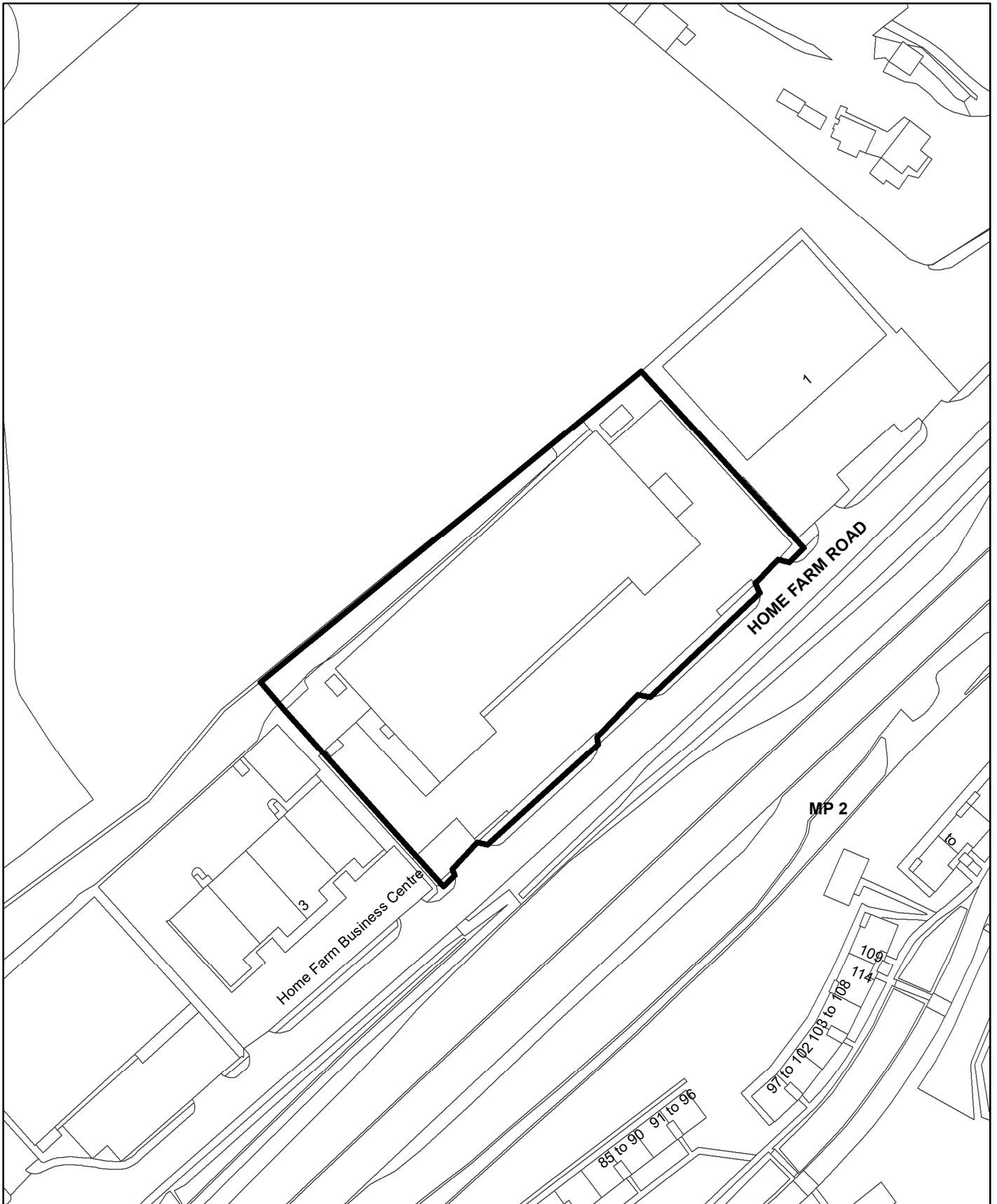
Dated this

day of

ITEM A

**Emblem House,
Home Farm Business Park
BH2023/03236
Full Planning**

DATE OF COMMITTEE: 5th June 2024



N



Scale: 1:1,250

<u>No:</u>	BH2023/03236	<u>Ward:</u>	Hollingdean & Fiveways Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Emblem House Home Farm Business Centre Home Farm Road Brighton BN1 9HU		
<u>Proposal:</u>	Application for the permanent retention of the previously approved temporary extension.		
<u>Officer:</u>	Jane Moseley, tel: 292192	<u>Valid Date:</u>	20.12.2023
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	14.02.2024
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	11.03.2014
<u>Agent:</u>	Parker Dann Unit 42 Sussex Innovation Centre Science Park Square Falmer Brighton BN1 9SB		
<u>Applicant:</u>	L3 Harris Home Farm Business Centre Emblem House Home Farm Road Brighton BN1 9HU		

This planning application was initially scheduled to be heard at the Planning Committee meeting on 8 March 2024 but was deferred while further legal advice was sought regarding the potential implications of the scheme. That advice has now been provided and is attached as Appendix 1 to this report, along with an Equalities Impact Assessment (EqIA) at Appendix 2, undertaken by Brighton & Hove City Council (BHCC) as local planning authority, reviewed by BHCC's Equalities, Diversity and Inclusion officers.

The legal advice confirms that, in summary, equalities issues are a material consideration in the determination of planning applications. The weight given to those issues is a matter for the Local Planning Authority as decision maker to determine. The Equalities section at the end of the report has been updated to reflect this and the outcome of the EqIA.

The report has also been updated since the 8 March committee to take account of a response from the South Downs National Park Authority.

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

Reason: For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
Existing Drawing	18-7040-SK1A		5 December 2023
Existing Drawing	18-7040-SK2A		5 December 2023

Existing Drawing	18-7040-SK3A		5 December 2023
Location and block plan	18-7040-07		20 December 2023

2. No external lighting shall be installed on the extension hereby approved or within the site unless otherwise agreed in writing by the Local Planning Authority.
Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity and to protect and conserve the International Dark night Skies of the South Downs National Park in accordance with Policy SA5 of City Plan Part 1.

Informatives:

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

2. SITE LOCATION

- 2.1. This application relates to a site within Home Farm Business Centre, a small industrial estate located in an elevated position north-west of the Moulsecomb railway station. The site is accessed from Home Farm Road, a cul-de-sac serving only the industrial estate, linking with the A270 to the north via a roundabout. The application site is the largest of one of five industrial buildings within the estate.
- 2.2. The application site contains large industrial-style buildings with a large parking area to the front (south). It is enclosed with a green palisade security fence along the site frontage, with a security barrier across the vehicle access at the south-western end of the site.
- 2.3. As set out below, the application site is within Home Farm, a purpose-built industrial estate for businesses falling within planning use classes B1 (now E(g))(light industrial) and B2 (general industrial). The wider industrial estate has several other large uses, namely a builders' merchants a security systems manufacturer.
- 2.4. Across the road to the south-east, the land banks down to the railway corridor, beyond which are residential properties. To the rear (north-west) of the site is a steep bank, beyond which is land within the Wild Park Local Nature Reserve, which also falls within the South Downs National Park, is a Nature Improvement Area and open space.
- 2.5. Home Farm Industrial Area is protected in Policy CP3 of City Plan Part 1 as one of the "primary industrial estates and business parks for business, manufacturing and warehouse (B1, B2, and B8 use)" [now planning use classes E(g), B2 and B8].

- 2.6. The site is not within or near a conservation area (contrary to statements made in a number of representations) or otherwise subject to any designations.

3. RELEVANT HISTORY

- 3.1. BH2018/01868: Erection of temporary building as extension to existing commercial building. Approved 4 September 2018, subject to a condition (condition 2) requiring the removal of the extension within 5 years of the date of the permission and the land reinstated to its former condition.
- 3.2. BH2016/05939: Erection of two storey side extension. Granted 28 March 2017.
- 3.3. BN/88/223OA: B1 and B2 Class Industrial Development and associated new access from Lewes Road. Approved 31 May 1988.
- 3.4. BN/88/2588/RM: Reserved Matters application: Construction of new vehicular access from Lewes Road, erection of 5 two storey buildings (total 10,726 sq. m) for B1 and B2 Class Industrial Purposes. Provision of approx. 252 parking spaces. Approved 21 February 1989.

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought to retain an extension to an industrial building that was granted a temporary, five year permission in 2018.
- 4.2. The extension is located to the rear of the site in the north-western corner and forms a subservient addition to the main building. It is set back some 21m from its front façade, and measures 15m x 15m with a pitched roof to 7.6m in height and eaves to 5.2m in height. It has a large roller shutter door in the frontage measuring 4.5m in height and 4m in width.
- 4.3. The main building is some 10.4m in height, with eaves sloping down to 7.6m adjacent to the extension the subject of this application.

5. REPRESENTATIONS

- 5.1. Publicity on the application and consultation was undertaken in accordance with the requirements of the Town and Country Planning (Development Management Procedure)(England) Order 2015 and the Council's Statement of Community Involvement relating to a minor application.
- 5.2. Responses were received from **602** individuals, objecting to the application (including two objections received since the anticipated Planning Committee on 8 March 2024) and raising the following issues:
- Poor design: low quality materials out of keeping with area;
 - Overdevelopment;
 - Increased noise;

- Biodiversity/wildlife impacts - will threaten the integrity of the ecosystem at Wild Park;
- Impact on tourist industry, harmful to Brighton and Hove's public image
- Highway impact;
- Impact on other development in vicinity of site including Moulsecomb Place;
- Impact of protest on police resources and local businesses;
- Weapons produced have an impact on biodiversity and the environment, violate principles of international humanitarian law;
- Immoral, supports war crimes/genocide, weapons made have been used in assault on Gaza, legal implications of knowingly allowing supply of weapons parts destined for use contrary to international law must be considered;
- Conflict with Brighton and Hove City Council's Constitution that states 'All decisions will be made in accordance with respect for human rights'.
- Employment benefit should not be considered as was factored into original, temporary permission;
- Disregard for planning authority by submitting retrospectively, after permission elapsed, breaching condition;
- Environmental impact of the loss of a temporary structure should have been considered with the original application;
- Loss of poor quality structure should not justify scheme as would set precedent for other low quality buildings to never be removed
- Approving the alterations would have a detrimental effect on property value

5.3. In addition a petition has been received with **130** signatures objecting to the application on the following grounds:

- Want to see factory make something socially useful, not destructive;
- BHCC Constitution states that all decisions 'Will be made in accordance with respect for human rights'. This factory can only contribute to more violence.
- Applicant states application will result in improved environmental performance but militaries and arms major contributor to climate emergency.

Objection from Caroline Lucas MP:

5.4. Businesses who are potentially complicit in human rights violations are not welcome in the city; planning system should not condone large, well-resourced companies failing to adhere to terms of previous planning agreements; disregard for local planning decisions; site backs on to Wild Park. While existing industrial buildings can co-exist with this, important businesses are respectful of this and adhere to obligations and not flout planning rules; agreement was for temporary structure - no evidence that reason for temporary permission have been addressed; no evidence that addition of temporary structure equates to any specific increase in local employment - no business case for temporary structure to be made permanent; applicant linked with US arms supplier so direct impact on local economy, aside from supporting jobs, is limited; recognises that planning processes are not the most appropriate forum for human rights considerations but there are links from weapons produced to human rights violations, assault on Gaza.

Objection from Lloyd Russell-Moyle MP:

- 5.5. Committee comments when approving the temporary structure - not considered suitable as permanent form of development; evidence some items produced in factor may be complicit in war crimes so offence to support production of these materials; should await decision on ICJ (South Africa V Israel); urge planning committee to take precaution to prevent arms produced in city being used against innocent lives, examine legal implications.
- 5.6. Objections have been received from **Councillors Asaduzzaman, Fowler, Hill, McLeay, Pickett and Bagaeen**. Full copies of responses are appended to this report.
- 5.7. **One** representation has been received in support of the application noting the following issues;
 - Need to support the arms industry in the UK and need jobs in Brighton.
- 5.8. **Support from Councillor Ivan Lyons**. A copy of their representation is attached to the report.

6. CONSULTATIONS

- 6.1. **Planning Policy:** Policy comments not required
- 6.2. **Economic Development:** No comment as does not relate to any loss or gain of commercial floorspace.
- 6.3. **South Downs National Park Authority:** Note need to consider direct and indirect effects upon the National Park designated landscape and its setting as well as its special qualities. The site is located on the boundary of the National Park within the built-up area of Moulsecoomb, an existing industrial area where there are a number of existing large warehouses. No comment on the principle of development but note the application is not supported by evidence in the form of a Landscape and Visual Assessment for example, which is a shortfall of the submission. In this case given the nature of the existing site and built form, and the existing vegetation that visually contains the site along its northern boundary, it is unlikely that the setting of the SDNP would be significantly impacted by the development.
- 6.4. Careful consideration should be given to the International Dark Night Skies Reserve and dark night skies, which are a special quality of the National Park and the avoidance of harmful light spill from the development. Paragraph 191(c) of the NPPF outlines that development should limit the impact of light pollution on intrinsically dark landscapes and nature conservation. The scheme does not appear to be supported by a lighting strategy. If BHCC are minded to recommend approval, the Authority would highlight the need to consider harmful impacts upon the International Dark Skies Reserve arising from light spill from both external and internal lighting sources. Notwithstanding any lighting that currently exists, a sensitive external lighting scheme and measures to prevent internal light spill such as low transmittance glazing which conforms the Institute

of Lighting Professionals for lighting in environmental zones and tries to achieve zero upwards light spill in all respects should be secured by planning condition.

7. MATERIAL CONSIDERATIONS

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

7.2. The development plan is:

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

8. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SA5 The Setting of the South Downs National Park
SS1 Presumption in Favour of Sustainable Development
CP2 Sustainable economic development
CP3 Employment land
CP8 Sustainable buildings
CP10 Biodiversity
CP12 Urban design

Brighton & Hove City Plan Part Two

DM11 New Business Floorspace
DM18 High quality design and places
DM19 Maximising Development Potential
DM20 Protection of Amenity
DM21 Extensions and alterations
DM40 Protection of the Environment and Health - Pollution and Nuisance

Supplementary Planning Documents:

SPD11 Nature Conservation & Development
SPD12 Design Guide for Extensions and Alterations

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the principle of the development, the design and impact on the character of the area, and the impact on the amenity of neighbouring occupiers. Equality issues, as set out in Section 149 of the Equality Act 2010 are also a material consideration, as highlighted in the legal opinion at Appendix 1.

Principle of Development:

- 9.2. As noted in the Relevant History section above, planning permission was granted in September 2018 for the extension, for a temporary period of five years which the applicant stated was *"to provide the business with temporary expansion space while a long term decision is taken on whether to proceed with a permanent expansion of the form already approved by the Council."* (ref. BH2018/01868).
- 9.3. The latter reference is to a permanent permission granted in March 2017 for a larger extension in the same location but double the size at 30m in depth (ref. BH2016/05939). The fact that a larger extension was considered acceptable on a permanent basis must be given weight in considering the present application.
- 9.4. Condition 2 of planning permission BH2018/01868 states:
"2. The temporary side extension hereby permitted shall be permanently removed from the site on or before 5 years from the date of this permission and the land reinstated to its former condition.
Reason: The structures hereby approved are not considered suitable as a permanent form of development and permission is granted for a temporary period only and to comply with policies CP9 and CP12 of the Brighton and Hove City Plan Part One and TR7, TR14, TR18 and QD14 of the Brighton and Hove Local Plan."
- 9.5. Further, the Officer Report for the 2018 permission notes that:
"it is unlikely that the LPA [Local Planning Authority] would support a continuation of a temporary consent. If a continuation becomes necessary, it is likely that the extension as built would be reassessed on the basis that it would be permanent, in the absence of strong supporting information to the contrary."
- 9.6. The suitability of the design and appearance of the extension as a permanent feature is assessed below. However, in principle, the extension is considered acceptable in terms of making a more efficient use of an existing, allocated industrial site, without unacceptable impact on the wider area. Home Farm Industrial Area is identified as a primarily industrial estate, with Policy CP3 noting that within these areas: *"The council will support proposals for the upgrade and refurbishment of these estates and premises so that they meet modern standards required by business, are more resource efficient and improve the environment or townscape of the site or premises."*
- 9.7. The extension has allowed the business to expand slightly and ensure their facilities meet modern standards, while making use of the existing site and buildings, which is considered positive, given it is within a site allocated for industrial/business uses. As set out below, the extension is subservient to the main building so the impact on the surrounding area is considered acceptable.

- 9.8. It is noted that the five year period for the temporary permission expired on 4 September 2023, with the application submitted on 5 December 2023. The extension does not therefore currently have an extant planning permission.
- 9.9. However, the applicant has sought to regularise its planning status with the submission of the present application, so that is not a material consideration in determining it. The planning process is not punitive, so the retrospective nature of the application is not a material consideration.
- 9.10. With regard to the nature of the operation on site, this is considered to fall within the use classes permitted, namely business, manufacturing and warehouse (planning use classes E(g), B2 and B8). Planning permissions run with the site so as long as the operations fall within the authorised use class it is lawful and the nature of the product produced on the site is not a relevant consideration. The character of the use of the land is unlikely to be materially different whatever is manufactured on the site, and in this case, the character of the use, in planning terms, falls within that authorised. The applicant can continue to carry on its activities within the main unit and on the wider site regardless of whether this application for the retention of a temporary extension, is granted. Prior to the extension being in place, streetview imagery indicates that this part of the site was used for open storage, which could be reinstated if the extension was removed.
- 9.11. A large number of the objections to the application relate to the ethics of producing weaponry on the site. Whether activities are seen as unethical or immoral is not, in itself a planning issue, and the use of any weapons and other items produced is strictly controlled through other regulation, including which entities have access to them and whether the operator have or should have an export licence. However, there are associated material considerations relating to the existing use of the site including the potential for a negative effect on people's perception of the city, and the potential for increased protest and the related use of police resources. In this case, this is not given significant weight, given that the extension has been in place for several years, and the site has been used for the same purpose, by the same operator, for more than a decade. Any increased impact resulting from allowing the extension to remain permanently is therefore considered to be minimal, and certainly not so substantial as to warrant refusal of the application.
- 9.12. Comments have been received suggesting that Council public statements and policies and its constitution should be taken into account when considering this application. The Council's policies set out its approach to various issues and as a Council it is entitled to make public statements on issues as long as such statements are not in breach of its statutory duties. The Constitution governs the way the Council is run as a corporate body. The Council as local planning authority can take into account only material planning considerations when considering planning applications as confirmed by case law and as set out in legislation.

- 9.13. On the basis of the above, while the significant number of objections to the scheme is noted and the issues raised taken into account, the principle of the development and the continuing use of the extension is considered acceptable, and to accord particularly with Policy CP3 of City Plan Part 1 which supports the use of the Home Farm Industrial Area as a primary industrial estate for the city.

Design and Impact on the Character of the Area:

- 9.14. The extension is a subservient addition to the main building, having a lower roofline and being set back significantly from its frontage. It is therefore considered to be of a scale and siting that means it relates well to the main building, with proportions that do not overwhelm it, and a pitched roof in keeping with the built form in the immediate streetscene, in accordance with Policy DM21 of City Plan Part 2.
- 9.15. The grey cladding of the extension reflects that of the lower portions of the main building so it does not look out of place in the context of the site. It is clearly industrial in character, which is in keeping with the use of the site and area, and does not have what could be considered a 'temporary' appearance, but is so substantial as to not be readily removed from the site, unlike, for example, a modular office building.
- 9.16. Concerns have been raised that the extension results in the overdevelopment of the site. However, Policy DM19 of City Plan Part 2 supports proposals that "maximise opportunities for the development and use of land to ensure the efficient and effective use of available sites", including through the use of building layouts and design, an appropriate mix of uses, and the provision of effective open space, amenity space, access and carparking. The supporting text (paragraph 2.152) notes that given the constraints of the city, the "underdevelopment of sites can compromise the ability of the city to meet land use targets."
- 9.17. In this context, extending an existing industrial site within an allocated industrial area is considered to make more efficient use of land. The use of the site for industrial/business purposes has been accepted. Allowing additional built development within the site for existing site operations is considered appropriate, making more efficient use of an existing site, in this case providing a dedicated area for the delivery and storage of material. It is located immediately along the site boundary but immediately adjacent to another large industrial building on the neighbouring site.
- 9.18. A number of objections have raised concern over the impact of the scheme on the South Downs National Park which abuts the site to the north. However, as already noted, the extension is small in scale, particularly in the context of the large buildings on the wider site and those adjacent. It sits at the bottom of a steep bank, so is not visible in views from the Park and does not therefore affect its setting. The response from the South Downs National Park Authority (SDNPA) notes that "it is unlikely that the setting of the SDNP would be significantly impacted by the development" and they raise no concern in this regard.

- 9.19. SDNPA have also raised concerns over the impact of light spill on the SDNP Dark Skies Reserve, “notwithstanding any lighting that currently exists”. A condition will therefore be attached requiring LPA approval of any additional external lighting in the future in relation to the extension, to ensure it minimises light spill.
- 9.20. On this basis, the proposed retention of the extension is considered acceptable in terms of its design and the impact on the industrial character of the area, and to accord with policies DM19 and DM21 of City Plan Part 2.

Other Matters

- 9.21. The retention of the extension would not result in any increased highway impact in terms of either highway capacity or road safety. It The extension is existing, and is on a part of the site previously used for storage, so has not displaced any parking and no change to operations is proposed. The number of vehicles travelling to/from the site is not restricted by condition, and the site has direct links via Home Farm Road to the A270 so in highway terms, the impact would be limited.
- 9.22. The development is not considered to result in any increased impact on the adjacent local nature reserve, given that any operations are entirely enclosed within a building, reducing the potential for any emissions off site. Further, the extension is located within an existing industrial estate where uses which are commercial/industrial by nature are considered acceptable.
- 9.23. The retention of the extension would not result in any impact on the amenity of neighbouring uses, other than as noted above, through the more general potential for increased protest relating to the wider site use. However as noted above, this is not considered to warrant a reason to refuse the application, particularly given any anti-social behaviour is managed through other legislation, by the police.
- 9.24. The potential environmental harm caused by the items produced is not a material consideration in relation to this application. Only the direct impacts of the use of the site can be considered in deciding this application, not indirect impacts resulting from the items produced at the site. Similarly, a large number of objections raise concerns about breaches under the Human Rights Act 1998 due to the nature of the products being manufactured by the Applicant on the site.. The application of the Schedule 1 to the Human Rights Act 1998 in respect of Article 2 of the European Convention of Human Rights is considered too remote given the nature of the permission sought. The subject of this Application is limited to seeking approval to retain an existing structure on the site. The Local Planning Authority does not have the remit to approve the nature of the products manufactured on site. As with anything manufactured on industrial sites in the city, that is addressed through other legislation.
- 9.25. In respect of local amenity impacts, Article 8 (right to respect for the home and family life) under the European Convention of Human Rights set out in schedule 1 to the Human Rights Act 1988 has been considered and it is concluded that the application is unlikely to give rise to any significant adverse amenity impacts.

- 9.26. An Equality Impact Assessment (EqIA) has been undertaken and accompanies this application. The conclusion of this states that consideration must be given to the Public Sector Equality Duty set out in Paragraph 149(1) of the Equality Act and that this can be a material consideration in determining planning applications. This also notes that:
“...there have already been community tensions arising from the existing use as summarised above and it is considered there is potential for those to continue and potentially to worsen. That is a factor relevant to section 149(1)(c) of the Equality Act 2010 (fostering good relations between different groups). There is also considered to be the potential for victimisation and harassment to be exacerbated by a grant of planning permission (section 149(1)(a)). It is also to be noted, however, that a refusal of planning permission may also have consequences of that nature. It is for the planning committee to consider the weight it gives to these factors in the overall planning balance.”
- 9.27. It is not considered that the retention of the extension would result in impacts on individuals or groups with protected characteristics to such a degree that it would warrant the refusal of planning permission, particularly noting that the use of the wider site can continue. However, as noted in the legal advice at Appendix 1 and EqIA at Appendix 2, it is for the Planning Committee to determine the weight they give to these matters.
- 9.28. For the avoidance of doubt, as a matter of public law, international treaties have no direct application under domestic law unless they have been expressly incorporated into UK legislation. Therefore, as has been raised in a number of representations, the UN Arms Trade Treaty and UN Genocide Convention are not therefore material considerations in the determination of this application.
- 9.29. Section 149 of the Equality Act 2010 provides:
1) A public authority must, in the exercise of its functions, have due regard to the need to—
(a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Act;
(b) Advance equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;
(c) Foster good relations between equalities groups.
- 9.30. During the determination of this application, due regard has been given to the impact of the scheme in relation to the Equality Act 2010 in terms of the implications for those with protected characteristics, namely age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation and an Equalities Impact Assessment (EqIA) of the application has been undertaken (see Appendix 2).
- 9.31. As noted in the EqIA, given the historical impact the operation of the site has had on community tension, and with the increase in anti-Semitic and anti-Islamic incidents since 7 October 2023, there is the potential for increased victimisation and harassment of these groups should permission be granted. There is however the potential for the refusal of the application to have the same

consequences. It is for the Planning Committee to consider what weight this is given in the planning process, and to ensure that the application is considered robustly through the planning process, including in terms of the duty of fairness to the applicant.

Conclusion and Planning Balance:

- 9.32. While the large number of objections to this proposal are noted, it is the material planning issues raised, rather than the number of objections raised, that must be taken into account in determining an application.
- 9.33. In this case, the principle of the extension to an industrial building within an area allocated for industrial use is considered acceptable. The retrospective nature of the application is not a material consideration, and nor are issues relating to the nature and distribution of the products manufactured on site, noting it is for the Planning Committee to determine the weight given to factors regarding the impact on people with protected characteristics, as set out in the legal advice at Appendix 1 and the EqlA at Appendix 2.
- 9.34. The design and appearance of the extension is considered acceptable as it is a small feature relative to the main building and those in the surrounding area, and would be in keeping with the industrial estate in which it is located. It enables a more efficient use of the existing site, so would accord with the development plan which seeks to make use of existing sites to deliver development within the constrained city.
- 9.35. On this basis, the retention of the extension on a permanent basis is considered acceptable, and to accord with the development plan and other material considerations.

10. COMMUNITY INFRASTRUCTURE LEVY

- 10.1. Under the Regulations of the Community Infrastructure Levy (CIL) 2010 (as amended), Brighton & Hove City Council adopted its CIL on 23 July 2020 and began charging on all CIL liable planning applications on and from the 5 October 2020. No CIL would be liable from the development as the extension is already in situ so no additional floorspace would be created.



PLANNING COMMITTEE LIST

Brighton & Hove COUNCILLOR REPRESENTATION
City Council

Cllr. Mohammed Asaduzzaman

BH2023/03236 – Emblem House, Home Farm Business Centre

I have received a large number of objections from residents of Hollingdean and Fiveways ward. As ward Councillor I would like to object on behalf of my residents of Hollingdean and Five ways.



PLANNING COMMITTEE LIST

Brighton & Hove COUNCILLOR REPRESENTATION **City Council**

Cllr. Samer Bagaeen

BH2023/03236 – Emblem House, Home Farm Business Centre

9th January 2024:

Stance: Customer objects to the Planning Application

Comment Reasons:

- Overdevelopment
- Poor design

Comment: Neither economic development nor the policy team saw a reason to comment on this application. The extension is in breach of its planning and enforcement were right to pick this up. If economic development saw no need to comment because of the absence of business impact, then the comment from the applicant in the planning statement that the removal of the extension would adversely impact on the business requirements of the applicant, with associated risk to local employment is false. Others have objected here noting that it would be a good thing if the business requirements of the applicant were harmed given it is engaged in an unethical business model but that is not a planning issue.

I also disagree with the the applicant statement that if the extension were to be removed, this would also cause environmental harms through the loss of the embodied carbon in the existing structure, and the loss of materials that would be enter the waste stream as a result of the removal.

There are plenty of carbon and circular economy schemes that the applicant can contribute to and it feels lazy to simply say the loss of materials would be a waste. That is not true and the applicant should work harder to find a suitable home for the removed structure and materials.

Please refuse this planning permission and instruct the applicant to remove the structure.



PLANNING COMMITTEE LIST

Brighton & Hove COUNCILLOR REPRESENTATION **City Council**

Cllr. Theresa Fowler

BH2023/03236 – Emblem House, Home Farm Business Centre

Objects to the planning application for reasons of to the application for reasons of poor design and overdevelopment

I object to this temporary extension being made permanent. It clearly says in the 2018 report that this temporary extension should be removed from site on or before 5 years from the date of this permission and the land reinstate to its former condition.



PLANNING COMMITTEE LIST

Brighton & Hove COUNCILLOR REPRESENTATION **City Council**

Cllr. Raphael Hill

BH2023/03236 – Emblem House, Home Farm Business Centre

Objects to the application as it would adversely affect the conservation area, residential amenity within the vicinity of the site.

One of the reasons for objection is that if this approved the it will provide CIL money both for Hollingdean and Fiveways ward and citywide Normally this would be a good thing. In this case it tarnishes the CIL given that this money will have come from a site which has been proven to have supplied weaponry used in Audi Arabia in 2016 to hit a water pump that contributed to a cholera epidemic that killed thousands of innocent people. CIL money to improve amenities in this city will be partly tainted by war crimes which were confirmed by the UN. The structure was built to be temporary in nature and the application does not give sufficient information on how this building will be made permanent. It lacks economic impacts and does not contribute to biodiversity net gain.



PLANNING COMMITTEE LIST

Brighton & Hove COUNCILLOR REPRESENTATION
City Council

Cllr. Ivan Lyons

BH2023/03236 – Emblem House, Home Farm Business Centre

9th January 2024:

Stance: Customer made comments in support of the Planning Application

Comment: I see no reason why the temporary extension not be permanent. This is a planning application & so long as what is being manufactured is legal it is not down to the anti-Israel mob & anti-semites to dictate to whom the manufacturer sells their wares.



PLANNING COMMITTEE LIST

Brighton & Hove COUNCILLOR REPRESENTATION **City Council**

Cllr. Ellen McLeay

BH2023/03236 – Emblem House, Home Farm Business Centre

Objects to the planning application for reasons of overdevelopment, poor design that would adversely affect the conservation area.

There are a great many reasons why I cannot support this planning application, but whilst the presence of L3 Harris in Brighton & Hove City is hugely controversial, I will work to state the reasons that are directly relevant to planning concern.

The extension is in breach of its planning in that they allowed their current temporary planning application to lapse. L3 Harris breached the planning agreement as defined in section 171A of the Town and Country Planning Act 1990, by "failing to comply with any condition or limitation subject to which planning permission has been granted."

The previous application made by L3 Harris in 2017 shows that the agreement was for a temporary structure. The previous decision notes that: "2. The temporary side extension hereby permitted shall be permanently removed from the site on or before 5 years from the date of this permission and the land reinstated to its former condition.

"Reason: The structures hereby approved are not considered suitable as a permanent form of development and permission is granted for a temporary period only and to comply with policies CP9 and CP12 of the Brighton and Hove City Plan Part One and TR7, TR14, TR18 and QD14 of the Brighton and Hove Local Plan."

These points alone should highlight that this structure is not suitable as a permanent structure, and should be removed.

I also want to disagree with the applicant's statement that if the extension were to be removed, this would cause environmental harms. If they were a responsible business, and genuinely cared, they could easily locate circular economy schemes to support with repurposing these materials. As they are in the business of manufacturing weapons and devices that have been found to be arming conflict in the Middle East, which has a far greater environmental impact on the planet, the argument of environmental harm from the dismantling of this temporary structure is a rather weak one. Please refuse this planning permission



PLANNING COMMITTEE LIST

Brighton & Hove COUNCILLOR REPRESENTATION **City Council**

Cllr. Kerry Pickett

BH2023/03236 – Emblem House, Home Farm Business Centre

9th January 2024:

Stance: Customer objects to the Planning Application

Comment Reasons:

- Adversely affects Conservation Area

Comment: As a resident and Green councillor of Brighton and Hove I object in the strongest terms to this proposed application submitted by L3 Harris.

The continued presence of L3-Harris in Brighton brings the council's and our area's reputation into disrepute: expanding this arms factory puts our area on the map for all the wrong reasons. Furthermore, this factory is located in a nature reserve. Private companies, particularly those whose industry contributes to death and destruction, should not be allowed to expand within this area.

Most importantly, I object on the grounds that L3-Harris' weapons have been shown by respected international bodies including the United Nations, to have been used in conflicts to attack civilians and civilian infrastructure. This has been seen in Yemen, and most recently we have seen this in Palestine, where the Israeli army have used bomb racks and bomb release mechanisms made here in Brighton to murder over 22,000 innocent Palestinians - many of whom are children.

Approving this application would send a terrible message about Brighton and Hove Council's values and make the council complicit in the continued genocide being committed in Gaza, aided by weapon parts made in our city.

Brighton and Hove City Council's Constitution says that all decisions "will be made in accordance with respect for human rights". Military action against civilians using weapons from L3-Harris in Gaza, violates the basic principles of International Humanitarian Law and has been condemned by the United Nations, Amnesty International and many other human rights experts. This application should not be approved in line with the council's own constitution.

ITEM

Appendix 1

**L3Harris, Emblem House,
Home Farm Business Park
BH2023/03236
Full Planning**

DATE OF COMMITTEE: 5th June 2024

ADVICE

1. I am instructed by Legal Services, Brighton & Hove City Council (the “**Council**”) to advise on the relevance of the public sector equality duty to the above planning application (the ‘**Application**’) which is a retrospective application for ‘the permanent retention of a previously approved temporary extension’ at Unit 2 (‘the Site’). I understand that the extension had been granted planning permission on 4 September 2018. The 2018 Permission was subject to conditions including a condition that the approved temporary extension be removed from the Site ‘on or before 5 years from the date of the permission’. The Application seeks to make the temporary extension permanent.
2. I am instructed that the Applicant is an international company which specialises in aerospace and technology and it is understood that the Site is used for the manufacture of component parts that form weapons that are exported abroad. There is no suggestion that this activity is currently in breach of any licensing or other regulation.
3. Officers prepared an initial report to Committee which is in the public domain. Since then, officers have given further consideration to the equality impacts of the development and have produced a document entitled “General Equality Impact Assessment Form” which advises further as to a number of matters relating to section 149 of the Equality Act 2010. A number of considerations in that report were not addressed in detail in the original officer report to Committee. Nonetheless, the officer recommendation in an updated report remains that “the retention of the extension on a permanent basis is considered acceptable, and to accord with the development plan and other material considerations”. I am asked to advise as to the extent to which public sector equality duty matters are relevant to members’ decision whether to grant planning permission.
4. From the evidence and instructions with which I have been provided, I understand that the existing use of the site has resulted in areas neighbouring the Application site becoming sites of protest. There has at one point been a “peace camp” and I understand that there

have been protests and occasional skirmishes outside the factory over the past few years. I understand that these protests might have impacts on highways and policing in addition to the community impacts I address below. I have seen reference to the continued use of the site heightening tensions between communities of one race or religion and another and to risks of exacerbating racially or religiously motivated crimes.

Summary Advice

5. In summary, the Council must have due regard to the equalities impacts of the development. That duty arises pursuant to section 149(1) of the Equality Act 2010 (the Public Sector Equality Duty or “PSED”) and section 70(2) of the Town and Country Planning Act 1990. Most relevantly the PSED imposes a duty on the Council to pay due regard to the need to eliminate discrimination, harassment, and victimisation (s.149(1)(a)) and to the fostering of good relations between persons of one race and another, or of one religion and another (s.149(1)(c)). In my opinion, it is open to Council members to conclude, as a matter of their planning judgment, that the granting, and perhaps also the refusing, of this application for planning permission, will have impacts which are relevant to the Public Sector Equality Duty. For example, as a matter of their planning judgment, members may conclude that approving (or refusing) the application is capable of exacerbating tensions within the community in ways that might lead to an increase in discrimination, harassment, victimisation and to the detriment of fostering good relations between people of one race and another, or one religion and another.

6. If the Council takes the view that there are matters of that kind which are material to the planning application, then it is for members to give such weight to those matters as they consider appropriate in the exercise of their planning judgment, subject to basic constraints in public law terms including that they must act rationally and fairly. It is, in principle, open to Council members to take the view that relevant impacts on equality are of such concern that they outweigh other considerations in the planning balance such that planning permission should be refused on grounds of those impacts. There is no reason in law why members should not give decisive weight to equalities considerations, nor any reason why they may not give very low weight to them.

7. Members should be conscious that if they refuse planning permission they would be departing from the recommendation of officers who, expressing their professional judgment in the officer report, have recommended that the application should be granted planning permission. I note that that recommendation was made prior to the more detailed consideration of equalities impacts which has now been undertaken. I note that the officer report has been updated inter alia to take account of equalities issues, but despite acknowledging that the weight given to such matters is for members, the recommendation remains to grant planning permission. If members do depart from the officer recommendation, they should carefully consider, and in my view (though there is no statutory obligation to do so) should seek to articulate brief reasons for departing from the officer decision so as to assist officers in drafting any formal reason for refusal. Members should be conscious that any decision to refuse planning permission might be appealed to the Secretary of State. An appeal might be decided at an inquiry given the controversy and scale of objection. At inquiry a planning inspector would form his or her own independent judgment on the planning balance. The Council would need to defend its decision, and in circumstances where members had departed from the recommendation of officers, it would be appropriate for members themselves to give evidence and to explain at an inquiry the judgment they had reached and the evidential basis of the concerns which had informed that judgment. If the Inspector considered that the decision to refuse planning permission that was not properly supported by evidence or had not been reasonably open to the Council, he might award costs against the Council.

Detailed Advice

8. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that:

“If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

Section 70(2) of the Town and Country Planning Act 1990 requires that the Council, in dealing with an application for planning permission, to have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations.

9. Section 149 of the Equality Act 2010 provides:

149 Public sector equality duty

(1) A public authority must, in the exercise of its functions, have due regard to the need to—

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it

Officer Advice

10. Members have the benefit of a Committee Report prepared by planning officers and a “General Equality Impact Assessment Form” dated 30 April 2024 which has been prepared by five officers including those responsible for equality and diversity and for planning.

11. The Committee Report to which I have been referred is thorough and careful and sets out a wide range of matters considered to be material to the planning application. Council members should have regard to each of them. The original Officer Report summarised the application as follows:

4.1. Planning permission is sought to retain an extension to the industrial buildings that was granted a temporary, five year permission in 2018.

4.2. The extension is located to the rear of the site in the north-western corner and forms a subservient addition to the main building. It is set back some 21m from its front façade, and measures 15m x 15m with a pitched roof to 7.6m in height and eaves to 5.2m in height. It has a large roller shutter door in the frontage measuring 4.5m in height and 4m in width.

4.3. The main building is some 10.4m in height, with eaves sloping down to 7.6m adjacent to the extension the subject of this application.

4.4. For the avoidance of doubt this application seeks approval for operational (built) development. No change of use is sought.

12. Paragraph 11.2 of the original Officer Report advised that there is no indication that those with any protected characteristic would be disadvantaged by this development, including through increased discrimination and harassment. However, having subsequently reconsidered the matter in combination with equality and diversity officers, the “General

Equality Impact Assessment Form” reflects more detailed consideration of the impacts of the development pursuant to section 149 of the Equality Act 2010 and concludes that there are potential impacts from the development relevant to PSED.

13. The General Equality Impact Assessment Form is not a statutory form, but has been designed by the Council as a means of ensuring that the equalities implications under the public sector equality duty are thoroughly addressed. It asks a long list of questions addressing each of the protected characteristics under the Equality Act 2010. The form explains:

“Consultation and publicity has been undertaken in accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015 resulting in responses from 600 individuals along with national and local politicians and three non-statutory consultees.”

14. At 6.3 the form asks “Does your analysis indicate a disproportionate impact relating to ethnicity?”

Experience of community tensions around the current operation of the premises (recent protest camp) and the consultation responses to the retention of the extension indicate that the decision on this application could have a disproportionately negative impact on minority ethnic groups in the city, principally Jewish, Israeli, Palestinian, Muslim and Arabic speakers.

... Figures relating specifically to anti-Semitic and anti-Islamic hate crimes are not separated out but there is anecdotal evidence that Brighton & Hove has experienced a rise in antisemitic and anti-Islamic hate incidents, as well as demonstrations calling for a ceasefire in Gaza/Israel hostilities. Representatives of local Muslim and Jewish communities have reported to elected members of the council that their respective communities feel increasingly unsafe, isolated, and fearful

15. A further question asked is

“Does your analysis indicate a disproportionate impact relating to Religion, Belief, Spirituality, Faith, or Atheism?” The answer given is “yes” and the same considerations as above are detailed.

16. At 6.11 the form asks “Does your analysis indicate a disproportionate impact relating to Expatriates, Migrants, Asylum seekers, Refugees, those New to the UK, and UK visa or assigned legal status? (Especially considering for age, ethnicity, language, and various intersections)” and again the answer is “Yes”.

17. At 6.18 a question is asked about cumulative impacts and the answer given is that

“While the nature of products manufactured on the site is not within the control of the planning process, the decision on the application could have a disproportionately negative impact on minoritised ethnic and religious groups in the city, principally Israeli, Palestinian, Jewish, Muslim, and Arabic speakers.”

18. The form then sets out some crime statistics and then states:

“The City has a strong Stop the War campaign and has seen significant protest against the L3 Harris facility for a number of years, particularly since information was put online alleging that parts manufactured in Brighton had been used in bombs against Palestinians.

Action against the site has increased since the application was submitted, particularly as the submission coincided with the conflict in Gaza. There have since been regular protests across the city in support of both Palestine and Israel.

The decision on the planning application could also have implications for those employed at the site if it is refused and the operator decides to move the business elsewhere, noting that the ward has 9.22% people of working age being involuntarily out of work (compared with 9.39% for Brighton and Hove).”

There is then a summary box in which the following is written:

“The determination of this application is considered to potentially result in negative impacts on minoritised ethnic and religious groups in the city, principally Israeli, Palestinian, Jewish, Muslim, and Arabic speakers.

Section 149(1) of the Equality Act 2010 provides:

1)A public authority must, in the exercise of its functions, have due regard to the need to—

(a)eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b)advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c)foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Section 149(1)(a) and (c) of the Equality Act 2010 are considered to merit particular consideration in determining the planning application... in view of the potential impacts as set out above.

In (*R (Hough) v SSHD* [2022] EWHC 1635 Lieven J considered the grant of a planning permission which extended the period of use of an asylum accommodation centre from one year to five years. The judge held that in granting planning permission there had been inadequate assessment of the public sector equality duty (“PSED”) as part of the decision to grant planning permission . The judge held at paragraphs 106-7:

“In my view there has been a failure to have proper regard to the PSED. The caselaw establishes that whether the s.149 duty has been complied with involves a highly fact sensitive inquiry, both into the nature of the decision and the form of the consideration of equality issues. The nature of the development here is one that raises very obvious issues under s.149, in particular relating to potential victimisation and harassment under s.149(1)(a), and the **fostering of good relations under s.149(c)**. The provision of a large amount of segregated accommodation for male asylum seekers on the edge of the town has **the obvious potential to create tensions within the local community**. This risk was set out in the EqIA and I accept that the Minister must therefore have been aware of the general issue.

However, there is a very significant difference between a development which is proposed to continue for two months and one for five years. This must especially be the case where the issue is developing community relations, as opposed to some physical impact which will vary little over time. Pressure on community services, for example on the local GP and community health services and possibly on the police, will be very much greater over a prolonged period than only two months. **The potential for impact on community relations are wholly different over the much longer period.** In the documentation before the Minister, there is no consideration of those longer-term impacts on the community relations. There is no consideration of the ability of local health services to manage this population over the much longer period, and how that situation might impact on issues relevant to s.149.”

In the case of this application, there is a proposal to make permanent what was originally a temporary permission, and so bears some similarity to the *Hough* case in that respect, albeit different in that the wider use of the site would remain lawful if permission for the operational development of the extension was refused. Also, as in *Hough*, there have already been community tensions arising from the existing use as summarised above and it is considered there is potential for those to continue and potentially to worsen. That is a factor relevant to section 149(1)(c) of the Equality Act 2010 (fostering good relations between different groups). There is also considered to be the potential for victimisation and harassment to be exacerbated by a grant of planning permission (section 149(1)(a)). It is also to be noted, however, that a refusal of planning permission may also have consequences of that nature.

It is for the planning committee to consider the weight it gives to these factors in the overall planning balance.

19. In my view the General Equality Impact Assessment Form is thorough and properly addresses the relevant considerations under the Equality Act 2010. It is not of itself dispositive of the section 149(1) duty, it is part of that process. It will still be for members when considering the planning application to take account of the PSED. However it provides a sound basis upon which Council members may exercise their planning judgment and with confidence discharge their duties under section 149(1) of the Equality Act 2010.

The Decision for the Council

20. I have set out above the duty of the Council to determine the application in accordance with the development plan unless material considerations indicate it should be decided otherwise. Members are also obliged to have regard to the development plan and other material considerations when dealing with the planning application.

21. As to the development plan, I have not been asked to consider any specific provisions, but from a brief review of the City Plan Part 1, I note that Strategic Objective 20 provides:

SO20 Contribute towards reducing inequalities experienced by different groups within the city and recognise the special needs of younger people, older people, disabled people, lesbian, gay, bisexual and trans people and black and minority ethnic people, gypsies and travellers, refugees and asylum seekers and people of different religions and belief in the provision and improvement of accessible and appropriate community facilities, healthcare, education, housing, safety and employment.

22. Whether or not a particular consideration is material is a matter for the court: *Tesco Stores Ltd v Secretary of State for the Environment* [1995] 1 W.L.R. 759 per Lord Keith at p.764. Subject to *Wednesbury* unreasonableness, however, it is a matter for the decision maker to decide what weight should be accorded to a material consideration: *Bolton v Secretary of State for the Environment* [1991] J.P.L. 241; *Tesco Stores Ltd v Secretary of State for the Environment* [1995] 1 W.L.R. 759; *R. (Sainsbury's Supermarkets Ltd) v Wolverhampton City Council* [2010] 2 W.L.R. 1173. It is well established that the PSED is a material consideration in the determination of a planning application.

23. The principles governing the application of the PSED are set out in *R (Bridges) v Chief Constable of South Wales* [2020] 1 WLR 5037 §§174-181. The courts have repeatedly held

that the PSED is a not a box-ticking exercise; what matters is that the duty is satisfied in substance (*Bridges* §175(2)). The PSED involves a duty of inquiry (*Bracking* § 26(8)(ii); *R (Edward Bridges) v Chief Constable of South Wales Police* [2020] EWCA Civ 1058 at §§ 179-181) which requires the decision-maker to be properly informed before taking a decision and to acquire relevant information if it is not already available. There is a duty to have regard to the *need* to take steps to gather relevant information in order that it can properly take into account matters relevant to the point of discrimination in issue (per *R (Brown) v SSWP* [2008] EWHC 2062 at §85). The judgment of the Divisional Court in *R (Hurley & Moore) v Secretary of State for Business, Innovation and Skills* [2012] H.R.L.R. 13 and the Court of Appeal in *Bracking* refer to *SSES v Tameside MBC* [1977] 1 A.C. 1014 as the key statement of the nature of the duty of inquiry, namely that the decision maker ‘*must not only ask himself the right question but “take reasonable steps to acquaint himself with the relevant information to enable him to answer it correctly”*’ (at page 1065B). Further, as explained in *Hurley* at §78:

‘...the decision maker must be clear precisely what the equality implications are when he puts them in the balance, and he must recognise the desirability of achieving them, but ultimately it is for him to decide what weight they should be given in the light of all relevant factors.’

24. Where large numbers of vulnerable people, many of whom fall within one or more of the protected groups, are affected, the due regard necessary is very high: *R (Hajrula) v London Councils* [2011] EWHC 448 (Admin) at §62.
25. In my view, the Council has now, through the preparation of the General Equality Impact Assessment Form complied with the “duty of inquiry”. It is evident that subsequent to the preparation of the original Committee Report, careful consideration has gone into the preparation of that form with the input of several officers. The form is not necessarily the end of the process: members may still have regard to objections and other materials which are before them, but the form provides a helpful and sound basis on which to determine the equalities impacts of the development.

PSED and Planning Applications

26. In order to explain the advice above that it is legally open to members to give decisive weight in the planning balance to equality considerations, it may be helpful to members to

consider some of the decisions of the High Court concerning land use and equalities impacts.

27. The General Impact Assessment Form refers to one judgment of the High Court in particular which is the case of *R (Hough) v SSHD* [2022] EWHC 1635 (Admin) which concerned a challenge by judicial review to the grant of planning permission (by special development order) of planning permission for an asylum accommodation centre at Napier Barracks near Folkestone. Planning permission was originally deemed to be granted for one year, but the Home Office wanted to seek a further five-year permission towards the end of the initial one-year period. It was held that in granting a five year permission, the Secretary of State had unlawfully failed to have regard to how the longer duration of use could exacerbate issues relating to tensions with the local community, pressure on local service, risks related to harassment and victimisation. The General Equality Impact Assessment Report provides helpful advice as to considerations that may be drawn from that decision.

28. In *R. (on the application of Buckley) v Bath and North East Somerset Council* [2018] EWHC 1551 (Admin): planning permission was sought for the partial demolition and rebuild of an estate. No regard was had to the impact on elderly residents of losing their homes and whether the impact was greater than those who did not share that protected characteristic. The outline planning permission quashed. At paragraph 47 of his judgment Lewis J considered an argument in defence of the planning permission that the same outcome was “highly likely”. He held:

In the present case, I cannot say that it is highly likely that the outcome for the claimant would not have been substantially different if the public sector equality duty had been complied with, that is, if the matters concerning the impact of loss of existing homes on the elderly and the disabled in particular had been drawn to the decision-making committee's attention. It is certainly possible that the committee might still have concluded that the benefits of the proposed development overall outweighed any potential disadvantages. That would have been a matter for the committee to assess. However, this was a proposal which was controversial. The ultimate vote was five in favour of the grant of outline planning permission and four against. There would be other options open for addressing the problems of the estate including re-furbishment rather than demolition. In all the circumstance, it cannot be said that it is highly likely that the outline planning permission would have been granted in this particular case if the breach of section 149 of the 2010 Act had not occurred. In those circumstances, and given the absence of any other justifiable reason for refusing

a remedy, the appropriate course of action is to quash the outline planning permission granted on 30 November 2017 for the redevelopment of the application site.”

29. Lewis J’s decision illustrates the principle that the weight to be given to various factors within the planning balance was exclusively for the planning committee. The judge was prepared to accept that if proper regard had been had to equalities impacts, then the decision could have been different: that is to say that planning permission might have been refused rather than granted on the basis of the weight given to equalities considerations when properly weighed in the balance. The case is thus an illustration of the principle that matters of weight are for the Council and that equalities impacts can be decisive in that balance. Provided that they have regard to all material considerations, the weight that they give to each one, is a matter for them.

30. In *R. (on the application of Danning) v Sedgemoor DC* [2021] EWHC 1649 (Admin): Steyn J held that there had been an error of law in the failure to fulfil the section 149 duty on the basis of “a complete absence of evidence” in respect to Council’s consideration of the impact of proposed changed of use from a pub to residential dwelling on persons with protected characteristics (at [56]). The judge held that if that had been the only error, then on the facts of that case she would not have quashed the decision, because in circumstances where nobody have objected to planning permission on the basis of an equality impact issue, there was no indication that the matter would have changed the mind of the Council.

31. In *R. (on the application of Williams) v Caerphilly CBC* [2019] EWHC 1618 (Admin): Claimant successfully challenged decision to close a leisure centre. The Court held that the Council failed to have regard to impact of closure of the leisure centre on elderly and disabled persons. In that case the Council submitted that the decision should not be quashed because taking account of the PSED would make no difference to the outcome. Swift J rejected that submission at [37] holding:

“Nor do I accept the Council's no difference submission. The present case is not one where that no difference submission is supported by an after the event assessment: compare *R(Hottak) v Secretary of State for Foreign and Commonwealth Affairs* [2016] 1 WLR 3791 per Sir Colin Rimer at paragraphs 87 – 108, in particular at paragraphs 92 and 107 – 108. I do not consider there is any secure basis on which I could reach a no

difference conclusion. The public sector equality duty is directed to the decision-making process. The premise of the duty is that process is important because it is capable of affecting substantive outcomes. In the present case there is nothing that gives me sufficient confidence that compliance with the public sector equality duty would be without purpose.

The judge's reasoning here is an illustration of the principle that the weight to be given to that factor is a matter for the decision-maker and that equalities considerations are "capable of affecting substantive outcomes".

32. *LDRA Ltd v Secretary of State for Communities and Local Government* [2016] EWHC 950 (Admin) concerned the decision of a planning Inspector on appeal to grant planning permission for an on-shore office and warehouse building at the car park to serve as a facility for an offshore windfarm. There were a range of issues at inquiry including nature conservation, heritage impacts, flood risk etc which all fed into the overall planning balance. Lang J was not satisfied that Inspector had any regard to the impact on disabled people of loss of car park used to access the River Mersey. Planning permission was quashed. Lang J held:

"In this case I am unable to accept Mr Whale's submission that I should not quash the decision because this was only a sub-issue, not a main issue in the appeal, and if the Inspector had performed his statutory duty, the decision would have been the same in any event. In my view, the evidence of disadvantage to disabled persons was significant, and the Inspector failed to recognise its importance. I cannot say with confidence that the Inspector's conclusion as to the weight to be accorded to the factor of coastal access would have been the same if the Inspector had properly applied his mind to the considerations set out in section 149. Moreover, the section 149 duty is concerned with the manner in which decisions are made, not merely outcomes"

The Court was accordingly of the view that proper consideration of the public sector equality issues could have resulted in a different outcome: it could have been the difference between granting and refusing planning permission. That seems to me to be a further illustration of the principle that matters of weight are for the decision-maker and that equalities considerations could be decisive.

Irrelevant Matters

33. Council members must not have regard to irrelevant matters and must act fairly in determining the planning application (as in the exercise of any of the Council’s functions: *Wheeler v. Leicester CC* [1985] 3 WLR 335). It is important given some the nature of some of the objections that the Council takes care not to have regard to matters which are not relevant to the determination of the planning application. The Committee Report and the General Equality Impact Assessment Form provide a useful steer as to the relevant considerations. By way of further example, the identity of the applicant should be treated as irrelevant applying the principles in *R (Wright) v. Resilient Energy* [2019] 1 WLR 6562 that an issue will only be material to a planning decision if it (1) fairly and reasonably relates to the development to be permitted; and (2) is for a planning purpose.
34. Another line of case law establishes that where matters are separately protected by other legislation (particularly private rights) they are usually to be treated as irrelevant: see *R. v Solihull BC Ex p. Berkswell Parish Council* (1999) 77 P. & C.R. 312; *British Railways Board v Secretary of State for the Environment* [1993] 3 P.L.R. 125 and *Vasiliou v Secretary of State for Transport* [1991] 2 All E.R. 77. In this case it seems to me that the question whether or not weapons that may be manufactured at the Application site are or should be granted a license for export is not a matter that is material to the planning application. Those are matters regulated by a separate code.
35. The question of whether “downstream” or indirect impacts may be considered in relation to a planning application is in a state of uncertainty pending the decision of the Supreme Court in *R (Finch) v Surrey Council* [2022] P.T.S.R. 958. As it stands, the judgment of Lindblom SPT in the Court of Appeal at [40] is that indirect effects of a development (in that case the greenhouse gas emissions that might eventuate from hydrocarbon extraction) can be evaluated by a decision-maker to be material to a decision to grant planning permission (at least where the Environmental Impact Assessment Regulations are engaged). However, I consider that is likely to be disrupted by the decision of the Supreme Court. Further, it is strictly a judgment concerned with the indirect effects of EIA development rather than with whether remote impacts downstream are material considerations in an ordinary planning application. I consider it would be legally risky for

the Council to base its decision on giving weight to indirect impacts of the manufacture of weapons at the site and recommend that while as a matter of law there is an argument that such impacts may be relevant, they are in this case remote and should be treated as having no weight in the Council's decision.

Conclusion

36. I have set out a summary at the outset. I am happy to advise further as required.



Alex Goodman KC

Landmark Chambers

16 May 2024

Finalised 22 May 2024

ITEM

Appendix 2

**Emblem House,
Home Farm Business Park
BH2023/03236
Full Planning**

DATE OF COMMITTEE: 5th June 2024

General Equality Impact Assessment (EIA) Form

Support:

An [EIA toolkit](#), [workshop content](#), and guidance for completing an [Equality Impact Assessment \(EIA\) form](#) are available on the [EIA page](#) of the [EDI Internal Hub](#). Please read these before completing this form.

For enquiries and further support if the toolkit and guidance do not answer your questions, contact your Equality, Diversity, and Inclusion (EDI) Business Partner as follows:

- Economy, Environment and Culture (EEC) – [Chris Brown](#),
- Families, Children, and Learning (FCL) – [Jamarl Billy](#),
- Governance, People, and Resources (GPR) – [Eric Page](#).
- Health and Adult Social Care (HASC) – [Zofia Danin](#),
- Housing, Neighbourhoods, and Communities (HNC) – [Jamarl Billy](#)

Processing Time:

- EIAs can take up to 10 business days to approve after a completed EIA of a good standard is submitted to the EDI Business Partner. This is not considering unknown and unplanned impacts of capacity, resource constraints, and work pressures on the EDI team at the time your EIA is submitted.
- If your request is urgent, we can explore support exceptionally on request.
- We encourage improved planning and thinking around EIAs to avoid urgent turnarounds as these make EIAs riskier, limiting, and blind spots may remain unaddressed for the 'activity' you are assessing.

Process:

- Once fully completed, submit your EIA to your EDI Business Partner, copying in your Head of Service, Business Improvement Manager (if one exists in your directorate), Equalities inbox, and any other relevant service colleagues to enable EIA communication, tracking and saving.
- When your EIA is reviewed, discussed, and then approved, the EDI Business Partner will assign a reference to it and send the approved EIA form back to you with the EDI Manager or Head of Communities, Equality, and Third Sector (CETS) Service's approval as appropriate.
- Only approved EIAs are to be attached to Committee reports. Unapproved EIAs are invalid.

1. Assessment details

Throughout this form, 'activity' is used to refer to many different types of proposals being assessed.

Read the [EIA toolkit](#) for more information.

Name of activity or proposal being assessed:	Determination of planning application for the permanent retention of an extension to an industrial building.
Directorate:	City Development and Regeneration
Service:	Planning
Team:	Development Management

Is this a new or existing activity?	Existing
Are there related EIAs that could help inform this EIA? Yes or No (If Yes, please use this to inform this assessment)	No

2. Contributors to the assessment (Name and Job title)

Responsible Lead Officer:	Jane Moseley, Planning Manager
Accountable Manager:	Nicola Hurley, Interim Head of Planning
Additional stakeholders collaborating or contributing to this assessment:	Sabah Holmes, Equalities, Diversity and Inclusion Manager

3. About the activity

Briefly describe the purpose of the activity being assessed:

Determination of planning application to grant/refuse permission for development.

What are the desired outcomes of the activity?

A fair, equitable, robust decision on a planning application.

Which key groups of people do you think are likely to be affected by the activity?

Experience of community tensions around the current operation of the premises and the consultation responses to the retention of the extension indicate that the decision on this application could have a disproportionately negative impact on minority ethnic groups in the city, principally Jewish, Israeli, Palestinian, Muslim and Arabic speakers.

4. Consultation and engagement

What consultations or engagement activities have already happened that you can use to inform this assessment?

- For example, relevant stakeholders, groups, people from within the council and externally consulted and engaged on this assessment. **If no consultation** has been done or it is not enough or in process – state this and describe your plans to address any gaps.

Consultation and publicity has been undertaken in accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015 resulting in responses from 600 individuals along with national and local politicians and three non-statutory consultees.

Full details of the planning application consultation process and responses are set out in the Officer Report to Planning Committee (though it was subsequently withdrawn from being heard at that meeting): [Officer Report March 2024](#)

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5. Current data and impact monitoring

Do you currently collect and analyse the following data to enable monitoring of the impact of this activity?
Consider all possible intersections.

(State Yes, No, Not Applicable as appropriate)

Age	NO
Disability and inclusive adjustments, coverage under equality act and not	NO
Ethnicity, 'Race', ethnic heritage (including Gypsy, Roma, Travellers)	NO
Religion, Belief, Spirituality, Faith, or Atheism	NO
Gender Identity and Sex (including non-binary and Intersex people)	NO
Gender Reassignment	NO
Sexual Orientation	NO
Marriage and Civil Partnership	NO
Pregnant people, Maternity, Paternity, Adoption, Menopause, (In)fertility (across the gender spectrum)	NO
Armed Forces Personnel, their families, and Veterans	NO
Expatriates, Migrants, Asylum Seekers, and Refugees	NO
Carers	NO
Looked after children, Care Leavers, Care and fostering experienced people	NO
Domestic and/or Sexual Abuse and Violence Survivors, and people in vulnerable situations (All aspects and intersections)	NO
Socio-economic Disadvantage	NO
Homelessness and associated risk and vulnerability	NO
Human Rights	NO
Another relevant group (please specify here and add additional rows as needed)	NO

Additional relevant groups that may be widely disadvantaged and have intersecting experiences that create exclusion and systemic barriers may include:

- Ex-offenders and people with unrelated convictions
- Lone parents
- People experiencing homelessness
- People facing literacy, numeracy and /or digital barriers
- People on a low income and people living in the most deprived areas
- People who have experienced female genital mutilation (FGM)
- People who have experienced human trafficking or modern slavery
- People with experience of or living with addiction and/ or a substance use disorder (SUD)

- Sex workers

If you answered “NO” to any of the above, how will you gather this data to enable improved monitoring of impact for this activity?

The activity of determining planning applications is reactive, we can only decide applications that are submitted to us. The impact of deciding this, or any application, on those with protected characteristics is not monitored by the planning service as we do not implement the development or control its impacts.

However, the wider impact of development within the City is monitored through the Annual Monitoring Report relating to the development plan that tracks the number and type of residential and non-residential developments, and any heritage, waste and sustainability impacts, the outcome of which feeds into the preparation of planning policy.

While not a quantitative data-gathering exercise, the Council has conducted consultation on the planning application and has given qualitative consideration to the consultation responses.

The council acknowledges that in neither the publicity/consultation undertaken as part of the planning process does it currently collect equality monitoring data. Therefore, it is not able to determine representation of diverse communities to inform a fuller impact assessment of decision-making or consider added context of consultation feedback i.e. whose views or extent of impact that is being conveyed to us. We have identified mitigating actions to evaluate what if any data we need to collect to improve equity considerations of any planning decisions in the fulfilment of our Public Sector Equality (PSED) duties in the future, further to legal advice and this EIA’s findings and reflections from this application.

What are the arrangements you and your service have for monitoring, and reviewing the impact of this activity?

As above, the impact of development in general is monitored through the Annual Monitoring Report which is considered the appropriate level of data gathering and monitoring. Representations on planning applications are anonymised so that all personal information is removed/redacted. However, we will investigate the value of gathering equality data from those making representations as a way to better understand whether any communities are under/over-represented and more targeted efforts could be made to reach communities, particularly in relation to larger applications. Appropriate mitigating actions have been identified in this EIA.

6. Impacts

Advisory Note:

- **Impact:**
 - Assessing disproportionate impact means understanding potential negative impact (that may cause direct or indirect discrimination), and then assessing the relevance (that is: the potential effect of your activity on people with protected characteristics) and proportionality (that is: how strong the effect is).
 - These impacts should be identified in the EIA and then re-visited regularly as you review the EIA every 12 to 18 months as applicable to the duration of your activity.
- **SMART Actions mean:** Actions that are (SMART = Specific, Measurable, Achievable, Realistic, T = Time-bound)
- **Cumulative Assessment:** If there is impact on all groups equally, complete **only** the cumulative assessment section.
- **Data analysis and Insights:**

- In each protected characteristic or group, in answer to the question ‘If “YES”, what are the positive and negative disproportionate impacts?’, describe what you have learnt from your data analysis about disproportionate impacts, stating relevant insights and data sources.
- Find and use contextual and wide ranges of data analysis (including community feedback) to describe what the disproportionate positive and negative impacts are on different, and intersecting populations impacted by your activity, especially considering for Health inequalities, review guidance and inter-related impacts, and the impact of various identities.
- For example: If you are doing road works or closures in a particular street or ward – look at a variety of data and do so from various protected characteristic lenses. Understand and analyse what that means for your project and its impact on different types of people, residents, family types and so on. State your understanding of impact in both effect of impact and strength of that effect on those impacted.
- **Data Sources:**
 - **Consider a wide range (including but not limited to):**
 - Census and local intelligence data
 - Service specific data
 - Community consultations
 - Insights from customer feedback including complaints and survey results
 - Lived experiences and qualitative data
 - Joint Strategic Needs Assessment (JSNA) data
 - Health Inequalities data
 - Good practice research
 - National data and reports relevant to the service
 - Workforce, leaver, and recruitment data, surveys, insights
 - Feedback from internal ‘staff as residents’ consultations
 - Insights, gaps, and data analyses on intersectionality, accessibility, sustainability requirements, and impacts.
 - Insights, gaps, and data analyses on ‘who’ the most intersectionally marginalised and excluded under-represented people and communities are in the context of this EIA.
- Learn more about the Equality Act 2010 and about our Public Sector Equality Duty.

6.1 Age

<p>Does your analysis indicate a disproportionate impact relating to any particular Age group? For example: those under 16, young adults, with other intersections.</p>	<p>NO. The extension would not result in disproportionate impacts on different age groups.</p>
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If “YES”, what are the positive and negative disproportionate impacts?

Please share relevant insights from data and engagement to show how conclusions about impact have been shaped. Include relevant data sources or references.

6.2 Disability:

<p>Does your analysis indicate a disproportionate impact relating to <u>Disability</u>, considering our <u>anticipatory duty</u>?</p>	<p>NO. The decision on the application would not result in disproportionate impacts on those with disabilities.</p>
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If “YES”, what are the positive and negative disproportionate impacts?

Please share relevant insights from data and engagement to show how conclusions about impact have been shaped. Include relevant data sources or references.

What inclusive adjustments are you making for diverse disabled people impacted? For example: D/deaf, deafened, hard of hearing, blind, neurodivergent people, those with non-visible disabilities, and with access requirements that may not identify as disabled or meet the legal definition of disability, and have various intersections (Black and disabled, LGBTQIA+ and disabled).

6.3 Ethnicity, 'Race', ethnic heritage (including Gypsy, Roma, Travellers):

Does your analysis indicate a disproportionate impact relating to ethnicity?	YES
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If "YES", what are the positive and negative disproportionate impacts?

Please share relevant insights from data and engagement to show how conclusions about impact have been shaped. Include relevant data sources or references.

Experience of community tensions around the current operation of the premises (recent protest camp) and the consultation responses to the retention of the extension indicate that the decision on this application could have a disproportionately negative impact on minority ethnic groups in the city, principally Jewish, Israeli, Palestinian, Muslim and Arabic speakers.

Nationally, there has been a significant rise in both anti-Semitic and anti-Islamic incidents. There has been a 147% rise in reported anti-Semitic incidents in 2023 over 2022, particularly since the Hamas attack on Israel on 7 October 2023, with 66% happening after that date. This represents a 589% increase over the same October – December period in 2022. There has been a similar spike in anti-Islamic incidents since that date, with a 335% increase in reported hate cases over the following four month period.

Figures relating specifically to anti-Semitic and anti-Islamic hate crimes are not separated out but there is anecdotal evidence that Brighton & Hove has experienced a rise in antisemitic and anti-Islamic hate incidents, as well as demonstrations calling for a ceasefire in Gaza/Israel hostilities. Representatives of local Muslim and Jewish communities have reported to elected members of the council that their respective communities feel increasingly unsafe and isolated.

6.4 Religion, Belief, Spirituality, Faith, or Atheism:

Does your analysis indicate a disproportionate impact relating to Religion, Belief, Spirituality, Faith, or Atheism?	YES
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If "YES", what are the positive and negative disproportionate impacts?

Please share relevant insights from data and engagement to show how conclusions about impact have been shaped. Include relevant data sources or references.

Experience of community tensions around the current operation of the premises (recent protest camp) and the consultation responses to the retention of the extension indicate that the decision on this application could have a disproportionately negative impact on minority ethnic groups in the city, principally Jewish, Israeli, Palestinian, Muslim and Arabic speakers.

Nationally, there has been a significant rise in both anti-Semitic and anti-Islamic incidents. There has been a 147% rise in reported anti-Semitic incidents in 2023 over 2022, particularly since the Hamas attack on Israel on 7 October 2023, with 66% happening after that date. This represents a 589% increase over the same October – December period in 2022. There has been a similar spike in anti-Islamic incidents since that date, with a 335% increase in reported hate cases over the following four month period.

Figures relating specifically to anti-Semitic and anti-Islamic hate crimes are not separated out but there is anecdotal evidence that Brighton & Hove has experienced a rise in antisemitic and anti-Islamic hate incidents, as well as demonstrations calling for a ceasefire in Gaza/Israel hostilities. Representatives of local Muslim and Jewish communities have reported to elected members of the council that their respective communities feel increasingly unsafe and isolated.

6.5 Gender Identity and Sex:

Does your analysis indicate a disproportionate impact relating to Gender Identity and Sex (including non-binary and intersex people)?

NO. The decision on the application would not result in disproportionate impacts relating to gender identity and sex.

If “YES”, what are the positive and negative disproportionate impacts?

Please share relevant insights from data and engagement to show how conclusions about impact have been shaped. Include relevant data sources or references.

6.6 Gender Reassignment:

Does your analysis indicate a disproportionate impact relating to Gender Reassignment?

NO. The decision on the application would not result in disproportionate impacts relating to gender reassignment.

If “YES”, what are the positive and negative disproportionate impacts?

Please share relevant insights from data and engagement to show how conclusions about impact have been shaped. Include relevant data sources or references.

6.7 Sexual Orientation:

Does your analysis indicate a disproportionate impact relating to Sexual Orientation?

NO. The decision on the application would not result in disproportionate impacts based on sexual orientation.

If “YES”, what are the positive and negative disproportionate impacts?

Please share relevant insights from data and engagement to show how conclusions about impact have been shaped. Include relevant data sources or references.

6.8 Marriage and Civil Partnership:

<p>Does your analysis indicate a disproportionate impact relating to Marriage and Civil Partnership?</p>	<p>NO. The decision on the application would not result in disproportionate impacts relating to marriage or civil partnership.</p>
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If “YES”, what are the positive and negative disproportionate impacts?

Please share relevant insights from data and engagement to show how conclusions about impact have been shaped. Include relevant data sources or references.

6.9 Pregnant people, Maternity, Paternity, Adoption, Menopause, (In)fertility (across the gender spectrum):

<p>Does your analysis indicate a disproportionate impact relating to Pregnant people, Maternity, Paternity, Adoption, Menopause, (In)fertility (across the gender spectrum)?</p>	<p>NO. The decision on the application would not result in disproportionate impacts relating to pregnant people, maternity, paternity, adoption, menopause or infertility across the gender spectrum.</p>
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If “YES”, what are the positive and negative disproportionate impacts?

Please share relevant insights from data and engagement to show how conclusions about impact have been shaped. Include relevant data sources or references.

6.10 Armed Forces Personnel, their families, and Veterans:

<p>Does your analysis indicate a disproportionate impact relating to Armed Forces Members and Veterans?</p>	<p>NO. The decision on the application would not result in disproportionate impacts relating to armed forces members and veterans.</p>
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If “YES”, what are the positive and negative disproportionate impacts?

Please share relevant insights from data and engagement to show how conclusions about impact have been shaped. Include relevant data sources or references.

6.11 Expatriates, Migrants, Asylum Seekers, and Refugees:

<p>Does your analysis indicate a disproportionate impact relating to Expatriates, Migrants, Asylum seekers, Refugees, those New to the UK, and UK visa or assigned legal status?</p>	<p>YES</p>
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(Especially considering for age, ethnicity, language, and various intersections)

If “YES”, what are the positive and negative disproportionate impacts?

Please share relevant insights from data and engagement to show how conclusions about impact have been shaped. Include relevant data sources or references.

Experience of community tensions around the current operation of the premises (recent protest camp) and the consultation responses to the retention of the extension indicate that the decision on this application could have a disproportionately negative impact on minority ethnic groups in the city, principally Jewish, Israeli, Palestinian, Muslim, and Arabic speakers.

Nationally, there has been a significant rise in both anti-Semitic and anti-Islamic incidents. There has been a 147% rise in reported anti-Semitic incidents in 2023 over 2022, particularly since the Hamas attack on Israel on 7 October 2023, with 66% happening after that date. This represents a 589% increase over the same October – December period in 2022. There has been a similar spike in anti-Islamic incidents since that date, with a 335% increase in reported hate cases over the following four month period.

Figures relating specifically to anti-Semitic and anti-Islamic hate crimes are not separated out but there is anecdotal evidence that Brighton & Hove has experienced a rise in antisemitic and anti-Islamic hate incidents, as well as demonstrations calling for a ceasefire in Gaza/Israel hostilities. Representatives of local Muslim and Jewish communities have reported to elected members of the council that their respective communities feel increasingly unsafe and isolated.

Please see more information provided in [6.18 Cumulative Impacts section](#) of this EIA.

6.12 Carers:

Does your analysis indicate a disproportionate impact relating to Carers (Especially considering for age, ethnicity, language, and various intersections).

NO. The decision on the application would not result in disproportionate impacts relating to carers.

If “YES”, what are the positive and negative disproportionate impacts?

Please share relevant insights from data and engagement to show how conclusions about impact have been shaped. Include relevant data sources or references.

6.13 Looked after children, Care Leavers, Care and fostering experienced people:

Does your analysis indicate a disproportionate impact relating to Looked after children, Care Leavers, Care and fostering experienced children and adults (Especially considering for age, ethnicity, language, and various intersections).

Also consider our Corporate Parenting Responsibility in connection to your activity.

NO. The decision on the application would not result in disproportionate impacts relating to care leavers, care and fostering experienced children and adults.

If “YES”, what are the positive and negative disproportionate impacts?

Please share relevant insights from data and engagement to show how conclusions about impact have been shaped. Include relevant data sources or references.

6.14 Homelessness:

<p>Does your analysis indicate a disproportionate impact relating to people experiencing homelessness, and associated risk and vulnerability? (Especially considering for age, veteran, ethnicity, language, and various intersections)</p>	<p>NO. The decision on the application would not result in disproportionate impacts relating to people experiencing homelessness.</p>
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If “YES”, what are the positive and negative disproportionate impacts?

Please share relevant insights from data and engagement to show how conclusions about impact have been shaped. Include relevant data sources or references.

6.15 Domestic and/or Sexual Abuse and Violence Survivors, people in vulnerable situations:

<p>Does your analysis indicate a disproportionate impact relating to Domestic Abuse and Violence Survivors, and people in vulnerable situations (All aspects and intersections)?</p>	<p>NO. The decision on the application would not result in disproportionate impacts relating to domestic abuse and violence survivors and people in vulnerable situations.</p>
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If “YES”, what are the positive and negative disproportionate impacts?

Please share relevant insights from data and engagement to show how conclusions about impact have been shaped. Include relevant data sources or references.

6.16 Socio-economic Disadvantage:

<p>Does your analysis indicate a disproportionate impact relating to Socio-economic Disadvantage? (Especially considering for age, disability, D/deaf/ blind, ethnicity, expatriate background, and various intersections)</p>	<p>NO. The decision on the application would not result in disproportionate impacts relating to socio-economic disadvantage. The socio-economic impact is considered as part of the planning process.</p>
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If “YES”, what are the positive and negative disproportionate impacts?

Please share relevant insights from data and engagement to show how conclusions about impact have been shaped. Include relevant data sources or references.

6.17 Human Rights:

<p>Will your activity have a disproportionate impact relating to Human Rights?</p>	<p>NO - The decision on the application would not have a disproportionate impact relating to Human Rights of people in the city, and any hypothetical link between the decision on the planning application and risk to human rights elsewhere is considered to be too remote. It is for other legislation to consider the implications in terms of the wider impacts of the activities on the site.</p>
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If “YES”, what are the positive and negative disproportionate impacts?

Please share relevant insights from data and engagement to show how conclusions about impact have been shaped. Include relevant data sources or references.

6.18 Cumulative, multiple intersectional, and complex impacts (including on additional relevant groups):

What cumulative or complex impacts might the activity have on people who are members of multiple Minoritised groups?

- For example: people belonging to the Gypsy, Roma, and/or Traveller community who are also disabled, LGBTQIA+, older disabled trans and non-binary people, older Black and Racially Minoritised disabled people of faith, young autistic people.
- Also consider wider disadvantaged and intersecting experiences that create exclusion and systemic barriers:
 - People experiencing homelessness
 - People on a low income and people living in the most deprived areas
 - People facing literacy, numeracy and/or digital barriers
 - Lone parents
 - People with experience of or living with addiction and/ or a substance use disorder (SUD)
 - Sex workers
 - Ex-offenders and people with unrelated convictions
 - People who have experienced female genital mutilation (FGM)
 - People who have experienced human trafficking or modern slavery

While the nature of products manufactured on the site is not within the control of the planning process, the decision on the application could have a disproportionately negative impact on minoritised ethnic and religious groups in the city, principally Israeli, Palestinian, Jewish, Muslim, and Arabic speakers.

The site is located within the Hollingdean and Fiveways Ward. Census statistics from 2021 indicate that:

- 2.05% of the ward identify as Muslim (309 people, compared with 3.07% across Brighton and Hove – 8,500 people), and
- 0.54% as Jewish (81 people, compared with 0.89% across Brighton and Hove – 2,455 people),

- 0.54% identifying as being within the Arab ethnic group (81 people, compared with 1.1% across Brighton and Hove – 3,049 people).
- Please note data is not collected separately regarding how many people identify as Palestinian or Israeli.

As noted above, there has been a significant increase in anti-Islamic and anti-Semitic hate crimes across the UK, and anecdotally in Brighton and Hove. Brighton and Hove City Council's Community safety and crime reduction strategy 2023 to 2026 highlights some key statistics and trends in the city in line with the national trend around increasing antisemitism and islamophobia. It also refers to rising hate crimes against those from racially, religiously, and ethnically minoritised backgrounds, which is compounded when there are additional intersections or disability, trans, intersex and non-binary identities:

- In Brighton & Hove in 2021/22 the police recorded:
 - 639 racist hate incidents and crimes (including 552 crimes)
 - 303 hate incidents and crimes motivated by perceived sexuality (including 267 crimes)
 - 73 hate incidents and crimes motivated by disability (including 57 crimes)
 - 62 hate incidents and crimes motivated by gender identity (including 48 crimes)
 - 55 hate incidents and crimes motivated by religion (including 44 crimes)
- The total number of incidents and crimes is less than the sum of these figures because some incidents and crimes are flagged as having more than one motivation.
- 93% of hate crimes are violence against the person crimes.
- Not all hate crimes are reported.
- The highest number of hate incidents reported to the Community Safety Casework Team in 2021/22 occurred in Moulsecoomb & Bevendean, Queen's Park, and St Peter's & North Laine wards.

The city has a strong Stop the War campaign and has seen significant protest against the L3 Harris facility for a number of years, particularly since information was put online alleging that parts manufactured in Brighton had been used in bombs against Palestinians.

Action against the site has increased since the application was submitted, particularly as the submission coincided with the conflict in Gaza. There have since been regular protests across the city in support of both Palestine and Israel.

The decision on the planning application could also have implications for those employed at the site if it is refused and the operator decides to move the business elsewhere, noting that the ward has 9.22% people of working age being involuntarily out of work (compared with 9.39% for Brighton and Hove).

7. Action planning

What SMART actions will be taken to address the disproportionate and cumulative impacts you have identified?

- Summarise relevant SMART actions from your data insights and disproportionate impacts below for this assessment, listing appropriate activities per action as bullets. (This will help your Business Manager or Fair and Inclusive Action Plan (FIAP) Service representative to add these to the Directorate FIAP, discuss success measures and timelines with you, and monitor this EIA's progress as part of quarterly and regular internal and external auditing and monitoring)

1. Undertake an Equality Impact Assessment (EIA) of City Plan Parts 1 and 2 when reviewed. Carry out fulfilment of any actions identified in the EIA. Begin and complete the EIA review in one year from May 2024.

2. Evaluate and assess whether collection of equalities data from those making representations on planning applications would be appropriate (within GDPR), possible and useful for equality impact assessing planning decisions:
- Review current process and data collection point, purpose of collection, and use of data to assess for inequity and context within the planning process, appeals, and consultation.
 - Investigate current IT capability and gaps of current planning register system from an equalities impact and improved decision-making perspective.
 - Conduct research and assess for gaps in current approaches by local authorities including case studies and inclusive practice models which locally or nationally may not currently be followed given gaps in EDI considerations being embedded in decision-making, systems, processes and institutionally. Research whether/what other authorities have done and whether data has been useful in enabling more equitable planning decisions and fulfilment of Public Sector Equality Duty (PSED) duties as legal have advised.
 - Establish time/resource implications and action plan for any findings that need to be implemented to improve PSED related equity considerations in our current planning process, application submission/ data requests, appeals and consultation process, and application assessment.
 - Complete this process within 2 years from May 2024.

Which action plans will the identified actions be transferred to?

- For example: Team or Service Plan, Local Implementation Plan, a project plan related to this EIA, FIAP (Fair and Inclusive Action Plan) – mandatory noting of the EIA on the Directorate EIA Tracker to enable monitoring of all equalities related actions identified in this EIA. This is done as part of FIAP performance reporting and auditing. Speak to your Directorate’s Business Improvement Manager (if one exists for your Directorate) or to the Head of Service/ lead who enters actions and performance updates on FIAP and seek support from your Directorate’s EDI Business Partner.

Development Management Team Plan, Fair and Inclusive Action Plan for any service-level action monitoring and feedback at directorate level

8. Outcome of your assessment

What decision have you reached upon completing this Equality Impact Assessment? (Mark ‘X’ for any ONE option below)

Stop or pause the activity due to unmitigable disproportionate impacts because the evidence shows bias towards one or more groups.	
Adapt or change the activity to eliminate or mitigate disproportionate impacts and/or bias.	
Proceed with the activity as currently planned – no disproportionate impacts have been identified, or impacts will be mitigated by specified SMART actions.	X
Proceed with caution – disproportionate impacts have been identified but having considered all available options there are no other or proportionate ways to achieve the aim of the activity (for example, in extreme cases or where positive action is taken). Therefore, you are going to proceed with caution with this policy or practice knowing that it may favour some people less than others, providing justification for this decision.	

If your decision is to “Proceed with caution”, please provide a reasoning for this:

This proforma question is not apt. The Council is obliged to decide the planning application. It has to take steps to inform itself of and take account of the Public Sector Equality Duty when deciding the planning application.

Summarise your overall equality impact assessment recommendations to include in any committee papers to help guide and support councillor decision-making:

The determination of this application is considered to potentially result in negative impacts on minoritised ethnic and religious groups in the city, principally Israeli, Palestinian, Jewish, Muslim, and Arabic speakers.

Section 149(1) of the Equality Act 2010 provides:

- 1) A public authority must, in the exercise of its functions, have due regard to the need to—
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Section 149(1)(a) and (c) of the Equality Act 2010 are considered to merit particular consideration in determining the planning application in view of the potential impacts as set out above.

In *(R (Hough) v SSHD [2022] EWHC 1635 Lieven J* considered the grant of a planning permission which extended the period of use of an asylum accommodation centre from one year to five years. The judge held that in granting planning permission there had been inadequate assessment of the public sector equality duty (“PSED”) as part of the decision to grant planning permission. The judge held at paragraphs 106-7:

“In my view there has been a failure to have proper regard to the PSED. The caselaw establishes that whether the s.149 duty has been complied with involves a highly fact sensitive inquiry, both into the nature of the decision and the form of the consideration of equality issues. The nature of the development here is one that raises very obvious issues under s.149, in particular relating to potential victimisation and harassment under s.149(1)(a), and the **fostering of good relations under s.149(c)**. The provision of a large amount of segregated accommodation for male asylum seekers on the edge of the town has **the obvious potential to create tensions within the local community**. This risk was set out in the EqIA and I accept that the Minister must therefore have been aware of the general issue.

However, there is a very significant difference between a development which is proposed to continue for two months and one for five years. This must especially be the case where the issue is developing community relations, as opposed to some physical impact which will vary little over time. Pressure on community services, for example on the local GP and community health services and possibly on the police, will be very much greater over a prolonged period than only two months. **The potential for impact on community relations are wholly different over the much longer period.** In the documentation before the Minister, there is no consideration of those longer-term impacts on the community relations. There is no consideration of the ability of local health services to manage this population over the much longer period, and how that situation might impact on issues relevant to s.149.”

In the case of this application, there is a proposal to make permanent what was originally a temporary permission, and so bears some similarity to the *Hough* case in that respect, albeit different in that the wider use of the site would remain lawful if permission for the operational development of the extension was refused. Also, as in *Hough*, there have already been community tensions arising from the existing use as summarised above and it is considered there is potential for those to continue and potentially to worsen. That is a factor relevant to section 149(1)(c) of the Equality Act 2010 (fostering good relations between different groups). There is also considered to be the potential for victimisation and harassment to be exacerbated by a grant of planning permission (section 149(1)(a)). It is also to be noted, however, that a refusal of planning permission may also have consequences of that nature.

It is for the planning committee to consider the weight it gives to these factors in the overall planning balance.

9. Publication

All Equality Impact Assessments will be published. If you are recommending, and choosing not to publish your EIA, please provide a reason:

Not applicable.

10. Directorate and Service Approval

Signatory:	Name and Job Title:	Date: DD-MMM-YY
Responsible Lead Officer:	Jane Moseley, Planning Manager	30-April-24
Accountable Manager:	Nicola Hurley, Interim Head of Planning	30-April-24

Notes, relevant information, and requests (if any) from Responsible Lead Officer and Accountable Manager submitting this assessment:

EDI Review, Actions, and Approval:

Equality Impact Assessment sign-off

EIA Reference number assigned: EEC67-16-May-24-EIA-Home-Farm-Planning-Application

EDI Business Partner to cross-check against aims of the equality duty, public sector duty and our civic responsibilities the activity considers and refer to relevant internal checklists and guidance prior to recommending sign-off.

Once the EDI Business Partner has considered the equalities impact to provide first level approval for by those submitting the EIA, they will get the EIA signed off and sent to the requester copying the Head of Service, Business Improvement Manager, [Equalities inbox](#), any other service colleagues as appropriate to enable EIA tracking, accountability, and saving for publishing.

Signatory:	Name:	Date: DD-MMM-YY
EDI Business Partner:		
EDI Manager:	Sabah Holmes	16-May-24 – subject to Head of CETS approval
Head of Communities, Equality, and Third Sector (CETS) Service: <i>(For Budget EIAs/ in absence of EDI Manager/ as final approver)</i>	Emma McDermott	16-May-24

Notes and recommendations from EDI Business Partner reviewing this assessment:

Notes and recommendations (if any) from EDI Manager reviewing this assessment:

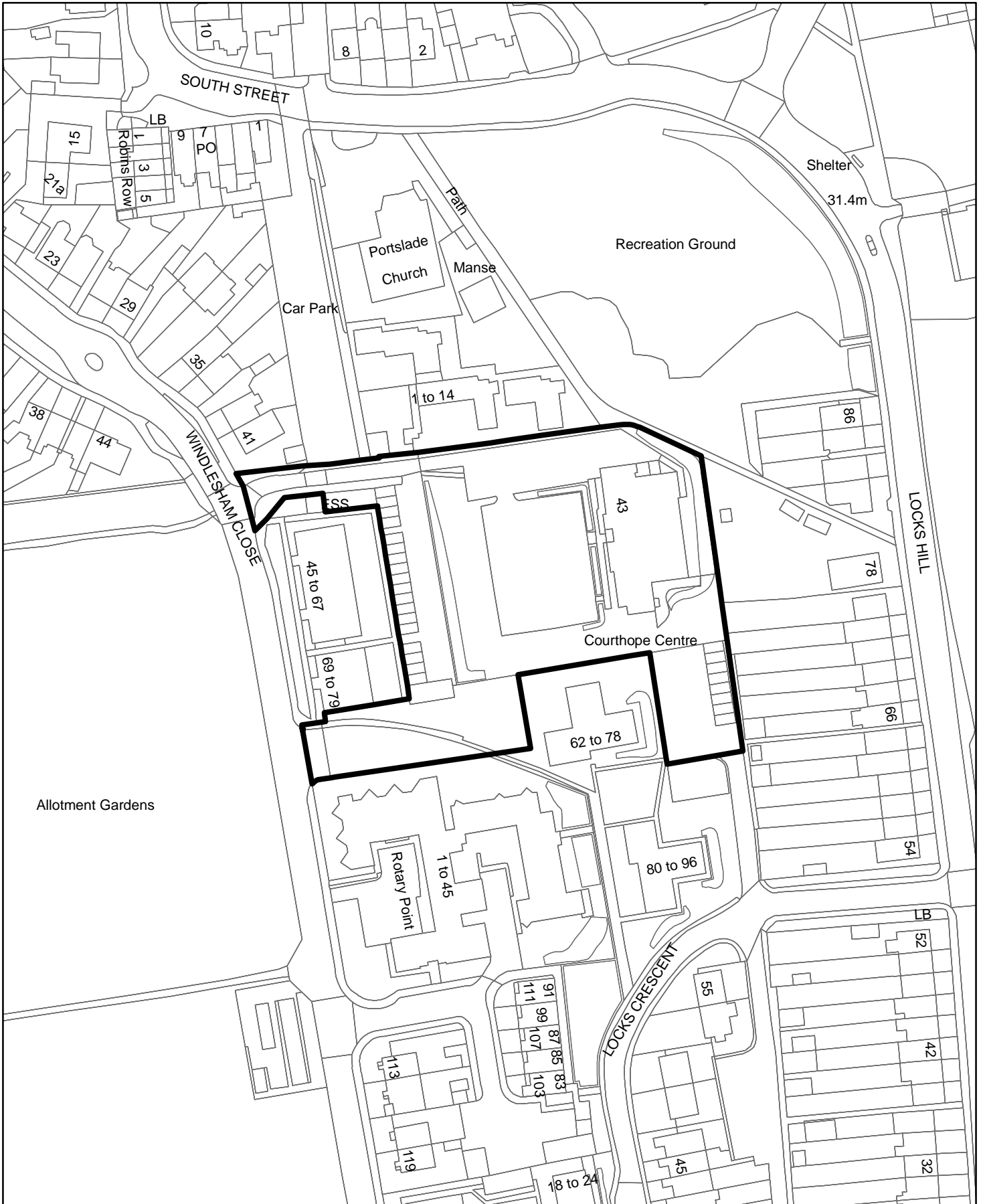
Notes and recommendations (if any) from Head of CETS Service reviewing this assessment:

ITEM B

**Portslade Village Centre,
3 Courthope Close
BH2023/03130
Full Planning**

DATE OF COMMITTEE: 5th June 2024

BH2023 03130 - Portslade Village Centre



<u>No:</u>	BH2023/03130	<u>Ward:</u>	South Portslade Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Portslade Village Centre 3 Courthope Close Portslade BN41 2LZ		
<u>Proposal:</u>	Demolition of existing Community Centre (F2) and residential garages (C3) to facilitate the erection of 2no three storey pavilion blocks containing 28no affordable flats (C3) and Community Centre (F2) with associated access routes and landscaping.		
<u>Officer:</u>	Emily Stanbridge, 293311	tel: <u>Valid Date:</u>	12.12.2023
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	12.03.2024
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	15.05.2024
<u>Agent:</u>	Miller Bourne Architects 332 Kingsway Hove BN3 4QW		
<u>Applicant:</u>	Brighton And Hove City Council Hove Town Hall Norton Road Hove BN3 3BQ		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to be **MINDED TO GRANT** planning permission subject to a s106 agreement and the following Conditions and Informatives, SAVE THAT should the s106 Planning Obligation not be completed on or before the 5th September 2024 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in the final section of this report:

Section 106 Heads of Term:

Affordable Housing

- Provision of 40% of the dwellings on site as affordable housing.

Employment and Training

- Submission of developer contributions of £9,600 to be submitted prior to site commencement.
- Employment and Training Strategies for the provision of local employment opportunities with 20% of any new roles created from the demolition and construction phases of development, at least one month before the intended date of formal commencement of the development

Highways

- Provision of a car club bay
- Permissive paths agreement for the new pedestrian route through the site
- Minor Works Agreement for the pedestrian crossing works on Locks Crescent

Management and Monitoring

- Financial contribution of £x towards on-going monitoring (over a 30 year period) of Biodiversity Net Gain requirements based on the Council's most up to date version of the Developer Contributions Technical Guidance
- Financial contribution of £6,303.00 (ex VAT) towards on-going monitoring of Travel plan requirements based on the Council's most up to date version of the Developer Contributions Technical Guidance

Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

Reason: For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
Location Plan	NN030-MBA-ZZZZ-0000-DR-A-001000 P02		22 March 2024
Block Plan	NN030-MBA-ZZZZ-0000-DR-A-001001 P02		22 March 2024
Proposed Drawing	NN030-MBA-ZZZZ-0000-DR-A-001010 P05		15 May 2024
Proposed Drawing	NN030-MBA-ZZZZ-0000-DR-A-001012 P03		15 May 2024
Proposed Drawing	NN030-MBA-ZZZZ-0000-DR-A-001050 P04		15 May 2024
Proposed Drawing	NN030-MBA-ZZZZ-0001-DR-A-001013 P03		15 May 2024
Proposed Drawing	NN030-MBA-ZZZZ-0002-DR-A-001014 P03		15 May 2024
Proposed Drawing	NN030-MBA-ZZZZ-00RF-DR-A-001015 P03		15 May 2024
Proposed Drawing	NN030-MBA-ZZZZ-ZZZZ-DR-A-001011 P03		15 May 2024
Proposed Drawing	NN030-MBA-ZZZZ-ZZZZ-DR-A-002000 P02		15 May 2024
Proposed Drawing	NN030-MBA-ZZZZ-ZZZZ-DR-A-002001 P01		27 November 2023
Proposed Drawing	NN030-MBA-ZZZZ-ZZZZ-DR-A-002002 P02		15 May 2024
Proposed Drawing	NN030-MBA-ZZZZ-ZZZZ-DR-A-002006 P02		15 May 2024
Proposed Drawing	NN030-MBA-ZZZZ-ZZZZ-DR-A-003000 P01		27 November 2023

Proposed Drawing	NN030-MBA-ZZZZ-ZZZZ-DR-A-003001 P01		27 November 2023
Proposed Drawing	NN030-RCO-XXXX-0000-PL-L-000001 P03		15 May 2024
Proposed Drawing	RC0434/FIGURE 01 03		15 May 2024
Proposed Drawing	MWA TLP 003		27 November 2023
Proposed Drawing	MWA TLP 003		27 November 2023
Proposed Drawing	MWA TLP 004		27 November 2023
Report/Statement	Air Quality assessment		27 November 2023
Report/Statement	Arboricultural survey and report		27 November 2023
Report/Statement	Biodiversity net gain assessment		27 November 2023
Report/Statement	Daylight and sunlight	Neighbouring development	27 November 2023
Report/Statement	Daylight and sunlight	Within Development	27 November 2023
Report/Statement	Ecological survey		27 November 2023
Report/Statement	Energy Statement		27 November 2023
Report/Statement	Flood risk assessment and Drainage strategy		27 November 2023
Report/Statement	Heritage and archaeological desk based assessment		27 November 2023
Report/Statement	Landscape strategy part 1		27 November 2023
Report/Statement	landscape strategy part 2		27 November 2023
Report/Statement	Noise impact assessment Feb 24		6 March 2024
Report/Statement	Overheating assessment		27 November 2023
Report/Statement	Environmental risk assessment		27 November 2023
Report/Statement	Environmental risk assessment		27 November 2023
Report/Statement	Sustainability statement		27 November 2023

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

3. The dwellings hereby approved shall be implemented in strict accordance with the internal layouts detailed on the proposed floorplans (001012 P03, 001013 P03 and 001014 P03) received on 15th May 2024. The internal layouts shall be retained as first implemented thereafter.

Reason: To ensure an acceptable standard of accommodation for future occupiers is provided and maintained thereafter and to comply with policy DM1 of the Brighton and Hove City Plan Part Two.

4. The community use (F2) hereby permitted shall not be carried out except between the hours of 08:00 and 22:00 on Mondays to Saturdays, and between the hours of 10:00 and 17:00 on Sundays including Bank or Public Holidays. The external play court shall not be used except between the hours of 09:00 and 19:00 Mondays to Saturdays and 10:00 and 17:00 on Sundays to include bank or public holidays.

Reason: To safeguard the amenities of the locality and occupiers of the development, to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part Two.

5. No development, including demolition and excavation, shall commence until a Site Waste Management Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details approved.

Reason: To maximise the sustainable management of waste and to minimise the need for landfill capacity and to comply with policy WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

6. Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme for the protection of the retained trees as shown on drawing NN030-RCO-XXXX-0000-PL-L-000001 P03, in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be implemented in strict accordance with the approved details.

Reason: As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and for biodiversity and sustainability reasons, to comply with policies DM22 and DM37 of Brighton & Hove City Plan Part 2, and CP8, CP10 and CP12/CP13 of the Brighton & Hove City Plan Part One and SPD06:Trees and Development Sites.

7. The development hereby permitted shall not commence (excluding demolition) until full details of existing and proposed ground levels (referenced as Above Ordnance Datum) within the site and on land and buildings adjoining the site by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures, have been submitted to and approved by the Local Planning Authority. The development shall then be implemented in accordance with the approved level details.

Reason: As this matter is fundamental to the acceptable delivery of the permission to safeguard the amenities of nearby properties and to safeguard the character and appearance of the area, in addition to comply with Policies DM18 and DM20 of Brighton & Hove City Plan Part 2 and CP12 of the Brighton & Hove City Plan Part One.

8. No development (including any demolition, ground works, site clearance) shall take place until a Demolition/Construction Environmental Management Plan (DEMP/CEMP) has been submitted to and approved in writing by the Local Planning Authority and the Highway Authority. The Plan shall include the following:
- Details of the appointment of a DEMP/CEMP manager to be responsible for implementing the plan on the Owners behalf (with authorisation to instruct all contractors) and to serve as the single point of contact, both for the Council in general and for other parties who may have feedback or complaints. Similar appointment of a separate individual responsible for CEMP monitoring.
 - Details of site phases, the dates of these, and detailed works and operation within each. The initial submitted Plan can cover only the first phase subject to a clear requirement to update it to cover other Phases before those commence.
 - Details of the time when construction and contractor vehicles will be permitted to access the site, related to any separate details of works hours.
 - Details of construction traffic routes and the type and number of vehicles forecast to use these, both daily and over the course of the entire works. A Road Safety Audit may be required should South Street Car Park serve for egress from the construction site.
 - A commitment to submit periodic updates about the programme of works and construction traffic forecasts.
 - Details of proposed site accesses and any pit/lanes or loading/unloading areas within the highway, sufficient to allow all vehicles to enter and exit these in forward gear without reversing on the highway.
 - Details of measures to protect council highway assets (and commitments to survey and repair any damage that occurs) and to mitigate impacts on public transport, bike share and car club services and provide for their continued operation during the works. This should include a commitment not to commence any further demolition or construction until the means of addressing any roads that may have been damaged by construction traffic has been agreed.
 - A commitment to implement vehicle cleaning and drainage facilities to prevent mud and dirt being trafficked onto the highway from the site or being washed onto it.
 - A detailed scheme of temporary traffic management and signage along the construction routes, at site access, and elsewhere in the vicinity of the site, supported by vehicle swept path analysis where appropriate. Where relevant, this must include and be demonstrably compatible with that for any other separate S278 or S38 highway works (or similar) associated with the site that are being carried out at the same time in the vicinity.

- A detailed scheme to actively manage construction traffic to avoid congestion, delays and idling at and outside the site and elsewhere on the network and to maintain safety for other road users. This again must include and be demonstrably compatible with that for any other separate S278 or S38 highway works (or similar) associated with the site that are being carried out at the same time in the vicinity where relevant.
- A commitment that any temporary traffic management measures and/or marshalling of traffic on the highway, including that of both construction traffic and general traffic, shall aim to be undertaken by Contractors holding National Highways Sector Scheme 12(d) certification where possible.
- A commitment that any staff marshalling vehicles and plant within the site will where possible hold a current valid Construction Plant Competency Scheme (CPCS) Card, endorsed with Category A73.
- A commitment to register the construction site with the Considerate Constructors Scheme (CCS) and the Construction Logistics & Community Safety scheme (CLOCS), to retain that certification for the duration of the works and to comply with all mandatory requirements of the related Codes. To arrange associated monitoring visits every 4 months unless otherwise agreed, and to make the monitoring reports available to the council.
- A commitment that the Principal Contractor for both demolition and construction shall where possible have Silver certification under the Fleet Operators Recognition Scheme (FORS).
- A detailed scheme of employee and contractor parking and any drop-off areas, including measures to actively monitor and deter parking and drop-offs in any other locations on nearby streets.
- A detailed scheme for complaints submission, management, investigation, and response. This should allow us access for monitoring and other purposes. Details of how to submit complaints directly to the appointed DEMP/CEMP monitor should be provided prominently on the site hoardings, along with their dedicated contact details.
- A detailed scheme for liaison with neighbours, public transport operators, elected members and other relevant parties, to including regular Community Liaison Meetings and regular local circulation of Newsletters to update on site progress and improvements to address issues and complaints.

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

Reason: As this matter is fundamental to the protection of amenity, highway safety and managing waste throughout development works and to comply with policies DM20, DM33 and DM40 of Brighton & Hove City Plan Part 2, policy CP8 of the Brighton & Hove City Plan Part One, and WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013 and Supplementary Planning Document 03 Construction and Demolition Waste.

9. No development shall take place (including any demolition, ground works, site clearance) until a method statement for protection of amphibians and reptiles during construction has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include the:
 - a) purpose and objectives for the proposed works;

- b) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
- c) extent and location of proposed works shown on appropriate scale maps and plans;
- d) timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
- e) persons responsible for implementing the works;
- f) initial aftercare and long-term maintenance (where relevant);
- g) disposal of any wastes arising from the works.

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

Reason: To protect habitats and species identified in the ecological surveys from adverse impacts during construction and to avoid an offence under the Wildlife and Countryside Act 1981, as amended and to comply with policies CP10 of the Brighton and Hove City Plan Part One and DM37 of the Brighton and Hove City Plan Part Two.

10. No development (including any demolition, ground works, site clearance) shall take place until an ecological design strategy (EDS) addressing enhancement of the site for biodiversity, including the recommendations in the Ecological Walkover Survey Technical Note (Urban Edge Environmental Consulting, November 2023, Revision 4, ref. UE0558) and Biodiversity Net Gain Assessment (Urban Edge Environmental Consulting, November 2023, ref: UE0558_LindfieldClose_BNG_1_231124), has been submitted to and approved in writing by the local planning authority. The EDS shall include the following:
- a) purpose and conservation objectives for the proposed works;
 - b) review of site potential and constraints;
 - c) detailed design(s) and/or working method(s) to achieve stated objectives;
 - d) extent and location /area of proposed works on appropriate scale maps and plans;
 - e) type and source of materials to be used where appropriate, e.g. native species of local provenance;
 - f) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
 - g) persons responsible for implementing the works;
 - h) details of initial aftercare and long-term maintenance (including over a period of 30 years for Biodiversity Net Gain, and see also LEMP condition below);
 - i) details for monitoring and remedial measures;
 - j) details for disposal of any wastes arising from works

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

Reason: To ensure that any adverse environmental impacts of development activities can be mitigated, compensated and restored and that the proposed design, specification and implementation can demonstrate this, and to provide a net gain for biodiversity as required by Section 40 of the Natural Environment and Rural Communities Act 2006, paragraphs 180 and 186 of the National Planning Policy Framework, Policy CP10 of the Brighton & Hove City Council City Plan Part One and Policy DM37 of the City Plan Part Two.

11. No development including (including any demolition, ground works, site clearance) shall take place until a landscape and ecological management plan (LEMP) shall be submitted to, and approved in writing by, the local planning authority to cover onsite habitat enhancement/creation and biodiversity features. The content of the LEMP shall include the following:
- a) description and evaluation of features to be managed;
 - b) ecological trends and constraints on site that might influence management;
 - c) aims and objectives of management;
 - d) appropriate management options for achieving aims and objectives;
 - e) prescriptions for management actions, together with a plan of management compartments;
 - f) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
 - g) details of the body or organisation responsible for implementation of the plan;
 - h) ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plans shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: Biological communities are constantly changing and require positive management to maintain their conservation value. The implementation of a LEMP will ensure the long term management of habitats, species and other biodiversity features.

12. No development (including any demolition, ground works, site clearance) shall take place until the applicant has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with the National Planning Policy Framework and in accordance with Policy DM31 of the City Plan Part 2.

13. The development hereby permitted shall not be commenced (other than demolition works and works to trees) until a CCTV survey has been undertaken confirming that all existing pipes which are proposed to be used are in adequate condition, and also confirming the route of the existing sewer connection has been submitted to and approved in writing by the Local Planning Authority.

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

14. The development hereby permitted shall not be commenced (other than demolition works and works to trees) until an updated groundwater survey has been undertaken and submitted to the Local Planning Authority for written approval which confirms any necessary mitigation measures to protect groundwater. The measures agreed shall be implemented prior to first occupation.
Reason: As this matter is fundamental to the acceptable delivery of the permission to prevent the increased risk of flooding and to comply with policies DM42 and DM43 of City Plan Part and CP11 of the Brighton & Hove City Plan Part One.
15. Construction of the development shall not commence (except for demolition and works to trees) until details of the proposed means of foul sewerage and surface water disposal to include a sustainable drainage assessment have been submitted to and approved in writing by the Local Planning Authority in consultation with Southern Water. The agreed drainage scheme shall be implemented within the development prior to first occupation.
Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with policies DM42 and DM43 of City Plan Part and CP11 of the Brighton & Hove City Plan Part One.
- 16.
1. No works pursuant to this permission shall commence (including any demolition, ground works, site clearance) until there has been submitted to and approved in writing by the local planning authority:
 - (a) A desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with industry best practice guidance such as BS 10175:2011+A2:2017 - Investigation of Potentially Contaminated Sites - Code of Practice and BS 5930 Code of Practice for Ground Investigations;
 And if notified in writing by the local planning authority that the desk top study identifies potentially contaminant linkages that require further investigation then,
 - (b) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS 10175:2011+A2:2017;
 And if notified in writing by the local planning authority that the results of the site investigation are such that site remediation is required then,
 - (c) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such a scheme shall include nomination of a competent person to oversee the implementation of the works.
 2. The development hereby permitted shall not be occupied or brought into use until there has been submitted to, and approved in writing by, the local planning authority a written verification report by a competent person approved under the provisions of condition (1)c that any remediation scheme required and approved under the provisions of condition (1)c has

been implemented fully in accordance with the approved details (unless varied with the written agreement of the local planning authority in advance of implementation). Unless otherwise agreed in writing by the local planning authority the verification report shall comprise:

- a) built drawings of the implemented scheme;
- b) photographs of the remediation works in progress;
- c) certificates demonstrating that imported and/or material left in situ is suitable for use.

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

17. Other than demolition no development shall take place until a scheme has been submitted to and approved in writing by the Local Planning Authority providing full details of the 3 units which form part of the approved scheme, which shall be in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings). This shall be completed in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings) prior to first occupation and shall be retained as such thereafter.

Reason: To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy DM1 of the Brighton and Hove City Plan.

18. Notwithstanding any details shown on the approved plans, no development above ground floor slab level of any part of the development hereby permitted shall take place until details of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):

- a) Samples/details of all brick, render and tiling (including details of the colour of render/paintwork to be used)
- b) samples of all cladding to be used, including details of their treatment to protect against weathering
- c) samples/details of all hard surfacing materials
- d) samples/details of the proposed window, door and balcony treatments
- e) samples/details of all other materials to be used externally

Development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and to comply with policies DM18, DM21 and DM26 of Brighton & Hove City Plan Part 2 and CP12, CP15 of the Brighton & Hove City Plan Part One.

19. Prior to occupation of the development hereby permitted, a scheme for landscaping shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping shall be implemented in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. The scheme shall include the following:

- a. details of all hard and soft surfacing to include the type, position, design, dimensions and materials and any sustainable drainage system used;
- b. a schedule detailing sizes and numbers/densities of all proposed trees/plants including food-bearing plants, and details of tree pit design,

use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period;

- c. details of all boundary treatments to include type, position, design, dimensions, materials and where necessary construction method, including of any mechanisms that might make them temporary and movable
- d. details of areas for food growth
- e. details of informal childrens play equipment

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

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to provide ecological and sustainability benefits, to comply with policies DM22 and DM37 of Brighton & Hove City Plan Part 2, and CP8, CP10, CP12 and CP13 of the Brighton & Hove City Plan Part One.

- 20. No phase of the development hereby permitted shall be brought into use until the archaeological site investigation and post - investigation assessment (including provision for analysis, publication and dissemination of results and archive deposition) for that phase has been completed and approved in writing by the Local Planning Authority. The archaeological site investigation and post - investigation assessment will be undertaken in accordance with the programme set out in the written scheme of investigation approved under condition 12.

Reason: To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with the National Planning Policy Framework and in accordance with Policy DM31 of the City Plan Part 2.

- 21. Prior to first occupation a Noise Management Plan in relation to the proposed sports court shall be submitted to and approved in writing by the Local Planning Authority.

The management plan shall include but not be limited to the details suggested in the Noise Impact Assessment titled, Planning Application - New Build Residential Development, by Scott Castle, and dated 14th February 2024. The agreed Noise Management measures shall be implemented within the development.

Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.

- 22. The glazing in the bedrooms and kitchen/diner/lounge areas of flats G.01, 1.01 and 2.01 shall be upgraded so that the criteria within Table 4 of BS8233:2014 are met.

Reason: To ensure a suitable noise environment and safeguard the amenities of the future occupiers and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.

- 23. The applicant shall implement mitigation measures that are in strict accordance with the recommendations set out in the submitted noise assessment New Build Residential Development undertaken by Scott Castle dated 14th February 2024

prior to the first occupation of the development and these measures shall be maintained thereafter.

Reason: To safeguard the amenities of the occupiers of neighbouring properties and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.

24. Prior to first occupation of the development hereby approved, details of the photovoltaic array shall be submitted to and approved in writing by the Local Planning Authority. The photovoltaic array shall then be installed in accordance with the approved details.

Reason: To ensure that the development is sustainable and makes efficient use of energy, water and materials and has an acceptable appearance and to comply with policies CP8 and CP12 of the Brighton & Hove City Plan Part One and DM44 of City Plan Part 2.

25. Prior to first occupation of the development hereby permitted, details of secure cycle parking facilities for the occupants of, and visitors to, the development shall have been submitted to and approved in writing by the Local Planning Authority. This shall include maintenance facilities for all site users, and lockers and shower facilities for staff and users of the community centre. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.

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

26. Prior to first occupation of the development hereby permitted, full details of electric vehicle charging points (EVCPs) within the proposed car park hereby approved shall have been submitted to and approved in writing by the Local Planning Authority and Highway Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.

Reason: To encourage travel by more sustainable means and seek measures which reduce fuel use and greenhouse gas emissions and to comply with policies SA6, CP1, CP2, CP4, CP6, CP7, CP8, CP9, CP12, CP13 and CP15 of the City Plan Part One and SPD14 Parking Standards October 2016.

27. Prior to first occupation of the development hereby permitted, dropped kerbs with tactile paving, shall have been installed to the crossing of Blakers Court and Locks Crescent under agreement with the Highway Authority. Details shall be provided to show how the new footway would be linked to the development site with pedestrian walkway markings across the car park. The agreed works shall be implemented before first occupation of the development.

Reason: To ensure that suitable footway provision is provided to and from the development and to comply with policy CP9 of the City Plan Part One and policy DM33 of the City Plan Part Two.

28. Prior to first occupation of the development hereby permitted, a footpath / footway layout plan to include access to and through the site shall have been submitted to and approved in writing by the Local Planning Authority. This should include details of materials, dimensions, methods of construction, location, levels, gradients, length of gradients, lighting, handrails, and provision for the mobility and visually impaired (for example turning circles, radius dimensions and tactile paving). It should include a scheme of traffic calming measures along Blakers Court and through Blakers Court car park. The layout plan should also include justification for any steps proposed. The approved scheme shall be fully implemented and made available for use prior to construction of the development and shall thereafter be retained for use at all times.
- Reason:** To ensure the development provides for all occupants and visitors to the site and to ensure the provision of satisfactory facilities for pedestrians and the mobility and visually impaired to comply with policies CP3, CP5, CP6, CP7, CP9, CP12, CP13, CP16, CP17, CP18, CP22, SA6 and WLP1 of the City Plan Part One, and DM33 of City Plan Part Two.
29. Prior to first occupation of the development hereby permitted, a car park layout plan shall have been submitted to and approved in writing by the Local Planning Authority. This should include details of existing and proposed cycle parking, motorcycle parking, car parking, electric vehicle parking and charging, mobility scooter parking and charging, disabled parking, visitor parking, loading bays, taxi pick-up and drop off, service and delivery areas and signage (markings and signs) for management (such as numbered spaces and Department for Transport approved names and symbols (e.g. for a disabled bay) inside and outside of the space) of all forms of parking and stopping as appropriate. This should also include details of how the proposal complies with SPD14 Parking Standards and how vehicles safely and conveniently turn to leave the site in a forward gear. It shall include details of dropped kerbs from footways and tactile paving where appropriate for the mobility and visually impaired including adults with child buggies. The approved scheme shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.
- Reason:** To ensure the development provides for the needs of all occupants and visitors to the site, to ensure the provision of satisfactory facilities for all users of the car park including pedestrians and the mobility and visually impaired and to comply with policies SPD14 Parking Standards and CP9 of City Plan Part One & DM33 of City Plan Part Two.
30. The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.
- Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with Policies DM18 and DM21 of Brighton & Hove City Plan Part 2, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.

31. Within 6 months of first occupation of the non-residential development hereby permitted a BREEAM Building Research Establishment issued Post Construction Review Certificate confirming that the non-residential development built has achieved a minimum BREEAM New Construction rating of 'Very Good' shall be submitted to, and approved in writing by, the Local Planning Authority.
Reason: To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy CP8 of the Brighton & Hove City Plan Part One.
32. Any plant or machinery associated with the development shall be controlled such that the Rating Level, measured or calculated at 1-metre from the façade of the nearest noise sensitive premises, shall not exceed a level equal to or below the existing LA90 background noise level. Rating and existing background noise levels shall be determined as per the guidance provided in BS 4142: 2014.
Reason: To safeguard the amenities of the occupiers of neighbouring properties and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.
33. The development hereby approved should achieve a minimum Energy Performance Certificate (EPC) rating 'B' for new build residential and non-residential development.
Reason: To improve the energy cost efficiency of existing and new development and help reduce energy costs to comply with policy DM44 of the Brighton & Hove City Plan Part Two.
34. None of the residential units hereby approved shall be occupied until each residential unit built has achieved as a minimum, a water efficiency standard of not more than 110 litres per person per day maximum indoor water consumption.
Reason: To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton & Hove City Plan Part One.
35. Prior to first occupation of the development hereby approved, full details of a proposed external lighting scheme shall be submitted for approval by the Local Planning Authority. No external lighting other than that which forms part of the approved scheme shall be installed.
Reason: To ensure the satisfactory preservation of this listed building, to protect neighbouring amenity, and to comply with policy DM20 and DM40 of the Brighton and Hove City Plan Part Two.
36. At least 28 bee bricks shall be incorporated within the external walls of the development hereby approved and shall be retained thereafter.
Reason: To enhance the biodiversity of the site and to comply with Policy DM37 of Brighton & Hove City Plan Part 2, Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
37. The development hereby permitted shall incorporate at least 56 swift bricks/boxes within the external walls which shall be retained thereafter.
Reason: To enhance the biodiversity of the site and to comply with Policy DM37 of Brighton & Hove City Plan Part 2, Policy CP10 of the Brighton & Hove City

Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

38. Prior to first occupation of the development, a Residential Travel Plan and a Community Centre Travel Plan covering a minimum 5 year period shall have been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall thereafter be fully implemented in accordance with the approved details.
Reason: To ensure the promotion of safe, active and sustainable forms of travel and comply with policies CP9 of the City Plan Part One and DM35 of City Plan Part Two.
39. No part of the development hereby permitted shall be first occupied or brought into use until written evidence, such as Secure By Design certification, has been submitted to and approved in writing by the Local Planning Authority to demonstrate that the scheme has incorporated crime prevention measures.
Reason: In the interests of crime prevention, to comply with policies CP12 and CP13 and SA6 of the Brighton & Hove City Plan Part One.
40. Prior to first occupation of the development hereby permitted, a scheme shall be submitted to the Local Planning Authority for written approval for a pedestrian and wheelchair footway, including dropped kerbs with paving and tactile paving as appropriate, to be installed to the western side of Blakers Court, north of the junction with Locks Crescent, and tied in to the footway on Locks Crescent under agreement with the Highway Authority. The new footway should be linked to the development site with pedestrian walkway markings across the car park. The agreed works shall be carried out prior to first occupation of the development.
Reason: To ensure that suitable footway provision is provided to and from the development and to comply with policy CP9 of the City Plan Part One and policy DM33 of the City Plan Part Two.
41. No development shall commence on site until a Scheme of Management of vehicle and any other forms of parking and stopping in the car park area has been submitted to and approved in writing by the Local Planning Authority. The scheme must at least include the following measures:
- Details of how the proposal complies with SPD14 Parking Standards;
 - Details of how each car parking space will be allocated and managed;
 - Details of measures to ensure that each car parking space is for the sole use of its allocated owner and/or those they permit to use said space.
- The above works must be implemented prior to the occupation of the buildings and thereafter be maintained as such.
Reason: To ensure the development maintains a sustainable transport strategy and to comply with SPD14 Parking Standards and CP9 of the City Plan Part One and policy DM33 of City Plan Part Two.

Informatives:

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

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

2. The applicant is advised that Part L - Conservation of Fuel and Power of the Building Regulations 2022 now requires each residential unit built to have achieved a 31% reduction in carbon emissions against Part L 2013.
3. The applicant is advised that Part L - Conservation of Fuel and Power of the Building Regulations 2022 now requires non-residential development to have achieved a 27% improvement on the carbon emissions against Part L 2013.
4. The water efficiency standard required by condition is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.
5. The applicant is advised that details of the BREEAM assessment tools and a list of approved assessors can be obtained from the BREEAM websites (www.breeam.org).
6. The applicant is advised that Part O of Building Regulations 2022 has been introduced. This standard is aimed at designing out the need for mechanical air conditioning systems in dwellings that would otherwise be prone to overheating and limiting unwanted solar gains. There are optional methods to demonstrate compliance through the Building Regulations
7. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.
8. The applicant should be aware that whilst the requisite planning permission may be granted, should any complaints be received, this does not preclude this department from carrying out an investigation under the provisions of the Environmental Protection Act 1990.
9. The applicant is advised to contact the Council's Streetworks team (permit.admin@brighton-hove.gov.uk 01273 290729) at their earliest convenience to avoid delay and obtain all necessary highway approval from the Highway Authority prior to any works commencing adjacent (at least within 3.66m) to the public highway to be lawful.
10. In order to ensure a safe and accessible environment for cyclists, new development should:
 - a) provide for safe, easy, and convenient access for cyclists to/from proposed development; and

- b) where appropriate extend, improve, or contribute towards the city's existing network of high quality, convenient and safe cycle routes; and
 - c) protect existing and proposed cycle routes unless satisfactory mitigation is provided, or provision is made for an alternative alignment; and
 - d) provide for sufficient levels of cycle parking facilities in line with the Parking Standards for New Development (Appendix 2) (and any subsequent revisions) which must, wherever possible, be universally accessible, under cover, secure, convenient to use, well-lit and as close to the main entrance(s) of the premises as is possible. Short stay visitor cycle parking could be uncovered but must be located close to the building entrance(s) and benefit from high levels of natural surveillance; and
 - e) make provision for high quality facilities that will encourage and enable cycling including communal cycle maintenance facilities, workplace showers, lockers and changing facilities.
11. The applicant is advised to contact the Council's 'S278 team' initially by e-mail (s278@brighton-hove.gov.uk) at their earliest convenience to avoid any delay and obtain all necessary highway approval including design, materials and construction method from the Highway Authority prior to any works commencing on and adjacent to the adopted (public) highway to satisfy the law and requirements of Condition 9.
 12. The applicant is advised that the disabled car parking spaces should be designed in accordance with 'Inclusive Mobility' (which has superseded the Department for Transport Traffic Advisory Leaflet 5/95 Parking for Disabled People) and BS8300:2001.26. A combination of these two documents requires at least a 1.2m clear zone to both sides and roadway end of the bay.
 13. Swift bricks/boxes can be placed on any elevation, but ideally under shade-casting eaves. They should be installed in groups of at least three, at a height of approximately 5 metres above ground level, and preferably with a 5m clearance between the host building and other buildings or obstructions. Where possible avoid siting them above windows or doors. Swift bricks should be used unless these are not practical due to the nature of construction, in which case alternative designs of suitable swift boxes should be provided in their place where appropriate.
 14. The applicant must contact the Highway Authority by e-mail (s278@brighton-hove.gov.uk) at their earliest convenience to avoid any delay and prior to any works commencing on-site and on the adopted (public) highway. An assigned officer telephone number will be supplied in the e-mail response to provide a point of contact regarding the DEMP/CEMP.
 15. The Residential Travel Plan and Community Centre Travel Plan as secured under condition 38 should include:
Agreement of objectives, targets, actions, measures/incentives is delegated to officers but shall include reducing single occupancy trips by motor vehicles and reducing trips by delivery and servicing vehicles in the objectives.

- The provision of a car club bay at a distance of up to 400m of the site. This could be through Enterprise Car Club or any another provider operating in the city at the time.
- The provision of active and sustainable travel incentives up to the value of £300 per resident to be used on their choice of options of
 - Public Transport Season Tickets,
 - Membership of the Car Club or Bike Share schemes
 - Vouchers for bike purchases
 - Other measures to encourage active and sustainable travel such as
 - Setting up a bicycle users' group (BUG)
 - Free Bikeability training
 - Dr Bike workshops
- The following additional surveys should also be undertaken at each monitoring point and provided as part of monitoring reports
 - Delivery and servicing movements
 - Occupant awareness of travel plan objectives, targets, actions, and measures/incentives
 - Occupant uptake/participation in measures/incentives
 - Car Park usage
 - Post occupation Re-analysis of parking beat surveys
- A Travel Plan Coordinator shall be appointed by the developer to implement the Residential and Community Centre Travel Plans.

2. SITE LOCATION

- 2.1. The application site is located in Portslade with Windlesham Close to the west and Locks Hill to the east. To the north of the site of the site lies the Portslade Village Green, in addition to the Portslade Conservation Area which adjoins the north-east corner of the site.
- 2.2. Residential properties surround the immediate vicinity of the site. To the east, properties consist of two storey terraced properties and to all other boundaries, properties comprise two or three storey purpose-built blocks of flats with amenity green space in between. The topography of the site is such that it slopes down from the east to the west towards Windlesham Close.
- 2.3. Vehicular and pedestrian access into the site is gained from Windlesham Close via a gated access.
- 2.4. The existing site comprises a single storey community centre situated to the east of the site, existing garages to the west and south-east, a central hard court play area, vehicle parking to the north and informal amenity green space.

3. RELEVANT HISTORY

- 3.1. **PRE2021/00130:** Demolition of existing community centre and garages and the creation of 20 affordable flats, 7 affordable houses and new community centre space. Written response provided October 2021.

The main outcomes of this enquiry were as follows:

- The proposals needed to justify the loss of open space
- Clarification required on the use and management of the centrally proposed communal space
- The proposal needed to be landscape led and should provide more soft landscaping
- Further consideration should be given to legible connections through the site from the village green.
- The number of single aspect units should be reduced

During the lifetime of this pre-application the proposals were presented to Design South East Design Review Panel in September 2021. The outcome of this review reaffirmed the above items. These comments were incorporated into subsequent pre-application enquiries.

- 3.2. **PRE2023/00016:** Demolition of existing community centre and garages and the creation of 28 affordable flats, a new community centre space and access routes. Written response provided May 2023

The main outcomes of this enquiry were as follows:

- The proposals are considered to meet the requirements of relevant open space policies and therefore the principle of redeveloping the site is acceptable.
- The height of the proposals is considered acceptable
- The mix of units is considered acceptable
- Any future application should be supported by sunlight/daylight assessments
- Improvements required to the landscaping scheme
- The proposed parking in the north of the site needs to be reconfigured

During the lifetime of this pre-application the proposals were presented to Design South East Design Review Panel in April 2023. The key recommendations of the Panel were that the proposals should establish a positive frontage onto the village green, to reduce the level of parking and soften parking areas with landscaping, ensure that a high quality landscape design forms the focal point of the scheme with communal open spaces that are usable by residents and to provide a clear architectural language for the two buildings, with simple forms and materials, integrating positive frontages that respond to the landscaping. The current application seeks to respond to the recommendations set out in their report.

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for the demolition of the existing community centre and garages to the rear of Dudney Court and the erection of 2 no. three storey buildings containing 28 residential units, a replacement community centre

measuring 397 sqm and an outdoor play court, comprising a hard surface multi-use games area, and associated access routes and landscaping.

- 4.2. The proposals would provide two pavilions of 3-4 storeys, with additional lower ground floor level to the western pavilion, overlooking a central area of open space/landscaping. The scheme is landscape led and the two buildings have been purposefully designed to form a backdrop to the central landscaped external amenity space, using simple lines and materials. The low-rise nature of the proposals, predominantly comprising 3 storeys is considered to respond to the topography of the area and immediate neighbouring properties. A new pedestrian pathway would run through the centre of the site connecting the site to the wider area. Parking will be located on the periphery.
- 4.3. The proposed development will provide 28no residential units, comprising 6 x one-bedroom flats, 16 x two-bedroom flats and 6 x three-bedroom flats. This application is a council development through the New Homes for Neighbourhoods programme. All the homes to be provided will be available to those on the 'general needs' housing register for rent.

5. REPRESENTATIONS

- 5.1. **Twenty-Six (26)** letters of representation have been received objecting to the proposed development on the following grounds:
- Disruption during demolition and construction
 - Increase in parking demand and traffic flow
 - Detrimental impact on property value
 - Overdevelopment
 - Overlooking and loss of privacy
 - Reduction in capacity for local services
 - Additional on street parking will reduce access for emergency vehicles
 - Increased Antisocial behaviour
 - The area cannot accommodate so many new homes
 - Concerns over loss/reduction of community facilities
 - Loss of trees will impact biodiversity
 - Appearance is not in keeping
 - The size of the buildings is not in keeping with the Portslade Old Village
 - Concerns over drainage
 - Overshadowing
 - Balconies are out of character
 - The development does not benefit the community
 - The community centre is popular and well used
 - Lack of archaeological survey
 - Existing covenants on the land
 - Appropriate consideration has not been given to the conservation area
 - Impact on heritage assets

- 5.2. It should be noted that any covenants that exist in relation to the application site do not form a material planning consideration and would not prevent the local planning authority from determining this planning application.
- 5.3. **Four (4)** letters of representation have been received in support of the proposed development on the following grounds:
- There is an acute housing shortage
 - There is a need for affordable housing
 - The area developed is underused and derelict in its current condition
 - There is ample parking
 - Traffic issues in the area are caused by speed not the amount of development
 - There is existing overlooking between houses in the area
 - The use of brownfield sites for development is the best option and protects green land
 - The plans are sensitive to the local area
 - Provision of good quality community facilities

6. CONSULTATIONS

6.1. **Air Quality** No objection

6.2. **Arboriculture Team** No objection subject to condition
Whilst there will be significant tree removal to enable development (13 trees in total), it is agreed that these are predominantly poor quality. The proposed landscaping of 33 replacement trees is acceptable mitigation.

6.3. **Art & Culture Team** No objection
This development would not meet the minimum threshold for a financial contribution.

6.4. **City Clean** No objection

6.5. **Conservation Advisory Group** No objection
The group recommends approval and commends the excellent Design and Access statement associated with the application.

6.6. **County Archaeology** No objection subject to conditions

6.7. **County Ecology** No objection subject to conditions

6.8. **Economic Development Team** No Objection

6.9. **Environmental Health Team** No objection subject to conditions
Noise
The application is supported by a noise impact assessment, the mitigations set out in this report in addition to a robust management plan are required in relation to the new hard play court.

- Land contamination
- 6.10. The applicant should provide further documentation prior to the commencement of any works to determine the risk from the sources identified in the Environmental Risk Assessment Desk Study and any potential remedial measures to be employed if necessary.
- 6.11. **Heritage Team** No objection
The view from Portslade Green towards the development site is not identified as an important view in the Portslade Conservation Area Character Statement. It is anticipated that the development would have a minor impact and would not be considered as harmful to the character of the conservation area.
- 6.12. **Local Employment Scheme** Comment
An Employment & Training Strategy will be required to cover all relevant phases of the project.
- 6.13. A Developer contribution of £9,600 is to be paid prior to site commencement.
- 6.14. **Local Highway Authority** Initial comments 01/02/2024
Further information requested on provision for delivery vehicles on site, footpath gradients, construction access and segregated pedestrian access on Blakers Court.
- Further comments following receipt of revised information 16.05.2024
- 6.15. The application is acceptable subject to necessary conditions and S106 obligations.
- 6.16. **Planning Policy Team** No objection
The principal of redevelopment of the site for residential and community uses is supported.
- 6.17. The net loss of open space is accepted in this case based on the significant enhancements to open space the proposals would provide, including provision of new publicly accessible open space, an improved and more accessible hard-court/play area for the community use, and new pathway through the site improving permeability and legibility through the area.
- 6.18. The net loss of community floorspace is accepted, due to the provision of improved, modern replacement facilities.
- 6.19. **Southern Water** No objection subject to condition
- 6.20. **Strategic Housing and Development** No objection
This is a council development through the New Homes For Neighbourhoods programme. All of the homes will be provided at affordable rent levels and will be owned and managed by the council.
- 6.21. **Sussex Police Community Safety** No objection
The applicant is advised to take into consideration secure by design principles throughout the development.

- 6.22. **Sustainable Drainage Team** No objection subject to conditions
 The information submitted includes the surface water and foul water drainage strategy including drainage plans and accompanying information. Some additional details in relation to the disposal of foul water from this development are sought via condition.
- 6.23. **Sustainability Team** No objection subject to conditions
 The development has an excellent sustainability approach and will deliver significant cuts to carbon emissions and energy use.

7. MATERIAL CONSIDERATIONS

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

The development plan is:

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

8. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part Two

DM1	Housing Quality, Choice and Mix
DM9	Community Facilities
DM18	High quality design and places
DM20	Protection of Amenity
DM22	Landscape Design and Trees
DM26	Conservation areas
DM28	Locally Listed Heritage Assets
DM31	Archaeological Interest
DM33	Safe, Sustainable and Active Travel
DM35	Travel Plans and Transport Assessments
DM36	Parking and Servicing
DM37	Green Infrastructure and Nature Conservation
DM40	Protection of the Environment and Health - Pollution and Nuisance
DM43	Sustainable Drainage
DM44	Energy Efficiency and Renewables

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
SA6	Sustainable Neighbourhoods
CP1	Housing Delivery
CP7	Infrastructure and Developer Contributions
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP11	Flood Risk
CP12	Urban design
CP13	Public Streets and Spaces
CP14	Housing Density
CP15	Heritage
CP16	Open Space
CP17	Sports provision
CP18	Healthy City
CP19	Housing Mix
CP20	Affordable Housing

Supplementary Planning Documents:

SPD03	Construction and Demolition Waste
SPD06	Trees and Development Sites
SPD11	Nature Conservation and Development
SPD14	Parking Standards
SPD16	Sustainable Drainage
SPD17	Urban design framework

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to: the principle of development, impact to open space and community facilities, impacts on the character and appearance of the locality including the setting of heritage assets, impact on neighbouring amenity, mix and standard of accommodation of the units provided, affordable housing provision, ecology impacts, highways impacts, sustainability and archaeology.

Principle of development

- 9.2. The existing site measures 0.6ha and is owned by the council. The main site comprises a 1-2 storey community building with surrounding open space, designated as open space of the 'school grounds and sports pitch' typology, with the site providing a large multi use games area and a row of single storey garages. A separate area consisting of 8 garages and car parking is located to the south-east. In addition to the south-west is an area of open space, separated by a fence and shrubs which is also partially designated as amenity greenspace.
- 9.3. The community building is in use and is currently leased to Nautical Training Corps, according to the Planning Statement. The main area of open space adjacent to the community building predominantly comprises an area of

hardstanding/playground accessed via steps, surrounded by strips of amenity grass as well as an area of hardstanding used for parking.

Partial loss of open space

- 9.4. The proposal would result in the net loss of open space of the 'school grounds and sports pitch' typology, albeit they are of relatively poor quality, including a 700sqm area of hard court/play area. Part of the area designated as open space includes an access road and car-parking and this performs no open space function. It should also be noted that the open space is only accessible by those using the community centre and is not for general public use.
- 9.5. CPP1 Policy CP16 Open Space seeks the retention, enhancement and more effective use of all existing open space, in recognition of the open space needs of an increasing population. Policy CP16 states one of the following criteria should be met:
- a) *The loss results from a development allocation in a development plan; or*
 - b) *The site is not part of a playing field and the loss is necessary to bring about significant and demonstrable long-term enhancements to the city's public open space offer as a whole; or*
 - c) *The proposal is ancillary to the use of the open space and will only result in small loss, provides improvements to or better use of remaining space and optimises public access; or*
 - d) *The site is:*
 - o *physically incapable of meeting the city's wider open space needs;*
 - o *is not part of the beach or playing field; and in accordance with Open Space Study update 2011,*
 - o *is of poor quality without potential for improvement, there is an identified current and future surplus of all types of open space within the locality, and the importance of the site has been tested through active marketing for at least a year.*
- 9.6. In this case, it is considered that exception criteria 1b applies due to the enhancements to the public space offer that the proposal will provide. Whilst designated as open space, the area is currently not accessible to the general public and the proposals would allow for general public use of the new open space provided.
- 9.7. The applicant is proposing a new public pathway through the site which would improve legibility, permeability and access through the area to the Portslade Village Green area from the south, supporting healthy lifestyles (CP18 Healthy City), and could also help make better use of this open space. The proposals seek to provide a higher quality open space through the provision of a sensitive landscaping strategy, incorporating improved pedestrian access links, increased native planting, informal children's place space, seating areas and community planting areas. The proposed landscaping will provide both social and private spaces whilst as the same time increasing biodiversity and habitats across the site. The landscaping strategy seeks to reconnect the site to the surrounding context and provide a new area of public realm that is of high quality and can be used by the community. The proposals represent a landscape led scheme with thoughtful consideration given to the quality and character of these external

spaces. The landscaping scheme allows for quieter areas such as beneath the Alder tree and soft landscape area below to the northwest of the site and through the use of seating throughout the site. Other areas offer spaces for interaction and sociability such as the residents growing area featuring raised timber planters and the 'play on the way' children's equipment towards the north of the site.

- 9.8. The proposals include a dedicated area of open space in the form of hardstanding for a play court for the community centre's use of 425sqm, which will be directly accessible via the community halls. Given the current condition and inaccessibility of the existing hard play surface, this is considered to be a particular enhancement in comparison to the current offer.
- 9.9. The proposals also include new publicly accessible landscaped open space, as it is acknowledged that the Portslade ward has a deficiency in this typology as set out in the Open Space Study Update 2011.
- 9.10. The proposal is therefore considered to bring about significant and demonstrable benefits to the city's open space and therefore the net loss of some open space is considered acceptable in this case.

Partial loss of community floorspace

- 9.11. The proposal would demolish the existing community building which measures 556sqm and replace it with new community facilities of 397sqm within the western block at lower ground floor level. Owing to the topography of the site, the community centre would allow for direct access to the parking area and new external play space.
- 9.12. CPP2 Policy DM9.2 Community Facilities seeks to prevent the loss of community facilities. The policy sets out the following exception criteria where at least one needs to be met:
- a) *replacement facilities of an appropriate quality and size will be provided as part of new development proposals or in an alternative suitable location; or*
 - b) *the facility is no longer needed and suitable alternative provision with sufficient capacity is available in a location easily accessible to users of the facility; or*
 - c) *the building or land is no longer suitable to accommodate the current use or an alternative suitable community use and cannot be reasonably adapted to do so; or*
 - d) *it has been demonstrated that there is no current or future need or demand for the space, either in its current use or any alternative community use and evidence of active, flexible and appropriate marketing of the site for community use has been provided.*
- 9.13. In this case, it is considered that criteria (a) applies as replacement facilities are being provided as part of the proposals. The existing community centre has a floor space of 556sqm whilst the replacement facilities measure 397sqm. The new community centre will comprise a main hall, small hall, office space, kitchen, meeting room, sensory room and toilets. It is acknowledged that there is a net loss of floorspace, however this is considered acceptable on the basis that the

new facilities will provide upgraded and modern facilities, with improved accessibility in comparison to current provision.

- 9.14. The replacement facilities are considered to be of an appropriate quality and size, as required by DM9.2(a). It is also noted that the main and small hall both open directly onto an area of outside hardstanding/play space dedicated for the community centre's use. Policy DM9.1 also sets out criteria relating to the provision of new community facilities. This includes criteria (a) which requires uses to be compatible with adjoining and nearby uses. The location of the community building and dedicated outdoor space on the western side of the site and at lower ground floor level should provide a certain amount of separation between the community use and residential uses, and the dedicated access at the west of the site should facilitate access with minimal intrusion. The amenity impacts of future occupants of the residential accommodation is considered further below.

Provision of housing

- 9.15. Policy CP1 in City Plan Part One sets a minimum housing provision target of 13,200 new homes for the city up to 2030. However, on 24 March 2021 the City Plan Part One reached five years since adoption. National planning policy states that where strategic policies are more than five years old, local housing need calculated using the Government's standard method should be used in place of the local plan housing requirement. The local housing need figure for Brighton & Hove using the standard method is 2,333 homes per year. This includes a 35% uplift applied as one of the top 20 urban centres nationally.
- 9.16. The council's most recent housing land supply position is published in the SHLAA Update 2023 which shows a five-year housing supply shortfall of 7,786 (equivalent to 1.7 years of housing supply).
- 9.17. As the council is currently unable to demonstrate a five-year housing land supply, increased weight should be given to housing delivery when considering the planning balance in the determination of planning applications, in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).
- 9.18. As a windfall site, the provision of 28 dwellings, including much needed affordable housing, would make a welcome contribution to meeting the city's housing target as identified in CPP1 policy CP1, and this is given significant weight in the planning balance.
- 9.19. The proposed land uses are therefore considered to be acceptable in principle, in accordance with policies DM9 of the Brighton and Hove City Plan Part Two and policies CP1, CP16 and CP18 of the Brighton and Hove City Plan Part One.

Affordable Housing

- 9.20. City Plan Part One Policy CP20 states the following:
"The Council will require the provision of affordable housing on all sites of 5 or more dwellings (net) and will negotiate to achieve the following affordable housing targets:

- a) *40% onsite affordable housing provision on sites of 15 or more (net) dwellings;*
- b) *30% onsite affordable housing provision on sites of between 10 and 14 (net) dwellings or as an equivalent financial contribution;*
- c) *20% affordable housing as an equivalent financial contribution on sites of between 5 and 9 (net) dwellings."*

9.21. The development is required to provide 40% of the housing as affordable housing on site to comply with policy CP20 Affordable Housing. This would equate to 11 homes. As a council development, the proposals will exceed this requirement by providing 100% affordable housing (28 homes), but this would not be secured by legal agreement as this is not justified by policy, and 40% is therefore secured.

9.22. The homes will be provided at affordable rent levels and will be owned and managed by the council. This is welcomed and will be secured by Section 106 agreement.

Housing mix

9.23. The proposal would provide 6no one-bedroom flats and 16no two-bedroom flats and 6no three-bedroom flats equivalent to an approximate 21% 1 bed, 57% 2 bed and 21% 3 bed mix. Further, both the 2 bedroom and 3 bedroom dwellings are of different sizes to accommodate either 3, 4 or 5 people which is welcomed. The overall mix proposed is considered acceptable and it is welcomed that a higher proportion of housing considered suitable for families will be provided.

9.24. The supporting text of Policy CP19 states that the Housing register indicates that amongst those households identified as the highest priority need, approximately 50% need a 2 bedroom or larger property. The councils affordable housing brief sets out that preferred affordable housing mix is 30% one bed units, 45% 2 bed units and 25% 3 bed units. Whilst assessments of housing need show the highest need numerically is for smaller properties, there is also significant pressure on larger family sized homes with those on the housing register seeking a three bed property or larger having to wait significantly longer for a suitable home. The proposed mix of units within the development therefore meets the greatest demand.

Character, design and appearance

9.25. The application site is located between Windlesham Close to the west and Locks Hill to the east. To the north of the site of the site lies the Portslade Village Green, in addition to the Portslade Conservation Area which adjoins the north-east corner of the site.

9.26. The site is surrounded by residential development, with purpose-built blocks of flats to the north, south and west, comprising two or three storeys with brick finishes and pitched roof forms. To the east, properties consist of two storey terraced properties, set on a much higher land level than the application site.

- 9.27. The application site and wider flatted developments have a spacious character with areas of green amenity open space in between each block with informal pathways between the various developments.
- 9.28. As existing, the application site is dominated by large areas of hard standing with the community centre set towards the eastern boundary of the site, to the rear of properties that front Locks Hill. The proposals seek to demolish the existing development.
- 9.29. Following pre-application advice on previous iterations of the scheme, the proposed development has positively taken into account comments raised by officers at pre-application stage. The main concerns set out by officers during the pre-application stage related to the landscaping strategy across the site. Further development was requested over the different character areas that make up the landscaping, to provide both private and communal areas for residents and the wider community. This application is therefore supported by a landscape masterplan, setting out and defining these key areas such as provisions for food growth and child's play. Concerns were also raised by officers with regards to the level of parking to the north of the site, conflicting with the landscape led approach of the development. This application has reduced the level of parking to the north, providing a stronger frontage with the village green and improving the visual relationship to this space. The pre-application submission was light on information regarding materiality and appearance. The design and access statement that accompanies this application clearly sets out the design rationale for the material chosen. This application has sought to address the key recommendations set out at both the pre-application stage and design review stage, resulting in a well thought out scheme.
- 9.30. The proposals to provide a mixed-use development of residential accommodation and a community centre, present a low-rise 3/4 storey scheme with two separate buildings (east pavilion and west pavilion) and a central landscaped amenity area.
- 9.31. The height proposed is considered acceptable in response to the topography and immediate context. The topography of the site is such that the land slopes down from the east to the west. The four-storey element is contained to the western pavilion where the building is set into the site by cutting in to allow for level access to the new community centre. By taking advantage of the topography of the site, from most angles the development will appear as three storeys with the exception of the southern elevation adjacent to the proposed sports pitch and the north-west at the entrance to the development owing to the change in land levels. Nearby adjacent properties are typically 3 storeys and the separation distances between these areas of the development and neighbours are spacious. The height of the development has deliberately been reduced to the western side of the western pavilion so that no accommodation is proposed at second floor immediately behind Duney Court so that the increase in height follows the gradient of the site. Further the height of the development in the northwest is partially screened by the Alder tree to the site entrance. The spacious entrance to the site ensures that 4 storeys can be accommodated without appearing overbearing in the wider context.

- 9.32. The proposals incorporate two separate buildings, one broadly in a similar location to the existing community centre, albeit slightly further south and the second building will be situated to the west, behind Dudney Court. The residential accommodation will be split across the buildings with the community centre and play court provided at lower ground floor level within the western block.
- 9.33. A new vehicle access route is proposed off the existing access to the site, to the rear of Dudney Court to provide access to the parking associated with the community use. Further community use parking and spaces for deliveries is proposed to the north of the site. Residential parking is proposed within the south-east corner of the site between the eastern building proposed and Kemps Court to the south.
- 9.34. The central part of the site will form landscaped amenity greenspace. Creating a connection between Windlesham Close and the village green sensitively unlocks the site forming a public realm green corridor. It is considered that a careful balance has been found between the proposed massing and retention of open space.
- 9.35. Given the extensive landscaping on this site and the provision of a community centre with dedicated outdoor play space, the site would provide a dwelling density of 47dph. Whilst this is slightly less than the 50dph required by policy CP14 of the City Plan Part 1, this density is considered acceptable in this instance given the provision of other uses in the scheme. Further, consideration has been given to the site's location adjacent to the Conservation Area and the existing density of surrounding residential accommodation.
- 9.36. The principle of two pavilions is considered acceptable. It has previously been suggested by urban design officers and those who were on the Design Review Panel that the buildings act as pavilions in the landscape. Thus, the buildings form the backdrop to the landscaping design by making use of simple forms and a limited palette of materials. The proposed materials provide a contemporary interpretation of prevailing materials that exist within the Portslade Conservation Area. Historical local precedents include flint, sandstone and brick with yellow and light grey hues. Throughout the wider area this is mixed with red brick tones. Many of the surrounding residential blocks in the immediate vicinity adopt similar tones. A light colour buff brick is the predominant facing material, acting as a muted backdrop to the colours of the landscape and reflects the lighter tones of the sandstone and flint used within the conservation area. The lower ground floor of the western pavilion will be faced in red brick work offering a visual marker to the location and use of the community centre. This and the coloured window frames used throughout the development are to tie in with local red brickwork.
- 9.37. The internal layouts, fenestration and elevation treatment have been developed in response to the landscaping. The elevations are designed so that each has a coherent rhythm and that active frontages are provided throughout the development. The scheme has been designed so that the proposals encourage passive surveillance with positive frontages to the village green and site

entrance to the north-west with overlooking from some of the flats to these public areas.

- 9.38. The north elevation of the eastern pavilion has a prominent role overlooking the village green which contributes to the setting of the conservation area. As existing the site has a back of house appearance to the village green. The proposed development seeks to allow the village green to permeate the site with the east pavilion set back and a woodland buffer area proposed at the sites entrance. This area of the site allows for sculptures and a place for children to play to ensure that the scheme is coherent within the wider area and a sense of place is established.
- 9.39. Views into the site from within the conservation area are limited due to the screening provided by existing mature trees that surround the green. This screening will be extended through the introduction of a new woodland buffer on the site. The Heritage officer has confirmed that the view towards the west/south from the village green to the development does not form a key view within the Conservation Area Character Statement. Views of the development have been provided within the design and access statement. It is acknowledged that there is the potential for increased scale to have some level of impact on the setting of the conservation area however, the Heritage Team consider this impact to be minor. The harm to heritage assets is less than substantial and the scheme provides significant public benefits.
- 9.40. Concerns have been raised by the public with regards to the impact on the nearby heritage assets. In considering whether to grant planning permission for development which affects a listed building or its setting, the Council has a statutory duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Case law has held that the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses should be given 'considerable importance and weight.'
- 9.41. The nearest heritage assets are Manor Lodge, a listed building, which lies to the north-east of the site and Whyhcote a locally listed building which lies to the north of the village green. These buildings are visually separated from the application site by in excess of 90m, by the main road (Locks Hill), high boundary treatments and mature shrubs and trees. Given the set back of these buildings from the main road and the separation afforded by the village green, it is noted considered that the proposed development would result in harm to the setting of this heritage asset.
- 9.42. It is considered that the proposed development provides a high-quality scheme that responds to the topography and character of the local area, providing sympathetic buildings within a landscape led scheme. The proposal will provide enhancements, which are welcomed. The proposed development is therefore considered to be in accordance with policies DM18, DM22, DM26 and DM28 of the Brighton and Hove City Plan Part Two and policies CP12, CP14 and CP15 of the Brighton and Hove City Plan Part One.

Standard of accommodation for prospective residents

Space standards

- 9.43. All units would meet the Nationally Described Space Standards, as required by Policy DM1. Each unit comprises an open plan kitchen/dining living area. Indicative furniture layouts demonstrate how these rooms can accommodate the furniture items likely to be required by future occupiers. Whilst these primary living areas have deep floor plans, each of these living areas benefits from dual aspect. In addition, each bedroom proposed meets or exceeds the minimum required standards. Sufficient storage space is also incorporated into each dwelling.

Daylight and Sunlight standards

- 9.44. A daylight and sunlight study has been undertaken to ensure that future occupiers of the development will receive adequate levels of natural light. Across the development 84 rooms were tested for daylight provision, with 83 of the rooms surpassing minimum BRE illuminance recommendations. The exception is one bedroom located within unit 9 at ground floor level. This room will achieve a lux of 89 rather than the 100 lux target.
- 9.45. Given that natural light to bedrooms is less important than the main living areas and that the development overall achieves 99% compliance, on balance this is considered acceptable.
- 9.46. BRE Guidance states that a dwelling will appear reasonably sunlit provided one main window wall faces within 90 degrees of due south and a habitable room can receive a total of at least 1.5 hours of sunlight on the 21st of March.
- 9.47. In terms of sunlight, 25 of the 28 residential units have a habitable room window which faces within 90 degrees of due south and 26 of the units have a habitable room (predominantly living rooms) which receive the minimum sunlight hours required.
- 9.48. Two of the units, ground floor unit 9 and first floor unit 19, do not meet the sunlight tests as these two units are the only ones where all windows face within 90 degrees of due north and therefore have natural barriers to sunlight due to orientation. Given the overall compliance of 93% across the development, and the good daylight levels overall, on balance this is considered acceptable.
- 9.49. The window openings throughout the development allow for sufficient outlook within each habitable room. The majority of units benefit from some level of outlook over the landscaped gardens.
- 9.50. Whilst noted that not every unit will achieve maximum sunlight/daylight standards, on balance given the overall level of the standard of accommodation to include compliant internal floor areas, outlook and amenity space, the proposals are considered acceptable. Further the layout of the development ensures the effective and efficient use of the site.

Outdoor amenity space and privacy

- 9.51. All units have private outdoor amenity space in the form of either a balcony or patio, which meets the requirements of DM1(f) and this is welcomed. The ground floor private amenity spaces within the eastern pavilion measure between 12sqm and 21sqm, whilst those in the western pavilion, above the community centre are typical of balconies providing approximately 6sqm of external space. The two units that face east however, do comprises amenity spaces in excess of 12sqm. The balconies at first and second floor provide 6.2sqm of external amenity space. Consideration has been given to the privacy of ground floor residents whose private external amenity space is located adjacent to the wider public amenity areas. Low level hedging surrounding the ground floor patios provides privacy planting to the thresholds of these areas.
- 9.52. The two buildings on the site are separated by the central amenity green space. This landscaped area allows for a minimum separation distance of 15m between the two blocks at the northern end and 17.5m towards the southern end. Due to the orientation of the two pavilions, the only direct overlooking between residential units is to the southern end of the site. Given the separation distance between these properties, the level of overlooking between residential units is considered to be sufficiently mitigated to ensure no loss of privacy would occur to future occupiers.

Noise

- 9.53. As required by policy DM9, it must be ensured that the proposed community use is compatible with the proposed residential accommodation on the floors above.
- 9.54. This proposal reintroduces a hard stand pitch associated with the community use, with new receptors in the 2 new blocks of residential accommodation. To reduce to a minimum the adverse impact on the new residential accommodation, noise assessments have been undertaken. The applicant has submitted a Noise Impact Assessment and this document indicates that criteria in the BS8233:2014 - Guidance on Sound Insulation and Noise Reduction for Buildings can be achieved even with windows left open.
- 9.55. To predict the noise impact on the amenity of future occupiers from the reintroduced hard stand play area, a computer modelling was carried out using the worst-case noise scenario from a multi-use games area , in accordance with the Sports England Guidance. From the modelling, the middle of the hall access doors at lower ground floor with a level of 63dB LAeq,1 hour and Kitchen Living Diner at the Southwest corner, 61.8dB LAeq, 1 hour were the worst- case scenarios. The author has recommended that more robust glazing is provided for living rooms overlooking the play court, and this can be conditioned.
- 9.56. The noise contours also show that levels reaching the bedrooms and kitchen/diner/lounge of the ground floor (G.01) of the West Pavilion are in the 55 to 60 dB range, even though, they do not overlook the play court. More robust protection in the form of glazing with higher Sound Reduction Index will be required for this part of the development too.
- 9.57. The report concludes that balconies in the West Pavilion, overlooking the court will be unusable at times when the play area is in use. The BS 8233: 2014

specifies that in high- noise areas, consideration should be given to protecting outdoor amenities such as balconies, roof gardens and terraces by screening or building design to achieve the lowest practicable levels. Noise levels should ideally not be above the range 50 - 55 dB LAeq,16hr but where this is unachievable, adverse noise impacts may be partially offset if residents are provided access to a relatively quiet alternative space, such as the public landscaped gardens. Conditions are sought for mitigation measures to ensure adequate protection is provided for the balconies and internal spaces in the western pavilion block.

- 9.58. Conditions can address the above, and also restrict hours of use of outside court, to protect amenity.

Accessibility

- 9.59. Policy DM1(e) states that all developments are required to provide 5% wheelchair adaptable homes overall and 10% of affordable housing for rent should be wheelchair adapted at the outset.
- 9.60. This development will provide 3 wheelchair adapted homes (1 x one bed, 1 x two bed and 1 x three bed) which is 10% of the development overall and is welcomed.
- 9.61. The proposed development is acceptable subject to the inclusion of conditions and therefore considered to be in accordance with policies DM1, DM20 and DM40 of the Brighton and Hove City Plan Part Two.

Impact on amenity of occupiers of existing neighbouring properties

Noise Impact

- 9.62. The proposal includes the reintroduction of a hard stand pitch in an area with already existing sensitive receptors, which include Kemps Court and Dudney Court within 50m of the site. Therefore, to reduce to a minimum the adverse impact on existing receptors as a result of the proposed development, noise assessments have been undertaken to take into consideration all possible noise sources. Although, the pitch previously existed on the site, it must be demonstrated that this new facility does not present an unacceptable risk, considering its closer proximity to existing properties and a possible increase in the frequency of its use.
- 9.63. The applicant has submitted a Noise Impact Assessment, as listed above, to predict the noise impact on neighbouring amenity from the reintroduced hard stand play area. Whilst the worst-case scenarios affect the new development, typical noise contours indicate that residents of Dudney Court and Kemps Court could be affected by levels higher than 50dB. The level of impact from the reintroduced play court will depend on its management, usage and mitigation measures proposed to further reduce the noise from ball impacts. Robust conditions are sought to obtain these further details.

Sunlight/Daylight

- 9.64. A sunlight and daylight report has been submitted in support of this application which has undertaken an assessment on neighbouring properties within Lindfield, Dudney Court, Kemps Court and 74-82 Locks Hill.
- 9.65. All relevant neighbouring windows assessed, with a requirement for daylight, pass the vertical sky component test. A daylight distribution test has also been undertaken where room layouts are known. In these instances, all rooms pass the daylight distribution test.
- 9.66. In terms of sunlight, all rooms that face within 90 degrees of due south have been tested for direct sunlight. All windows with a requirement for sunlight pass both the total annual sunlight hours test and the winter sunlight hours test, thereby satisfying the BRE guidelines.
- 9.67. Further, all gardens and open spaces of these neighbouring properties also meet the BRE recommendations.

Privacy and outlook

- 9.68. To the east, the proposed eastern pavilion is set 5m from the shared boundary with No. 78 Locks Hill. Towards the south, the separation distance of the eastern pavilion increases to 15m from the rear boundary of No's 74 and 76 Locks Hill.
- 9.69. Owing to the topography of the area, those properties fronting Locks Hill are set on a much higher land level than the application site. As shown on the section drawings and contextual elevations, the land at the rear boundary of properties on Locks Hill measures 2.3m higher than the application site. As a result, the boundary fence to the rear of 78 Locks Hill is level with the middle point of the first-floor windows on the eastern elevation of the eastern pavilion. The levels are such that the ridge height of the development is level with the eaves height of No.78 Locks Hill.
- 9.70. It is acknowledged that a number of window openings are proposed on the eastern elevation of the eastern pavilion facing properties on Locks Hill. Within the built form nearest these neighbouring properties, 5 windows are proposed at first floor and also at second floor level to serve living rooms and bedrooms. Given the height difference, views out of the first-floor windows are partially obscured by the shared boundary treatment. Whilst views would be had from the second-floor windows, this would largely be over the rear most part of the garden to No.78 Locks Hill. Views from the new dwellings into No.78 would be limited given a separation distance of 39m between the built forms.
- 9.71. During the lifetime of the application, amendments have been received to reduce the amenity impact on neighbouring properties on Locks Hill. The scheme originally included two balconies to the eastern elevation at first and second floor which have since been relocated to the southern elevation, overlooking the proposed parking area. Whilst some views towards the rear elevations of properties on Locks Hill may be had, these have been significantly reduced and are now not considered to result in significant harm to these neighbouring properties.

- 9.72. The southern portion of the eastern pavilion would be situated some 15m from the shared boundary with No. 76 Locks Hill. Again, any views from these windows would largely be over the rear most part of neighbouring gardens. The development would retain a separation distance in excess of 45m from the rear elevation of No.76.
- 9.73. Given the separation distances to neighbouring properties, in conjunction with the land levels between the application site and Locks Hill, the proposed development is not considered to result in an overbearing impact to these adjacent properties.
- 9.74. The nearest residential accommodation to the south of the site is Kemps Court, a three-storey flatted development. The north-eastern corner of this neighbouring development is situated approximately 12.5m from the southern end of the eastern pavilion proposed, whilst the element of Kemps Court most likely to be impacted is situated 20m from the eastern pavilion but located directly opposite the proposals. The proposals have been deliberately offset from the trunk of Kemps Court nearest the site to avoid a reduction in outlook to these properties. The distance of 20m to the properties directly opposite ensures that sufficient separation is had between neighbouring properties to prevent harmful overlooking. The proposed balconies at first and second floor have been sited such that views to the south would largely be over the parking area, away from window openings in Kemps Court.
- 9.75. To the west of the development lies Dudney Court, a three-storey flatted development with communal gardens to the rear. The proposed western pavilion would be situated 13m from the shared boundary with this neighbouring property and 21m from the rear elevations of the flats within this neighbouring development. The western block would be separated from the rear of Dudney Court by the community centre parking. This is not dissimilar to the existing arrangement which features an access route and garages to the rear of this block.
- 9.76. The western elevation of the west pavilion would feature window openings within the new residential units at first and second floor level. These window openings would serve living areas and bedrooms. It is acknowledged that the proposals would result in an increase in overlooking when compared to the existing situation however, given the separation distance and number of windows proposed this is not considered to be to such a degree that would cause significant harm to neighbouring amenity.
- 9.77. To the north of the site is Linfield, which forms two storey residential accommodation in an L shape footprint. This neighbouring property is situated 17m from the nearest point of the western pavilion. The two developments would be separated by the access road and parking area for the development. Further, owing to the orientation of the western pavilion, no direct overlooking would occur to these neighbouring properties.
- 9.78. Subject to appropriate conditions the proposed development is not considered to result in significant harm to the amenities of neighbouring properties and as

such the development is in accordance with policies DM20 and DM40 of the Brighton and Hove City Plan Part 2.

Ecology and trees

- 9.79. Policies CP10 and DM37 state that development should conserve biodiversity, protecting it from the negative indirect effects of development. Applications should therefore provide net gains for biodiversity wherever possible to enhance biodiversity on site.

Ecology

- 9.80. The application is supported by an Ecological Design Strategy and Biodiversity net gain (BNG) assessment which detail a range of enhancement measures. Further enhancements are recommended and are secured by condition to include bat boxes, bird boxes and creation of habitat log piles. The long-term management of these newly created habitats is secured by condition in addition to a financial contribution for the ongoing monitoring of these habitats via the S106 agreement. The information provided under this application demonstrates that a BNG in excess of 10% is achieved (approx. 30%), in accordance with local and national policy. Provision of on-site BNG is particularly welcomed.
- 9.81. The habitats of greatest significance on the site are scattered trees and hedgerows. Hedgerow identified as H1 will be retained as will two of the mature trees in accordance with the Arboricultural survey and report.
- 9.82. All buildings proposed for demolition were assessed as offering negligible bat roost potential in the Preliminary Ecological Appraisal. One Alder tree on site identified as T2 was assessed as offering low bat roost potential. This tree is to be retained.
- 9.83. Consideration has been given to the potential for amphibians, badgers and birds. In this instance, the standard safeguards for these animals should be implemented.
- 9.84. The County Ecologist raises no objection to the proposal, subject to appropriate conditions and monitoring.

Trees

- 9.85. The application is supported by an Arboricultural Impact assessment. Thirteen trees have been identified for removal to enable the redevelopment of the site. The following tree species are to be removed, 1 x Rowan, 1 x Ash, 1 x Holly, 1 x Lime, 3 x Cherry and 6 x Sycamore. Three of these trees are considered to fall under category B whilst 10 are Category C. The majority of the trees are therefore in a poor condition, and this is confirmed by the councils Arboriculturalist. Whilst the loss of these trees is regrettable, subject to mitigation planting, to include 33 replacement trees, the removal of these trees is acceptable.
- 9.86. Further details of the size and species to be provided are sought by condition.

- 9.87. The proposals are therefore considered to be in accordance with policies CP10 of the City Plan Part One and DM22 and DM37 of the City Plan Part 2 and Supplementary Planning Document 11.

Sustainable transport

Site access

- 9.88. Access will remain as existing with two separate entrances, primary access is via Lindfield from Windlesham Close and access to the residential and blue badge parking from Locks Hill to Blakers Court. No improvements are proposed for vehicular access which is acceptable. The access to Blakers Court provides access for City Clean and although the development may intensify this, the arrangements are deemed acceptable.
- 9.89. Highways officers initially requested the provision of a segregated pedestrian access along the Blakers Court Car Park access to the south east of the site. This has been investigated by the applicant and found to be unachievable due to established trees and existing use of the route by neighbouring residences as amenity space. As a result, the access to the south east of the site will form a mixed use space for vehicles, pedestrians, cyclists and all road users. Given that use of this route will increase following occupation, a scheme of traffic calming measures, road markings and signage are secured to minimise vehicular speeds and raise awareness of the mixed use.
- 9.90. A public right of way (PRoW), footpath 49, runs along the northeast boundary of the site and provides a pedestrian link connecting South Street to Locks Hill. Further, the footway on Locks Hill at the crossing point of Blakers Court does not currently benefit from dropped kerbs. To allow for pedestrian use of this route, these are secured via condition and S278 agreement.
- 9.91. The new proposed public pathway crossing the application site links to this path through the centre of the two buildings to Windlesham Close. This will require an access agreement or permissive path agreement to be secured by S106.

Delivery and service vehicles

- 9.92. Amendments have been received for a new bin store location to the northern edge of the site. Swept path drawings have been provided for fire tenders demonstrating that there will be room for turning for refuse vehicles adjacent to the communal bin store. This arrangement is acceptable.
- 9.93. The site plan has been amended and a car parking space to the north of the site, previously allocated for the community centre, is now marked as a loading bay. The bay does not appear to be of a sufficient size and no swept path analysis has been provided. Therefore a car park layout condition is attached to ensure an improved arrangement is arrived at.

Parking provision

- 9.94. Improved long term cycle parking facilities have been proposed which is welcomed. At present Sheffield stands do not form the majority of cycle parking provision. It appears however that there is adequate space to achieve an

acceptable layout for Sheffield stands. A condition is attached to seek further details.

- 9.95. The cycle parking location proposed for the community centre is considered acceptable. Further, shower and locker facilities have been included within the community centre which is welcomed and acceptable to the local highway authority.
- 9.96. Disabled parking has been proposed in line with the minimum policy provision which is considered acceptable. Exact layouts and dimensions are conditioned via the car park layout condition attached.
- 9.97. In respect of the residential use, 13 spaces are proposed comprising 12 spaces in Blakers Court, of which 3 are blue badge (replacing existing 8 garages owned by BHCC), and a single disabled space in Lindfield. 13 spaces for 28 residences makes this a car light scheme, something that can be accepted if provisions are made to support active travel and public transport usage.
- 9.98. In respect of the community use, 10 spaces are proposed (split 6 west : 4 north) of which 3 are disabled spaces.
- 9.99. A car park management plan is sought by condition to confirm how the assumptions set out in the Transport Statement will be ensured and how the allocation of onsite parking will be managed.

Travel forecasts and operational impact

- 9.100. In terms of trip generation, the level proposed in connection with the community centre is likely to be low. Whilst it is possible that the new facility will attract more visitors than the existing one, the total floor space is decreasing and so any increase is likely to be negligible.
- 9.101. The trip generation for the residential use is not likely to have a severe impact on the surrounding transport networks.
- 9.102. A parking survey has been submitted in support of this application. The survey undertaken indicates that the likely overspill from the proposed residential development can be accommodated by on street parking without risk to highway safety. In order to allow for any overspill parking to be managed and monitored, a car park management plan is sought by condition in addition to a travel plan.
- 9.103. Provision of a car club bay is considered to improve equality of access to travel but also provides an alternative to owning a car and this would mitigate the risk from overspill parking to highway safety. Provision of a car club bay is secured as part of the S106 agreement.

Public transport

- 9.104. The site benefits from acceptable public transport links. The nearest bus stops are a 2 minute walk through Portslade Village Green which will be directly accessed via the new footpath connection. Further Fishersgate railway station is accessible within a 15 minute walk.

9.105. The proposals are therefore considered to comply with policies CP9, DM33, DM35 and DM36.

Sustainability

9.106. A comprehensive and informative range of reports has been submitted to help assess the energy impact, sustainability, and embodied carbon of the development.

9.107. The council's Sustainability officer considers that the development has an excellent sustainability approach and will deliver significant cuts to carbon emissions and energy use.

9.108. Whilst the proposal does involve demolition of existing buildings that are currently in use, the proposals would replace and enhance the facility with modern premises and make significantly more effective use of the site, which is welcomed.

9.109. The development is proposed to deliver savings of 64% carbon emissions from the baseline. This is achieved through a combination of good thermal efficient construction values, high efficiency lighting, space heating controls and smart meters for residents, and a site-wide ground source heat pump system for heating and hot water. The carbon emissions savings amply exceed the CP8 policy requirements. A condition to ensure that all the dwellings achieve an EPC rating of B is also sought.

9.110. The ventilation strategy balances providing natural daylight with openable windows; reducing potential for internal and external overheating. An overheating assessment confirms that all the dwellings and rooms will not overheat under current summer conditions and is thus compliant with Building Regulations Part O.

9.111. An extensive roof-mounted solar PV array is proposed, and an indicative layout provided. This is welcomed and a condition is sought to secure the final layout of the solar installation.

9.112. The non-residential part of the development, comprising the community meeting halls, circulation space and utilities, is 397 sqm in size. As a result, there is a policy requirement for the development to achieve a BREEAM rating of 'Very Good' which is secured by condition.

9.113. The proposals are therefore considered to comply with policies CP8 and DM44 of the City Plan.

Sustainable drainage

9.114. Much of the site is indicated as being at low risk of surface water flooding. Only the far western part of the site, where no development is proposed, is at a higher risk. This application is supported by a flood risk assessment and drainage strategy.

- 9.115. Intrusive ground surveys have already taken place on site to assess the risk from groundwater flooding. It is however recommended, that further testing is undertaken to demonstrate a lack of risk to the lower ground floor (Community centre use) from groundwater flooding in winter months. Depending on the results of this, further mitigation measures within the construction may be necessary. This is secured by condition.
- 9.116. There are no records of flooding from any source occurring close to the site and the drainage team agree that the site is at a negligible risk of flooding from all other sources.
- 9.117. The proposed drainage system is for all surface and roof water to be infiltrated through a new cellular crate soakaway. Roof water will be captured through downpipes, and surface water will be captured through permeable paving.
- 9.118. Foul waters are proposed to be discharged to the adjacent public foul water sewer in Windlesham close via an existing a new connection on site. Further information is sought by condition to include a CCTV survey of all existing pipes to assess their condition and updated peak discharge rates.

Other

Archaeology

- 9.119. The application is supported by an Archaeological Desk-based assessment. This report presents a broadly acceptable assessment of the sites archaeological potential.
- 9.120. In light of the potential for impacts to heritage assets with archaeological interest resulting from the proposed development, conditions are recommended to ensure that any archaeological deposits and features are either preserved in situ or where this can't be achieved, adequately recorded in advance of their loss.

Conclusion

- 9.121. The partial loss of open space is considered acceptable based on the significant enhancements to the open space the proposals would provide. Further, the net loss of community floor space is accepted due to the provision of improved modern facilities. The provision of 28 affordable dwellings would make a welcome contribution to the city's housing target and in particular would help to meet the need for affordable housing, providing public benefit – significant weight is given to housing provision in the planning balance.
- 9.122. The landscape led approach to the scheme is welcomed in line with comments from the design officer and the design review panel. The pavilion buildings proposed have been sensitively designed to respond to the landscape and to reduce any potential impact on neighbouring amenity. Subject to appropriate conditions the development would not cause any significant harm to neighbouring amenity.

- 9.123. The proposals provide an appropriate mix of housing sizes with each unit meeting the nationally described space standards providing an acceptable level of accommodation for future occupiers.
- 9.124. The development would provide ecological benefit providing an uplift in both habitats and hedgerow and would incorporate a sensitive landscaping scheme to include the provision of 33 new trees.
- 9.125. The proposed development is considered to be in accordance with development plan policies and subject to necessary conditions and the heads of terms is considered acceptable.

10. EQUALITIES

- 10.1. Section 149(1) of the Equality Act 2010 provides:
- 1) A public authority must, in the exercise of its functions, have due regard to the need to—
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 10.2. Officers have considered the information provided by the applicant, together with the responses from consultees in addition to the representations made by third parties.
- 10.3. All of the 28 flats will be M4(2) compliant with the exception of 4 units which are located over the community centre and are accessed only by a half landing resulting in a stepped entrance. The internal spaces in these units are however designed to meet M4(2) standards. 3 of the flats on the ground floor will be M4(3) compliant with independent access, parking and refuse storage.

11. S106 AGREEMENT

- 11.1. In the event that the draft S106 Agreement has not been signed by all parties by the date set out above, the application shall be refused for the following reason:
1. The proposed development fails to provide a mechanism by which to secure affordable housing, or a financial contribution towards it in the city, in case of the viability situation changing, contrary to Policies CP7 and CP20 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.
 2. The proposed development fails provide a financial contribution towards the City Council's Local Employment Scheme to support local people to employment within the construction industry contrary to policy CP7 of the

Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.

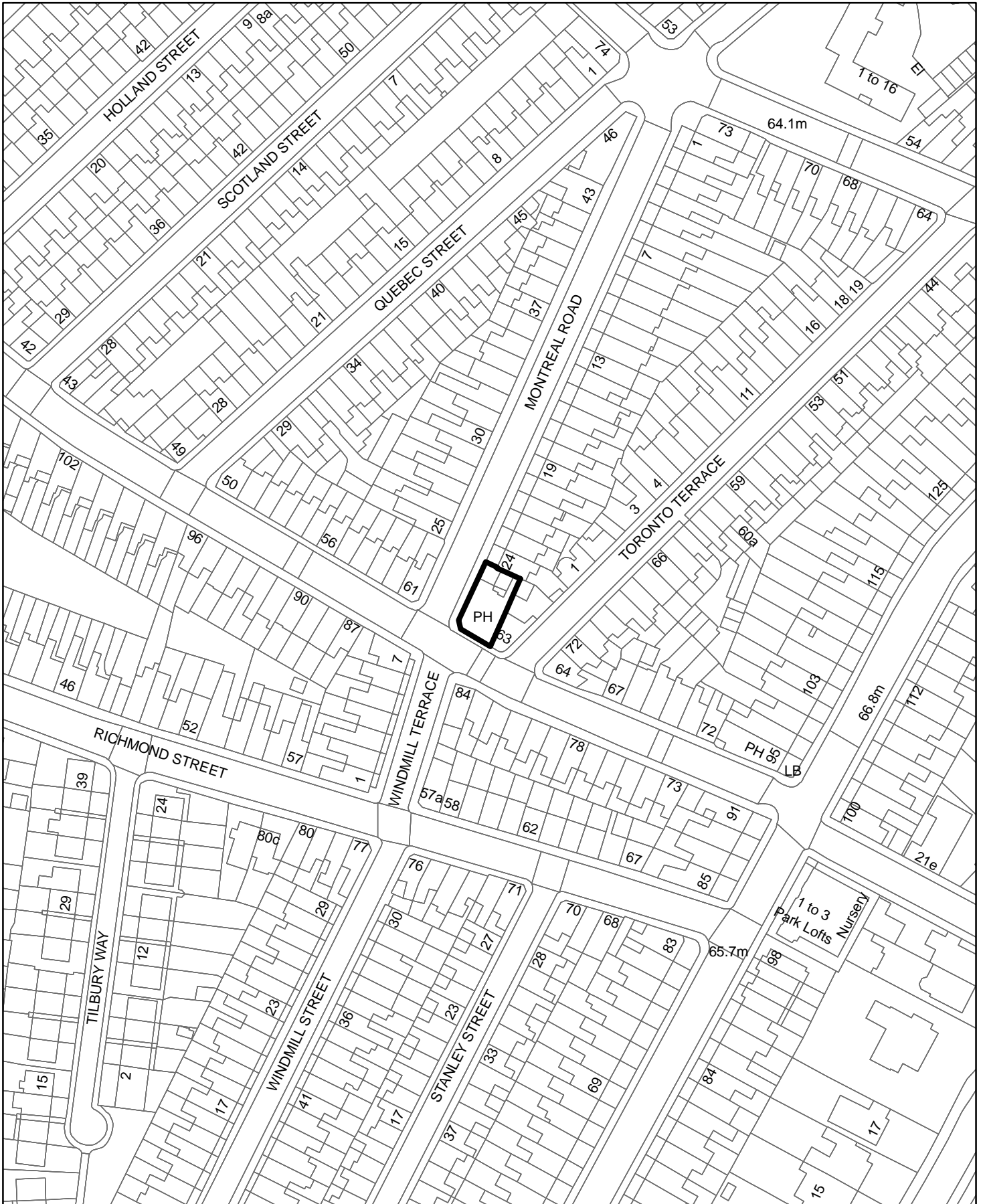
3. The proposed development fails to provide an Employment and Training Strategy specifying how the developer or their main contractors will provide opportunities for local people to gain employment or training on the construction phase of the proposed development contrary to policy CP7 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.
4. The proposed development fails to provide a mechanism (via S106 legal agreement) to secure a financial contribution for management and monitoring of the S106, this would include the necessary financial contribution to provide on-going assessment and monitoring of the Biodiversity Net Gain measures. The proposal therefore fails to address the requirements of Policies CP7 and CP10 of the Brighton and Hove City Plan Part One or DM37 of City Plan Part Two and the council's Developer Contributions Technical Guidance 2020.
5. The proposed development fails to provide a mechanism (via S106 legal agreement) to secure a financial contribution for management and monitoring of the S106, this would include the necessary financial contribution to provide on-going assessment and monitoring of secured travel plan. The proposal therefore fails to address the requirements of Policies CP7 and CP9 of the Brighton and Hove City Plan Part One or DM33 of City Plan Part Two and the council's Developer Contributions Technical Guidance 2020.

ITEM C

**62 Albion Hill
BH2024/00507
Full Planning**

DATE OF COMMITTEE: 5th June 2024

BH2024 00507 - 62 Albion Hill



<u>No:</u>	BH2024/00507	<u>Ward:</u>	Hanover & Elm Grove Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	62 Albion Hill Brighton BN2 9NX		
<u>Proposal:</u>	Renovation of existing public house (sui generis) including internal alterations to the existing first floor ancillary landlords/Managers accommodation (sui generis) with part demolition and erection of ground floor and first floor extensions, replacement windows and doors, facade alterations, roof alterations including raising the roof ridge height and all associated works.		
<u>Officer:</u>	Steven Dover, tel:	<u>Valid Date:</u>	12.03.2024
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	07.05.2024
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	07.06.2024
<u>Agent:</u>	N/A		
<u>Applicant:</u>	Dragonfly Architectural Services Limited 62 Albion Hill Brighton BN2 9NX		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

Reason: For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
Location and block plan	124 - PR - 001		6 March 2024
Block Plan	124 - 01EX - 101		26 February 2024
Proposed Drawing	124 - 01PR - 101		3 May 2024

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

3. The development hereby permitted shall not be commenced until samples/details of the following materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority:

- a) samples/details of render and roof tiling (including details of the colour of render/paintwork to be used)

- b) samples/details of all glazed tile cladding to be used, with comparison examples of original historic tiles including, if necessary, tiles containing lettering, fascia brackets and the profiled string courses.
- c) samples/details of all hard surfacing materials. Development shall be carried out in strict accordance with the approved details.

Reason: To ensure the satisfactory replication of elements of this locally listed building and to comply with policy DM28 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One

4. Notwithstanding the approved plans, prior to any internal or external works to the western and southern elevations, a full photographic survey of the existing glazed ceramic tiling and lettering on the façade of the building shall be carried out and submitted to the Local Planning Authority (LPA) for approval, with details of those tiles due to be replaced due to unauthorised removal or currently missing, details of those tiles to be repaired or reinstated due to existing damage, and details of those tiles which are proposed to be removed to facilitate the approved works, and for their replacement or repair to be agreed in writing by the LPA prior to any internal or external works to the western and southern elevations. The works to these elevations shall then be carried out in full accordance with approved details, unless otherwise agreed in writing by the LPA. All replacement tiling and lettering shall be replicated in font, size, colour, material and finish to match the existing.

Reason: To ensure the satisfactory retention and replication of elements of this locally listed building and to comply with policy DM28 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One

5. The development hereby permitted shall not be first occupied until details of secure cycle parking facilities for the occupants of, and visitors to, the development have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.

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

6. The hard surfaces within the landscaping shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.

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

7. All new render finishes shall be smooth, lime-based, wet render without external beads, stops, bell drips or expansion joints.

Reason: To ensure the satisfactory preservation of this locally listed building to comply with policies DM28 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part one.

8. No works shall take place to the windows until full details of all new windows and their reveals and cills including 1:20 scale elevational drawings and sections and 1:1 scale joinery sections have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out and completed fully in accordance with the approved details and maintained and retained as such thereafter.
Reason: To ensure the satisfactory preservation of this listed building and to comply with policies DM27 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.
9. No works shall take place to the doors until full details of the proposed new doors including 1:20 scale sample elevations and 1:1 scale joinery profiles have been submitted to and approved in writing by the Local Planning Authority. New doors shall be of traditional timber panel construction.
Reason: To ensure the satisfactory preservation of this listed building and to comply with policies DM27 of Brighton & Hove City Plan Part 2 and CP15 of the Brighton & Hove City Plan Part One.
10. If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority), shall be carried out until a method statement identifying and assessing the risk and proposing remediation measures, together with a programme for such works, shall be submitted to the Local Planning Authority for approval in writing. The remediation measures shall be carried out as approved and in accordance with the approved programme.
Reason: To safeguard the health of future residents or occupiers of the site and to comply with policy DM41 of City Plan Part 2, and SU11 of the Brighton & Hove Local Plan.
11. The development hereby approved shall not be occupied until a report and scheme for the proposed Soundproofing the Party Walls/Floors between the ground floor public house the first floor ancillary residential unit and the party walls of No.63 Albion Hill has been submitted to and approved in writing by the Local Planning Authority.
Unless otherwise agreed in writing, the submitted scheme shall demonstrate it would achieve a minimum of 5dB(A) better than Approved Document E in terms of horizontal and vertical airborne sound insulation performance. The approved scheme shall be permanently maintained thereafter. The developer shall certify to the Local Planning Authority that the noise mitigation measures agreed have been installed.
Reason: To safeguard the amenities of the occupiers of future occupants and neighbouring properties and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.
12. Prior to first use of any plant or machinery associated with the approved development an acoustic report should be submitted to the Local Planning Authority demonstrating that noise associated with plant and machinery incorporated within the development shall be controlled such that the Rating Level measured or calculated at 1-metre from the façade of the nearest existing

noise sensitive premises, shall not exceed the existing LA90 background noise level, and retained as such thereafter. The Rating Level and existing background noise levels are to be determined as per the guidance provided in BS4142:2014-A1:2019 (or the relevant updated Standard). In addition, there should be no significant low frequency tones present.

Reason: To safeguard the amenities of future occupants and neighbouring properties and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.

13. The development hereby approved shall be implemented in strict accordance with the internal layouts detailed on the proposed floorplans (124-01PR-101) received on 03/05/2024. The internal layouts shall be retained as first implemented thereafter.

Reason: To ensure an acceptable standard of accommodation for future occupiers is provided and maintained thereafter and to comply with policy DM1 of the Brighton and Hove City Plan Part Two.

14. The ground floor outdoor area to the rear of the public house as detailed 'Pub Private Access/Store' and 'Accommodation External Storage' on approved plan reference number: 124-01PR-101 received on the 3rd May 2024, shall only be used for storage and access, and not as outdoor amenity space for users of the building or staff at anytime.

Reason: To safeguard the amenities of future occupants and neighbouring properties and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.

15. The development hereby permitted shall incorporate at least three (3) swift bricks within the external walls of the development and shall be retained thereafter.

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

16. One or more bee bricks shall be incorporated within the external wall of the development hereby approved and shall be retained thereafter.

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

Informatives:

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

2. Where asbestos is found/suspected on site, it will fall under the Control of Asbestos Regulations 2012, overseen by the Health and Safety Executive. Further information can be found here: www.hse.gov.uk/asbestos.
3. The applicant should be aware that the site may be in a radon affected area. If the probability of exceeding the Action level is 3% or more in England and Wales, basic preventative measures are required in new houses, extensions, conversions and refurbishments (BRE2011). Radon protection requirements should be agreed with Building Control. More information on radon levels is available at <https://www.ukradon.org/information/ukmaps>
4. The applicant is advised that advice regarding permeable and porous hard surfaces can be found in the Department of Communities and Local Government document 'Guidance on the permeable surfacing of front gardens'.
5. Swift bricks/boxes can be placed on any elevation, but ideally under shade-casting eaves. They should be installed in groups of at least three, at a height of approximately 5 metres above ground level, and preferably with a 5m clearance between the host building and other buildings or obstructions. Where possible avoid siting them above windows or doors. Swift bricks should be used unless these are not practical due to the nature of construction, in which case alternative designs of suitable swift boxes should be provided in their place where appropriate.
6. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.
7. The applicant is advised that this planning permission does not override the need to obtain a licence under the Licensing Act 2003. Please contact the Council's Licensing team for further information. Their address is Environmental Health & Licensing, Bartholomew House, Bartholomew Square, Brighton BN1 1JP (telephone: 01273 294429, email: ehl.licensing@brighton-hove.gov.uk, website: www.brighton-hove.gov.uk/licensing).
8. The applicant should be aware that whilst the requisite planning permission may be granted, this does not preclude the department from carrying out an investigation under the Environmental Protection Act 1990, should any complaints be received.

2. SITE LOCATION

- 2.1. The application site relates to 62 Albion Hill which is a two storey locally listed Public House considered of significant architectural value sited within a residential area typified by two storey Victorian terraced housing,
- 2.2. The site is located on the corner of Montreal Road and Albion Hill and as well as being locally listed, it has also been designated as an Asset of Community Value (ACV) since 13th May 2022 where it was listed as such by the Brighton & Hove

City Council, following nomination on the 1st April 2022 by a group called the 'Friends of the Montreal Arms'.

2.3. Statement of Significance

- 2.3. This is an historic building at the junction of Montreal Road and Albion Hill, close to Queens Park. It is a two-storey corner property, built as a public house within a residential area, typified by two storey Victorian terraced housing. The property has decorative tiling to the ground floor, with render at first floor and a tiled hipped roof with deep eaves. It has a corner entrance, with further doors and two windows to the front and side elevation. It is likely that the windows originally contained stained glass (such as that to the Horse & Groom, Islingword Road or Rose Hill Tavern, Rose Hill Terrace), which no longer survives.
- 2.4. The fascia refers to the 'United' Brewery (the Portsmouth & Brighton United Breweries Ltd). This brewery was formed by the merger of the Portsmouth United brewery and Brighton's Rock brewery in 1927. The green-tiled frontage is typical of that company's design.
- 2.5. This property was included in the Council's list of buildings of local historic interest in 2015 under the following criteria:
- A. Architectural, design and artistic interest - As a good example of a regional approach to public house frontage design.
 - B. Historic and evidential interest - The green-tiled frontage is indicative of the 'United Breweries', a local brewery company who owned a number of pubs in the area, including for example the Heart & Hand, North Road and Horse & Groom, Islingword Road.
 - C. Townscape interest - It is not within a conservation area, the building contributes greatly to the streetscene
 - F. Intactness - The building retains its design integrity, despite replacement windows

3. RELEVANT HISTORY

- 3.1. **ENF2022/00113** - Change of Use - HMO and Removal of Green Tiles from Exterior. Enforcement Notice issued 20/04/2022
- 3.2. **BH2024/00583** - Change of use from public house (sui generis) to create a new commercial unit (E) and 1no first floor flat including part demolition and erection of ground floor and first floor extensions, replacement windows and doors, revised fenestration, facade alterations, roof alterations including raising the roof ridge height and all associated works. Refused 03/05/2024 for the following reasons:
- R1:*
- It is considered that the proposed external alterations would diminish the architectural, design and artistic interest, historic and evidential interest, and also the historic intactness of the building and would then result in such loss that the significance of the locally listed asset is entirely lost in heritage terms contrary to policies CP12 and CP15 of the City Plan Part One and policies DM10 and DM28 of City Plan Part Two.*

R2:

Insufficient details and information have been provided to demonstrate that robust attempts have been made to secure an on-going public house use, and to demonstrate that the public house use is not economically viable and could not be made viable in the future. Further, no alternative community use is proposed resulting in the loss of an Asset of Community Value (ACV). The proposals are therefore contrary to Policy DM10 of the Brighton and Hove City Plan Part 2.

- 3.3. **PRE2023/00196** - Advice in relation to potential redevelopment works to the Public House - Advice issued 05/12/2023
 - 3.4. **BH2021/03967** - Display of 2no externally illuminated fascia signs, 1no externally illuminated hanging sign, 2no non-illuminated fascia boards, 1no non-illuminated gable board and 2no non-illuminated poster cases. Approved 20/12/2021
 - 3.5. **BH2021/03131** - Display of 2no. externally illuminated fascia signs, 1no. externally illuminated hanging sign, 2no. non-illuminated fascia boards, 1no. non-illuminated gable board and 2no. non-illuminated poster cases. Withdrawn 26/10/2021
 - 3.6. **BH2021/03130** - Erection of single storey rear extension. Withdrawn 26/10/2021
 - 3.7. **BH2021/03088** - Removal of existing external ceramic tiles, replacement of existing ground floor windows with new bi fold windows, replacement lighting, re-rendering and redecoration works. Withdrawn 26/10/2021
 - 3.8. **BH2010/03442** - Installation of trellis and barrier to restrict access to smoking shelter. Approved 24/12/2010
 - 3.9. **BH2010/01815** - Variation of condition 1 of approved application BH2008/00356 to state that the garden area must be screened off and closed from 10:00pm until 10:00am Monday to Sunday. A maximum of 5 smokers will be permitted to use the concrete area directly outside the back door of the pub from 10:00pm until 12:30am Monday to Thursday, until 1:30am on Friday and Saturday and until 12:30am Sundays (retrospective). Refused 31/08/2010
 - 3.10. **BH2008/00356** - Erection of smokers shelter to rear - retrospective. Approved 10/06/2008
- Asset of Community Value**
- 3.11. CR/2022/0007 - First-tier Tribunal appeal against the listing as an Asset of Community Value (ACV). Appeal dismissed 6th November 2023.

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought to remodel the existing property, incorporating the renovation of the existing public house (sui generis), including internal

alterations to the existing first floor ancillary landlords/Managers accommodation (sui generis). The proposed works include part demolition and erection of a ground floor and first floor extensions, replacement windows and doors, facade alterations, and roof alterations including raising the roof ridge height with changes to the existing pitch.

- 4.2. The application has been amended during the course of the application to retain the public house use and ancillary accommodation, with minor internal changes to the layout, due to officer concerns regarding the loss of the public house use without justification, and the loss of the Asset of Community Value (ACV). The current application therefore seeks no change of use from the current use as a Public House with Ancillary First Floor Accommodation (Sui Generis Use Class).
- 4.3. The application as submitted sought the refurbishment of the existing public house use at ground floor (sui generis) and creation of 1no first floor flat (C3) with the loss of the Landlord/Manager Flat, the external changes were the same as currently considered,

5. REPRESENTATIONS

- 5.1. **Five (5)** comments (excluding repeats from same interested parties) received objecting and raising the following issues (**prior to amended plans with no change of use proposed**):
- Adverse effect on the Listed Building
 - Adversely affects Conservation Area
 - Applicant trying to reduce cost by using cheap replacement tiles, high standard tiles should be used
 - Pub is an Asset of Community Value (ACV) and applicant is trying to bypass legislation
 - Can't apply for change of use until the Pub is marketed for 2 years
 - Public House use is Sui Generis Use Class with no Permitted Development Rights
 - Seeks to convert first floor accommodation into a luxury flat
 - Roof increase in height is to provide another flat at a later date
 - Why does the roof need to be raised
 - Applicant has other properties which have caused concern to the public
 - No affordable housing provided
 - Poor design
 - No marketing of pub to support its loss
 - Residential amenity
 - Overdevelopment
 - Building should be restored to original condition
 - No confidence in developer due to past actions
 - False statements in the supporting documents
- 5.2. **Two (2)** further comments received objecting and raising the following issues (**Post amended plans with no change of use proposed**):

- Applicant should be made to adhere to enforcement notice prior to any new planning applications being approved
 - Public house should be restored and then marketed properly
 - Why does the roof need to be raised
 - Heritage tiles should be properly sourced so the pub looks the same as previously
- 5.3. **One (1)** comment received commenting on the following issues:
- Any new development should ensure that adequate soundproofing is provided between party walls to protect surrounding residents
 - Hope that a solution to remove an empty and decaying/degrading property can be resolved soon

6. CONSULTATIONS

Internal

- 6.1. **Economic Development:** No comments to make in relation to the application
- 6.2. **Environmental Health:** Approve subject to conditions March 2024
If approved the public house will remain. The applicant must ensure that there is adequate sound proofing to ensure that noise on ground does not impact on the residential area on first floor and surrounding residents.
- 6.3. **Heritage:** No objection in principle - subject to conditions 25th March 2024
The information provided is satisfactory for us to determine that the development can be made acceptable in relation to impacts on heritage provided that the retention of all intact tiles, and tiles with surface scuffing and / or minor damage, which are not required to be removed to enable the repair of structural steelwork is secured.
- 6.4. Various pre commencement conditions are required in relation to the proposed building materials and detailed drawings of the fenestrations.
- 6.5. **Policy:** Support 9th May 2024
The renovation of the building and retention of the bar area at ground floor level to allow for continued pub use is supported. The amended plans which retain the upstairs accommodation as ancillary accommodation, as opposed to the formerly proposed change of use to private residential accommodation, is also supported as this should help to maintain the desirability of the pub to new operators.
- 6.6. **Private Sector Housing:** No comments to make in relation to the application
- 6.7. **Transport:** No objection March 2024
No objection subject to cycle condition and provision of 2 spaces for the commercial floorspace and 1 space for residential floorspace.
- 6.8. Changes of use raises no concerns and development unlikely to have any significant increase in trips over the existing use. Although timings may change.

External

- 6.9. **Conservation Area Group (CAG):** The group recommend approval 2nd April 2024:

The Group noted the ACV status and that it is locally listed. It also noted the Council's policy DM10 regarding the protection of public houses.

- 6.10. **Southern Water:** No objection subject to details of the proposed means of foul sewerage and surface water disposal and a formal connection.

7. MATERIAL CONSIDERATIONS

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

- 7.2. The development plan is:

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

8. RELEVANT POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

CP8 Sustainable buildings

CP10 Biodiversity

CP12 Urban design

CP15 Heritage

Brighton & Hove City Plan Part Two

DM10 Public Houses

DM18 High quality design and places

DM20 Protection of Amenity

DM21 Extensions and alterations

DM28 Locally Listed Heritage Assets

DM33 Safe, sustainable and active travel

DM37 Green Infrastructure and Nature Conservation

DM40 Protection of the Environment and Health - Pollution and Nuisance

DM44 Energy Efficiency and Renewables

Supplementary Planning Documents:

SPD09 Architectural Features

SPD11 Nature Conservation & Development

SPD12 Design Guide for Extensions and Alterations

SPD17 Urban Design Framework

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the impact of the proposed development on the appearance and character of the locally listed building, the impacts on the Asset of Community Value (ACV), the wider area and the amenities of adjacent occupiers and future residents.

Principle of development

Asset of Community Value (ACV)

- 9.2. The building and use as a public house has been confirmed as an ACV and this forms a material consideration in relation to this planning application.
- 9.3. The local community has asserted that the existing building and public house use adds value to the local community, not just in relation to the public house use, but also the appearance of and history of the building itself in the streetscene. An appeal against the ACV was unsuccessful under case reference CR/2022/0777 with the decision issued 6th November 2023.
- 9.4. It should be noted that a listing as an ACV gives no right of access to the land concerned: the only right that follows from a listing is the right of a community interest group to bid to purchase the listed land should the owner intend to sell.
- 9.5. The current application would retain the existing historic building appearance and public house use, which would not undermine the ACV use and the building related to it. This is supported by the LPA.
- 9.6. The scheme as originally submitted proposed loss of the ancillary Landlord/Managers Flat at first floor, with a new residential open market flat proposed to replace it. This would have resulted in the loss of floorspace which is currently used as part of the Public House, with no justification, and no alternative community use as required under Policy DM10 (below). In addition, the loss of the existing ancillary accommodation would adversely affect the future operation of the pub by making it less attractive to prospective operators and would also have undermined the continuance of the public house as an Asset of Community Value. Therefore, amendments were sought from the applicant to the plans and description to keep the existing public house use (Sui Generis), across all the floorspace, with no change of use or new units created.

Policy DM10

- 9.7. As set out above the current lawful use of the property is as a public house which is in a Sui Generis Use Class. Policy DM10 (Public Houses) seeks the protection of Public Houses.

- 9.8. The revised plans and application description are for the retention of the Public House use and the ancillary accommodation at first floor level (Use Class Sui Generis).
- 9.9. Policy DM10 'Public Houses' applies. This policy states:
1. *Planning permission will not be granted for development that would result in the loss of a pub except where:*
 - (a) *it can be demonstrated that the pub is not economically viable now and could not be made viable in the future; and*
 - (b) *it can be demonstrated that the local community no longer needs the pub and alternative provision meeting a similar need is available in the locality.*
 2. *Proposals involving the loss of floorspace (including external areas) and facilities ancillary to the operation of the public house, will not be supported where the operation or customer appeal of the public house will be adversely affected.*

Where an alternative use can be justified, priority will be given to re-use of the premises or site for alternative community facilities.

- 9.10. The proposed development seeks no change of use from a Public House and there would be no loss of floorspace. The proposed development would renovate an existing public house and the associated ancillary accommodation. Any subsequent change of use in respect of any part of the development would require planning permission, as the existing use is Sui Generis.
- 9.11. In addition, paragraph 2.93 of policy DM10 states that where the pub is registered as an Asset of Community Value (ACV), that this should be treated as a material consideration, alongside all viability and marketing evidence. The ACV designation provides an indication of local support for the pub's retention which is recognised in the retention of the existing public house and refurbishment.
- 9.12. The proposed development would therefore meet the requirements of Policy DM10 with retention of the existing public house use and no diminishment in value or appeal to the local community.

Housing

- 9.13. Since submission of the application the proposal has been amended, as originally a separate new planning unit of residential (C3 Use Class) accommodation was proposed at first floor, which has now been removed, with ancillary accommodation (Sui Generis Use Class) retained at first floor. The proposed development would now result in the renovation of the existing ancillary accommodation (Sui Generis Use Class) located directly above the public house, which would continue to be used as (landlord/Managers flat) accommodation directly related to the public house use.
- 9.14. A new separate planning unit of self-contained C3 use class at first floor was not considered appropriate. It would be contrary to Policy DM10, with the removal of public house floorspace with no substantive justification or marketing

campaign; and the loss of the existing ancillary accommodation would also adversely affect the future operation of the pub by making it less attractive to prospective operators, as well as increasing the potential for noise nuisance complaints from future residents of any new dwelling.

9.14 Any subsequent change of use in respect of any part of the development would require planning permission, as the existing use is Sui Generis.

Design, Appearance and Heritage

- 9.15. This application proposes the replacement of the roof structure, at a steeper pitch, with a raised ridge and eaves to match the neighbouring property, and altered form at the rear, with the addition of eaves brackets. To the three elevations enlargement of the window openings would occur with the installation of white painted timber sliding sash windows (multi paned on the ground floor), and removal of parts of the existing rear extensions and enlargement of others, which would be single storey. The tiles, including the United Brewery's fascia signage, are proposed to be retained and only replaced to match exactly where the existing tile is missing and/or damaged to such a degree that replacement is not possible.
- 9.16. The site is currently subject to an enforcement notice (issued 20th April 2022) that was appealed by the applicant and amendments made by the Planning Inspector (17th July 2023) in relation to the enforcement notice. This notice requires:
- i. Cease the removal of the glazed ceramic tiles from the façade of the building on the Land, except the minimum amount required to be removed to repair the lintels
 - ii. Reinststate glazed ceramic tiles to all elevations where tiles have been removed or damaged as a consequence of the unauthorised works set out in paragraph 3.
 - iii. Reinststate the glazed ceramic tiles removed to repair the lintels.
 - iv. The tiles being reinstated shall match the colours and finish of the tiles that existed before the breach of planning control took place so that the four horizontal bands of colouring on each elevation of the building are replicated, examples of which are shown on the photographs attached at Annex 2
 - v. All moulded details to the fascia and window cills being reinstated shall be replicated in material, colour and finish and reinstated to match those as they existed before the breach of planning control took place, examples of which are shown on the photographs attached at Annex 2
 - vi. The lettering to the fascia being reinstated shall be replicated in font, size, colour, material and finish to match that as it existed before the breach of planning control took place, examples of which are shown on the photographs attached at Annex 2.}
- 9.17. The date for compliance with this notice as given by the Appeal Decision is the 17th July 2024. If the current application was approved than an agreement could be considered by the LPA that if works took place within certain timescales then it would not pursue a prosecution.

- 9.18. Should the current application be approved with conditions, then a full survey of the tiled façade would be carried out by the applicant for submission to the LPA with a report detailing which tiles are to be retained, repaired, or replaced to facilitate the proposed works. The details of any replacement tiles would have to be submitted for approval by the LPA prior to installation and the applicant proposed to use a company which purports to provide almost exact replicas of those removed.
- 9.19. The details of all the incorporated signage within the tiles that forms part of the local listing would also be replicated from pre-existing photos and current appearance. The intention is to reinstate the tiles and signage appearance to that which existed prior to the unauthorised works that were commenced, with improvements where considered appropriate, due to replacement tiles to areas which are too damaged or must be removed to allow any approved works to be implemented, subject to agreement with the LPA.
- 9.20. The window cills that form part of the enforcement notice would be removed as the proposed development has new forms of fenestrations and openings,
- 9.21. Internally the existing public house uses would be retained with a new toilet block and back of house area located in the revised eastern ground floor extension to the rear ground floor. This is considered acceptable as it matches the existing in height and form of roof, with a mono pitch extending from the boundary with No.63 to the east. The footprint increases with it extending further into the rear courtyard area of No.62, but it would bring no harm to the host property of the street scene.
- 9.22. The other existing ground floor/first floor extensions at the rear would be removed to facilitate the revised ground and first floor layout and are considered to bring improvements to the street scene and host property. The current rear elevation extensions are of differing styles and form that bring harm to the appearance of the host and are visible in the public realm.
- 9.23. The first floor would see refurbishment of the existing Landlord/Managers Flat, going from 4 bedrooms/living areas and a kitchen to 2 bedrooms, with a combined kitchen and living area provided. This is considered to bring improvement to the standard of ancillary accommodation that is provided as part of the public house use, with a large open plan living and kitchen area (36m²) and two separate double bedrooms providing modern accommodation with good levels of outlook, light and space, particularly in relation to the main living area. It is noted amount of bedrooms/living rooms would reduce by one, but the loss is considered outweighed by the increased outlook, light provision, and size of the living /kitchen room, and the improvements to the rear elevation from the removal of the existing rear extensions.
- 9.24. These proposed works would take cues from the current building with the retention and repair of the existing tile façade at ground floor level. The other works seek to improve the rear elevations with removal and enhancement of the extensions, and windows with a placement and design that brings balance. The internal layout changes enhance the use of the current public house, for future

operators and users, with the private space to the rear allowing space for a kitchen area if desired, and a more rational layout with reduced corridors and doors. The proposed design overall is considered reflective of the building's history and historic interest.

- 9.25. The raising of the roof ridge would be in line with the attached property no.63 to the east and is not considered to bring any harm in isolation due to the matching of height and would not appear incongruous in the public realm. The form would replicate that already exhibited by the host property with a hipped design, although the pitches and layout would differ with some areas steeper and other shallower, but overall no harm would be caused to the host property and the design is acceptable.
- 9.26. It is considered that the proposed external alterations would retain the architectural, design and artistic interest, historic and evidential interest, and also the historic intactness of the building (subject to retaining the existing tiles) resulting in the significance of the locally listed asset remaining undiminished.
- 9.27. DM28 states that: "Alterations and extensions to a locally listed heritage asset, or new development within its curtilage, should be of a high standard of design that respects the special interest of the asset as set out in the Local List entry (or as otherwise identified within a submitted Statement of Heritage Significance)." Heritage Officers have considered that application and they consider that subject to various conditions prior to commencement, and that the retention of existing tiles as far as possible is secured, the proposed alterations to the existing locally listed asset are acceptable, and would not undermine its rationale or reasons for listing. The proposed alterations are now considered to be respectful and retain the special interest of the building in compliance with policy DM28.
- 9.28. Conditions in relation to approval of full details of external finish materials to be used and detailed plans of the fenestrations, prior to their installation are attached.
- 9.29. The overall scale and design of the works are considered appropriate in appearance, relating well to the host property, and not diminishing the locally listed asset due to its design, scale and appearance in accordance with policies CP12 and CP15 of the Brighton and Hove City Plan Part One and DM28 of the Brighton and Hove City Plan Part Two.

Standard of Accommodation

- 9.30. The 'Nationally Described Space Standards' (NDSS) were introduced by the Department for Communities and Local Government in 2015 to establish acceptable minimum floor space for new build developments. These space standards have now been formally adopted into the Brighton and Hove City Plan, within Policy DM1 of City Plan Part Two.
- 9.31. The NDSS and DM1 identifies a minimum floor space that should be achieved for a single bedroom as measuring at least 7.5m², and a double bedroom should measure at least 11.5m². The minimum floor space requires a head height of

above 1.5m with 75% of the floorspace being 2.3m or higher. Rooms are also assessed for their ability to provide suitable room to circulate within them by future occupants.

- 9.32. The minimum gross internal area for a one storey, two (2) bedroom, four (4) person dwelling, as proposed, is described as 70 square metres under policy DM1 and the NDSS. The refurbished ancillary residential unit proposed exceeds this requirement at approximately 79m².
- 9.33. The floor space would be functional with sufficient levels of circulation space, light and outlook and would therefore provide an acceptable standard of accommodation. The double bedrooms proposed meet the minimum space standards required by policy DM1, including with regards to overall size, width and head height and would have good levels of natural light and having windows with unobstructed outlook.
- 9.34. No private outdoor space is provided but this is considered acceptable for a development of this size in this context and is the current situation for the existing four bed ancillary accommodation.
- 9.35. The refurbished residential accommodation would be subject to a condition requiring compliance with the approved floor plans; the LPA would wish to manage the layouts of these buildings to ensure it does not become over-occupied to the detriment to the standard of accommodation.
- 9.36. The revisions to the existing layout of the first floor, changing from a 4 bed to a 2 bed unit, are considered acceptable and the standard of accommodation for future residents is considered acceptable.

Impact on Amenity

- 9.37. The form of the works extending the existing ground floor extensions to the rear is not considered to increase overshadowing effects or loss of light to the surrounding residents as the height and length would remain the same as the existing to the boundary with no.63, only extending the footprint westward, into the rear courtyard of the host property.
- 9.38. The removal of an existing small two storey extension at the rear may accrue some small benefit to the neighbouring property at 63 Albion Hill from increased light on the boundary, as this extension currently blocks a small amount of sunlight late in the afternoon. The raising and reorientation of the roof is not such a scale that any significant harm would occur to the amenity of surrounding residents due to loss of light or overbearing appearance.
- 9.39. The proposed new windows to the rear at first floor, would afford high level views, but are not considered to cause significant amenity harm due to overlooking in excess of the existing situation, in what is already a dense urban grain with a high degree of mutual overlooking. The other proposed windows and doors are not considered to bring any harm through overlooking as front or side facing over the existing highway.

- 9.40. Noise produced by the refurbished public house is a concern, and conditions would be imposed to ensure that noise would not transmit to the ancillary first floor residential flat and no.63 which is a residential property that shares a party wall with the proposed development.
- 9.41. Similar concerns for noise and disturbance apply to the surrounding residents in relation to plant noise. Conditions again have been attached to mitigate the degree of plant noise emitted.
- 9.42. As no change of use occurs the existing hours of operation and licensing hours are not being altered.

Impact on the Public Highway

- 9.43. The proposed development represents a small increase in Public House floorspace, and it is considered that there would be no significant additional impact on the highway; this view is shared by the Local Highway Authority (LHA).
- 9.44. No on-site parking is proposed but this is acceptable and reflects the current situation. The site is located in a Controlled Parking Zone which would ensure that the proposal does not cause undue stress to the existing on street parking availability as it is controlled via a permit parking scheme, with residents parking only between 9am to 8pm in the majority of nearby parking bays.
- 9.45. The proposed development shows a cycle parking store for the ancillary residential area; but no details are supplied. In addition, cycle parking is required for the public house and this has not been identified on the plans. A minimum of one cycle space is required for the residential unit, and two for the commercial unit. A condition is required for the details of the proposed cycle parking to be submitted too and approved by the Local Planning Authority, prior to first use of the development.

Biodiversity

- 9.46. The Council has adopted the practice of securing minor design alterations to schemes with the aim of encouraging the biodiversity of a site, particularly with regards to protected species such as bumblebees and swifts. A suitably worded pair of conditions will be attached to secure an appropriate number of bee bricks and swift bricks within the proposal in order to help meet the requirements of policies CP10 of the CPP1 and DM37 of the CPP2 as well as Supplementary Planning Document 11: Nature Conservation.

Conclusion

- 9.47. The proposed development would result in the refurbishment and improvement internally of an existing public house and Asset of Community Value (ACV), which complies with policy DM10 as no change of use is occurring. The form of development would bring no harm to the appearance and intactness of a locally listed heritage asset contrary to Policy DM28, and meet the requirements of

DM18 with a design that brings no harm to the host property or the wider area. Subject to appropriate conditions.

- 9.48. Taking all of these matters above into consideration the proposal is considered to comply with Policies CP12 and CP15 of the City Plan Part One and Policies DM10, DM21 and DM28 of the City Plan Part 2.

10. EQUALITIES

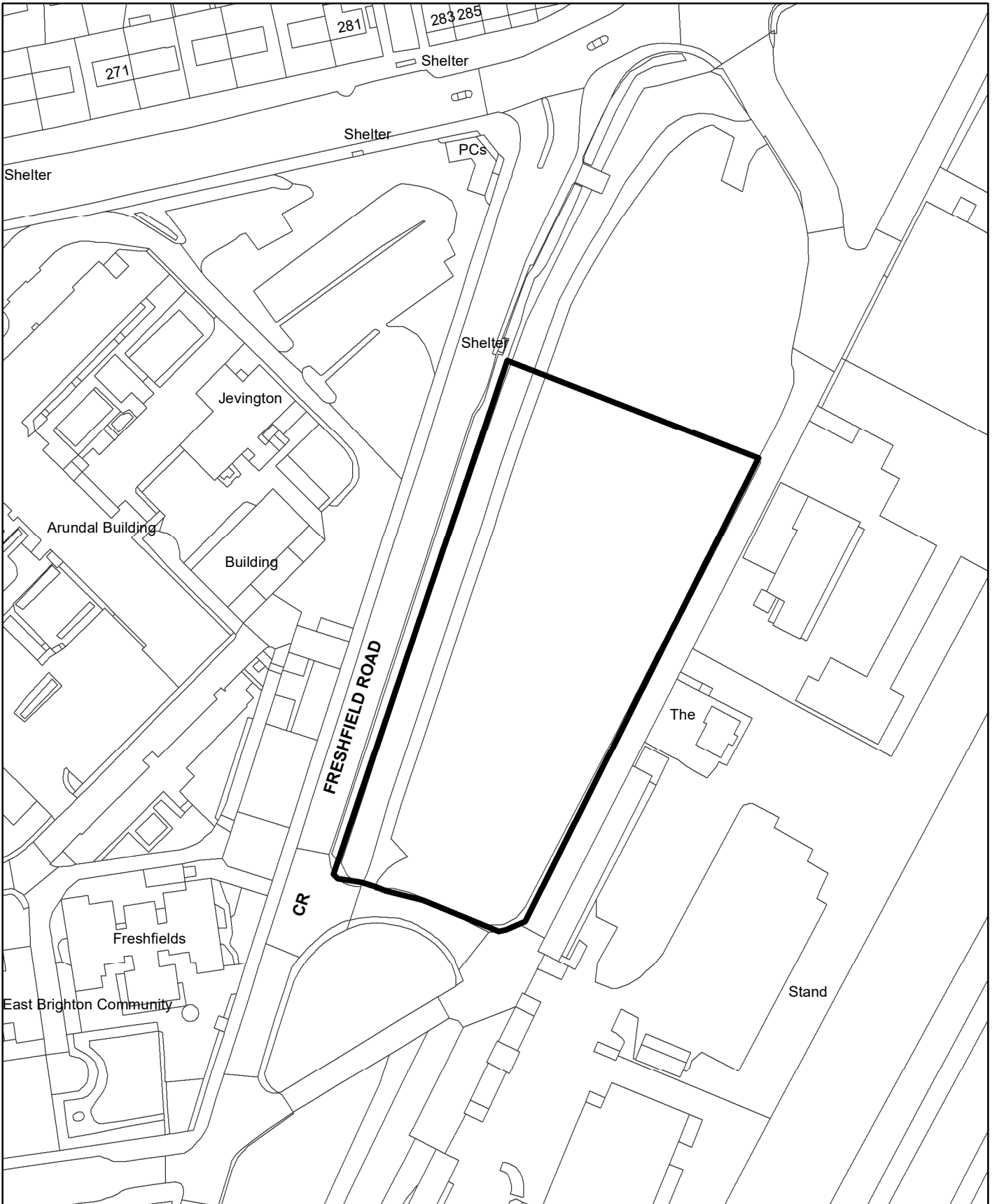
- 10.1. Section 149(1) of the Equality Act 2010 provides:
- 1) A public authority must, in the exercise of its functions, have due regard to the need to—
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 10.2. Officers considered the information provided by the applicant, together with the responses from consultees (and any representations made by third parties) and determined that the proposal would not give rise to unacceptable material impact on individuals or identifiable groups with protected characteristics.

ITEM D

**Racehill, Warren Road
BH2023/03054
Full Planning**

DATE OF COMMITTEE: 5th June 2024

BH2023 03054 - Racehill, Warren Road



N



Scale: 1:1,250

<u>No:</u>	BH2023/03054	<u>Ward:</u>	Whitehawk & Marina Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Racehill Warren Road Woodingdean Brighton BN2 9XX		
<u>Proposal:</u>	Replacement and extension of aggregate surface to part of existing parking site (part retrospective).		
<u>Officer:</u>	Steven Dover, tel:	<u>Valid Date:</u>	18.11.2023
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	13.01.2024
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	12.06.2024
<u>Agent:</u>	Moorside Planning Ltd 92 Station Road Burley in Wharfedale LS29 7NS		
<u>Applicant:</u>	Brighton Racecourse C/O Moorside Planning Ltd 92 Station Road Burley In Wharfedale LS29 7NS		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

Reason: For the avoidance of doubt and in the interests of proper planning

Plan Type	Reference	Version	Date Received
Proposed Drawing	REV 1		15 April 2024
Location Plan			18 November 2023
Proposed Drawing	1535-BRIGHTON-PLANNING-V1.1	A	18 November 2023
Report/Statement	Planning _ Design _ Access Statement		18 November 2023

2. Unless otherwise agreed in writing, within six (6) months of the application hereby approved, an assessment and report of the contamination risk to groundwater using the simple index approach method as described in the CIRIA SuDS Manual (C753), with any appropriate mitigation measures identified shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details within six (6) months.

Reason: To ensure that the principles of sustainable drainage and to prevent pollution are incorporated into this development and to comply with policies

DM42 and DM43 of City Plan Part and CP11 of the Brighton & Hove City Plan Part One.

3. Unless otherwise agreed in writing, the landscaping scheme detailed on drawing no. REV 1 received on 15th April 2024 shall be carried out in the first planting and seeding season following the development hereby permitted. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become, in the opinion of the Local Planning Authority, seriously damaged or diseased, shall be replaced with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to provide ecological and sustainability benefits, to comply with policies DM22 and DM37 of Brighton & Hove City Plan Part 2, and CP8, CP10, CP12 and CP13 of the Brighton & Hove City Plan Part One.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The applicant is advised that the application site and surrounding land is located within an Archaeological Notification Area (ANA) and any ground works could negatively impact archaeological remains. A full assessment of any proposed groundworks should be undertaken in liaison with the East Sussex County Archaeologist prior to any works commencing and/or application for planning approving being submitted to the Local Planning Authority.

2. SITE LOCATION

- 2.1. The site comprises a previously predominantly grassed area that is to the western side of the Brighton Racecourse, and to the east of Freshfield Road. It comprises approximately 5885m² of land in a roughly rectangular shape oriented in a north south direction.
- 2.2. The site lies within the Urban Fringe of Brighton & Hove (SA4) and the Brighton and Lewes Downs UNESCO Biosphere Reserve, but is otherwise not designated for its nature conservation interest. It is designated as Nature Improvement Area (NIA-CP10), an Area of Open Space (CP16) in the City Plan Part One and an Archaeological Notification Area (ANA). The boundary of the South Downs National Park lies approximately 849m east. Whitehawk/Race Hill Local Nature Reserve (LNR) lies c. 178m east and Woodvale, Extra-mural & Downs Cemeteries Local Wildlife Site (LWS) lies c. 169m north.

3. RELEVANT HISTORY

- 3.1. **BH2013/01242** Permanent use of land for park and ride facilities for up to 700 cars in conjunction with outdoor events (no more than 50 per year) at the American Express Community Stadium Falmer. Approved

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for the re-surfacing of part of the existing parking area, located to the west of Brighton Racecourse, between Freshfield Road and the racecourse buildings. The submitted layout plan (drawing number: 1535-Brighton-Planning-V1.1) indicates the area (5885m²) of grassland re-surfaced, with a capacity for approximately 200 vehicles which is already used as car parking space, inline with the approved application BH2013/01242. The works have replaced the topsoil (maximum 15mm in depth) with a permeable geotextile membrane finished with compacted Tarmac Plainings. All the other existing drainage and soakaways remain as currently installed.
- 4.2. When originally submitted, the application was part retrospective as the proposed work had only been partially commenced. Subsequently the applicant confirmed that the works had been completed and this was confirmed via an officer site visit. The description of the scheme was amended to be fully retrospective when Officers were made aware all the works had already been completed in January 2024. The agent has stated that the works were commenced initially as a license for the works had been issued by Brighton and Hove City Council (September 2023). This was erroneously thought to mean a separate planning permission was not required for the now completed works.
- 4.3. Additional plans have been submitted during the course of the application to provide a native hedge row to the north and western boundary, to reduce long views into the site and increase biodiversity to the benefit of the site. The proposed hedge and plan have been reconsulted with the County Arboriculturalist and the County Ecologist to secure their updated opinion, which is described below. In addition, the Policy Team has been consulted for an official comment in relation to the form of development carried out and the proposed native hedging (mitigation), again detailed below. The native hedging is still proposed to be planted; therefore the application has now reverted to being part retrospective.

5. REPRESENTATIONS

- 5.1. **Thirteen (13)** people raising the following issues in objection to the scheme:
- The development is overdevelopment
 - The development is a poor design
 - The development would generate additional traffic
 - The development would result in loss of view
 - The development would harm residential amenity
 - The development encourages car use
 - The development would cause/increase water run off
 - The development is not sustainable

- The development was completed without planning permission
- The development would mean loss of green space
- The development would harm the character of the area

5.2. **One (1)** person raising the following:

- The development would regularise the land use and enable any appropriate conditions

5.3. A letter of objection has been submitted by **Councillor Rowkins**. A copy of the letter is attached to this report.

6. CONSULTATIONS

Internal:

6.1. **Arboricultural** - following receipt of additional hedge plan No objection
The proposed hedgerow is considered more appropriate than isolated individual trees, and an improvement over the existing with a native hedgerow increasing bio diversity.

6.2. **Policy Comment**

Whilst the proposal is not considered to meet any of the criteria of CPP1 policy CP16 in relation to justifying the loss of open space, the extant permission for the car-park is a material consideration, which already limits the use of the site for an open space purpose. The park and ride facility provided on the site for the Amex Stadium contributes towards sustainable travel to the venue on match days and that its use as such was found acceptable in previous planning applications. The ability of the site to continue to provide this function and help the transfer journeys onto more sustainable means is supported by CPP1 policy CP9.

6.3. The proposed native hedgerow is welcomed and would support delivery of ecological enhancements, as required by policy CP10 and DM37, as well as provide visual mitigation protecting the landscape role of this urban fringe site as required by CPP1 policy SA4.

6.4. **Sustainable Drainage** No objection - subject to condition

The information submitted includes a design and access statement, which confirms that the existing drainage methods are proposed to remain; there will be no foul water to discharge, and all surface water is infiltrated via an existing soakaway. The grass will be replaced with a permeable membrane below inert aggregate and tarmac plainings.

6.5. **Transport** No objection

A significant area of grassland is being replaced which is usually a natural soak away for rainwater and reduces rainwater run-off on to the highway. We have therefore liaised with the City Council's flood risk manager on its removal and the new surfacing being proposed. On assessment they consider the proposals to be acceptable and that the new surface's introduction is unlikely to result in any significant increase of rainwater run-off onto the surrounding public highway.

- 6.6. As there are no alterations to the layout or access points, or increase in parking spaces, there is unlikely to be a significant increase in trips or intensification of parking proposed. The new surface should improve accessibility on the site and this is welcomed. The existing access points do not directly impact the highway and are on private land.

External

6.7. **County Archaeology Comment**

Assuming no further excavations of any description are required under this application the initial recommended archaeological conditions are superfluous. Accept that the addition of archaeological conditions pre-commencement conditions would not be practical on this fully retrospective application. However requests condition and informative be attached stating that any further works which involve disturbance of the existing ground are subject to a scheme of investigation and pre-application advice should be sought by the applicant from East Sussex County Archaeological.

6.8. **Brighton and Hove Archaeological Society Comment**

The development is relatively close to the location of the location of a Neolithic Causewayed enclosure. Contact County Archaeologist for recommendations

6.9. **County Ecology** - following receipt of additional hedge plan No objection

The information provided is satisfactory and the proposals are unlikely to have a significant impact on biodiversity.

- 6.10. In summary, the development is unlikely to have any significant impacts on biodiversity and can be supported from an ecological perspective. If the applicant is prepared to offer an extended length of native hedgerow which will also work in terms of visual mitigation, that is positive.

7. MATERIAL CONSIDERATIONS

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

- 7.2. The development plan is:

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

8. RELEVANT POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One (CPP1)

SS1	Presumption in Favour of Sustainable Development
SA4	Urban Fringe
SA5	The Setting of the South Downs National Park
CP9	Sustainable Transport
CP10	Biodiversity
CP11	Flood Risk
CP12	Urban Design
CP13	Public Streets and Spaces
CP15	Heritage
CP16	Open Space

Brighton & Hove City Plan Part Two (CPP2)

DM18	High quality design and places
DM20	Protection of Amenity
DM22	Landscape Design and Trees
DM33	Safe, Sustainable and Active Travel
DM36	Parking and Servicing
DM37	Green Infrastructure and Nature Conservation
DM40	Protection of the Environment and Health - Pollution and Nuisance
DM42	Protecting the Water Environment
DM43	Sustainable Drainage
DM44	Energy Efficiency and Renewables

Supplementary Planning Documents

SPD11	Nature Conservation & Development
SPD14	Parking Standards
SPD16	Sustainable Drainage
SPD17	Urban Design Framework

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the principle of development; the design and appearance of the development; the potential impacts on the amenities of local residents; on highway safety; and on biodiversity and open space.
- 9.2. An Officer site visit was undertaken in January 2024 and March 2024.

Principle of Development

Urban Fringe

- 9.3. The application site is located within the Urban Fringe and therefore policy SA4 applies which seeks to ensure that any development in these areas needs to reflect the setting of the areas which generally form part of the transition from

the built-up area of Brighton and Hove and the surrounding South Downs National Park (SDNP). These Urban Fringe areas frequently are classified as existing open space. Therefore development will only be permitted where a countryside location is justified, and where it can be demonstrated that:

- c) *the proposal has had regard to the downland landscape setting of the city;*
- d) *any adverse impacts of development are minimised and appropriately mitigated and/or compensated for; and*
- e) *where appropriate, the proposal helps to achieve the policy objectives set out above.*

- 9.4. The location is considered justified as it is a part resurfacing of the existing facility, with the remainder of the western car park area remaining grassed predominantly, which forms part of the western open space. Considering the distance from the SDNP (over 800m to east), the pre-existing carpark surface (a mixture of bare earth, odd tarmac and grassed areas), and the backdrop of the existing buildings to the east which separate the development from the SDNP, and that the proposed native hedgerow would further mitigate views into the site, the impacts are considered relatively minor in relation to the pre-existing and current development.
- 9.5. this basis the application is considered to accord with the policy aims of SA4 and is therefore further assessed on its merit in relation to other policies below.

Car parking

- 9.6. The development partially resurfaces an area of land to the west of the Brighton Racecourse buildings, to improve the surface for the movement and parking of cars (approximately 200 spaces as identified by transport officers). The use of the application site land as a car parking area has been for over 10 years and found acceptable previously by the LPA in an application in 2013 (BH2013/01242) for a park and ride development across the wider site, which would serve the Amex Stadium (albeit with retention of the grassed area). On this basis the use of the land for car parking has already been established for a significant period of time and the principle of use for car parking has previously been considered acceptable and as such does not form part of this application. Transport matters regarding the current application will be discussed later but the development has been considered acceptable by Highways Officers.

Design and Appearance

- 9.7. The completed development is considered to be acceptable in terms of design and appearance. The appearance is recognised as significantly different from the previously pre-dominantly grassed appearance, but due to the elevated position above Freshfield Road and the associated footpath, the development is not highly visible in the wider public realm and does not bring significant harm to the streetscene, when viewed with the backdrop of the existing buildings to the east. The majority of the open views into and out of the site are retained as they were prior to the completed development apart from the area of the proposed native hedgerow which is designed to mitigate views into the site from the north and partially to the west in long views.

- 9.8. The parking of cars on the land will continue as it has prior to the completed development, so no major visual changes occur when surveyed from the wider public realm, with the majority of the change occurring opposite the Brighton General Hospital on the opposite side of Freshfield road, rather than residential dwellings which could have their views/outlook impacted.
- 9.9. The applicant has stated that the works were necessary to ensure that the car parking area could be utilised throughout the year with a surface which was permeable but also resilient to movements and parking of vehicles. During wetter weather the previous grass and bare soil would become inaccessible for vehicles and present a very poor appearance.
- 9.10. The design and appearance of the resurfaced car parking area is therefore considered acceptable.

Open Space

- 9.11. As detailed above the area is currently designated as open space in the City Plan Part One - policy CP16. It not a public space and is privately owned. The development in respect of the re-surfacing does not impose any new structures above ground which reduce the pre-existing short and long views across the site to the adjacent South Downs Park and surrounding open spaces. It is acknowledged that the appearance/surface of the open space has changed, especially when walking across, but as it is not open to the general public and was previously used as car parking, that change in surface is not considered to cause such harm to the open space that refusal would be warranted. The proposed native hedgerow would be reflective of the surrounding greenery and open spaces which is currently onsite or adjacent.

Biodiversity and Ecology

- 9.12. The pre-existing surface to the developed area was predominantly short grass, with areas of bare soil and tarmacking. The development has removed this surface and replaced with a loose aggregate finish which is inert and provides no replacement of this grass. The County Ecologist has been consulted in relation to the application to ensure the potential negative impacts of the development have been fully assessed in relation to Biodiversity and Ecological impact. No ecological information/assessment was provided by the applicant as the works had already been completed.
- 9.13. The Ecologist has confirmed that the pre-existing habitat would have been unlikely to have significant value to biodiversity due its past/current use and appearance.
- 9.14. Consideration has also been given to the surrounding Whitehawk/Racehill Local Nature Reserve (LNR) to the east (180m approximately) and the Woodvale Extra-mural & Downs Cemeteries Local Wildlife sites (LWS) to the north (170m approximately), the Ecologist has confirmed that given the nature, scale and location of the development there are unlikely to be any impacts on any designated site.

- 9.15. Since submission of the application, Officers have sought suitable improvements to the scheme which would improve biodiversity and potentially limit some long views into the site from the north (SDNP). The applicant has now agreed to plant suitable native hedge rows to the west and north of the development to increase biodiversity onsite. This is welcomed and supported by the Council's Arboriculturist and Ecological Officers who were re-consulted regarding this addition, and its provision would be secured by condition.

Archaeology

- 9.16. The County Archaeologist has been consulted and, originally when the development work had not been completed, they were requesting a condition for a scheme of investigation and written reports in relation to archaeology prior to the works proceeding. As the works have now been completed the County Archaeologist has confirmed that there are no conditions that they would wish to impose on the current development, which would be needed to make it acceptable. They confirm that as the stripping of the subsoil has already occurred to 150mm, which has then been infilled with the aggregate material, any archaeological evidence has either been covered again - and remains insitu; or has been removed - and therefore impossible to accurately categorise or assess. Whilst regrettable, that works carried out have potentially impacted remains if they existed, this is not considered a reason to refuse the application.
- 9.17. They have reiterated that the works should not have commenced without their consultation and advised that any future disturbance of any ground onsite should be discussed with them prior to commencement, to ensure suitable mitigation of potential impacts and archaeological remains. They have requested a condition would be attached to this effect for the development site and an informative attached for the wider area.
- 9.18. However, as the development has already been completed and no further works form part of the current application it is not considered that an Archaeological condition meets the relevant tests to impose. It would have no relation to the suitability or not of development in the current application, and would refer to unknown future works, therefore failing the tests of being necessary, relevant to the development permitted, and reasonable in all other aspects. An informative would be attached as requested.
- 9.19. It is regrettable that the works have been undertaken prior to any proper scheme of investigation being undertaken, but it is not considered reasonable to refuse the development purely on this basis, if found otherwise acceptable.

Impact on Amenities

- 9.20. The development resurfaces an existing area of land which has historically been used for car parking and that use would continue. No neighbouring amenity harm over and above the pre-existing situation is anticipated due to noise and disruption from the development. The new surface is not considered to significantly increase noise to such a level where vehicle movements would have an effect on the residential amenity of surrounding dwellings, due the associated noise of the vehicles, the noise already generated from Freshfield Road, and the distance of existing residential dwellings from the application site located across

Freshfield Road to the north-west and south-west. No above ground structures are erected and site is not located adjacent to any form of residential development.

Impact on the Public Highway

- 9.21. The development would not alter the existing connections or layout of vehicles accessing or leaving the site, continuing the current arrangement and use of the land for car parking. Transport Officers have assessed the scheme and consider it is acceptable, with no significant impact on the public highway or safety over the pre-existing situation.

Sustainable Drainage

- 9.22. The Flood Risk Manager has assessed the application (at the point it was still proposed works) and confirmed that new aggregate surface would not increase the likelihood of flooding and that the current system for surface water to soakaway is sufficient to remain. They have confirmed that no flood risk assessment was needed, and considering the form of development and scale, calculations and reports in terms of full design and performance for the soakaway were not required, nor a maintenance and management plan.
- 9.23. However, they did note that the risk of contamination to groundwater has not been assessed in the application statement (the site is not located in a groundwater protection zone) and they have requested a condition that an assessment of that risk should be carried out and any necessary mitigation measures are implemented.
- 9.24. As the works have already been completed a condition would be attached to ensure this report and any mitigation measures proposed are submitted to the LPA for approval within six months of the granting of permission and any mitigation measures installed and retained thereafter.

Conclusion

- 9.25. The development is considered acceptable with no significantly harmful impacts over the pre-existing situation identified and the proposed native hedgerow would bring some visual improvements and increase bio diversity onsite. The development does bring small improvements to the associated business at Brighton Racecourse, with improved parking provision throughout the year. Although it is acknowledged to be visual different from the areas of grass which previously existed onsite, the immediate visual harm caused is not considered to warrant refusal on this element alone.
- 9.26. The majority of works have already been carried out prior to the granting of planning permission and the application is therefore part retrospective. However this has no bearing on the planning balance, weight and considerations that should be applied to the determination of the current application.
- 9.27. A planning condition shall be included in the interest of preventing groundwater contamination from surface water and to ensure that the proposed landscaping mitigation is installed. For the foregoing reasons the proposal is considered on

balance to be in accordance with policies SA4, SA5, CP9, CP10, CP11, CP12, CP13, and CP16 of the Brighton and Hove City Plan Part One, and DM18, DM19, DM20, DM29, DM36, DM37, DM40, DM42, DM43 and DM44 of the City Plan Part Two.

10. EQUALITIES

10.1. Section 149(1) of the Equality Act 2010 provides:

- 1) A public authority must, in the exercise of its functions, have due regard to the need to—
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

10.2. Officers considered the information provided by the applicant, together with the responses from consultees (and any representations made by third parties) and determined that the proposal would not give rise to unacceptable material impact on individuals or identifiable groups with protected characteristics.



PLANNING COMMITTEE LIST

Brighton & Hove COUNCILLOR REPRESENTATION **City Council**

Cllr. Tim Rowkins

BH2023/03054 – Racehill, Warren Road

22nd February 2024:

I'll have to be brief, but I would certainly like to call this to committee and, along with my fellow ward councillors and many people in the area, I would like to object to the proposal. Our key concerns are:

- Loss of green space on this gateway to the South Downs
- Potential impact on surface water management
- This will add another car park adjacent to several others
- Planning permission should have been sought in advance

I did enter an objection on the portal a while ago, which of course you can also read to support what I have said here.

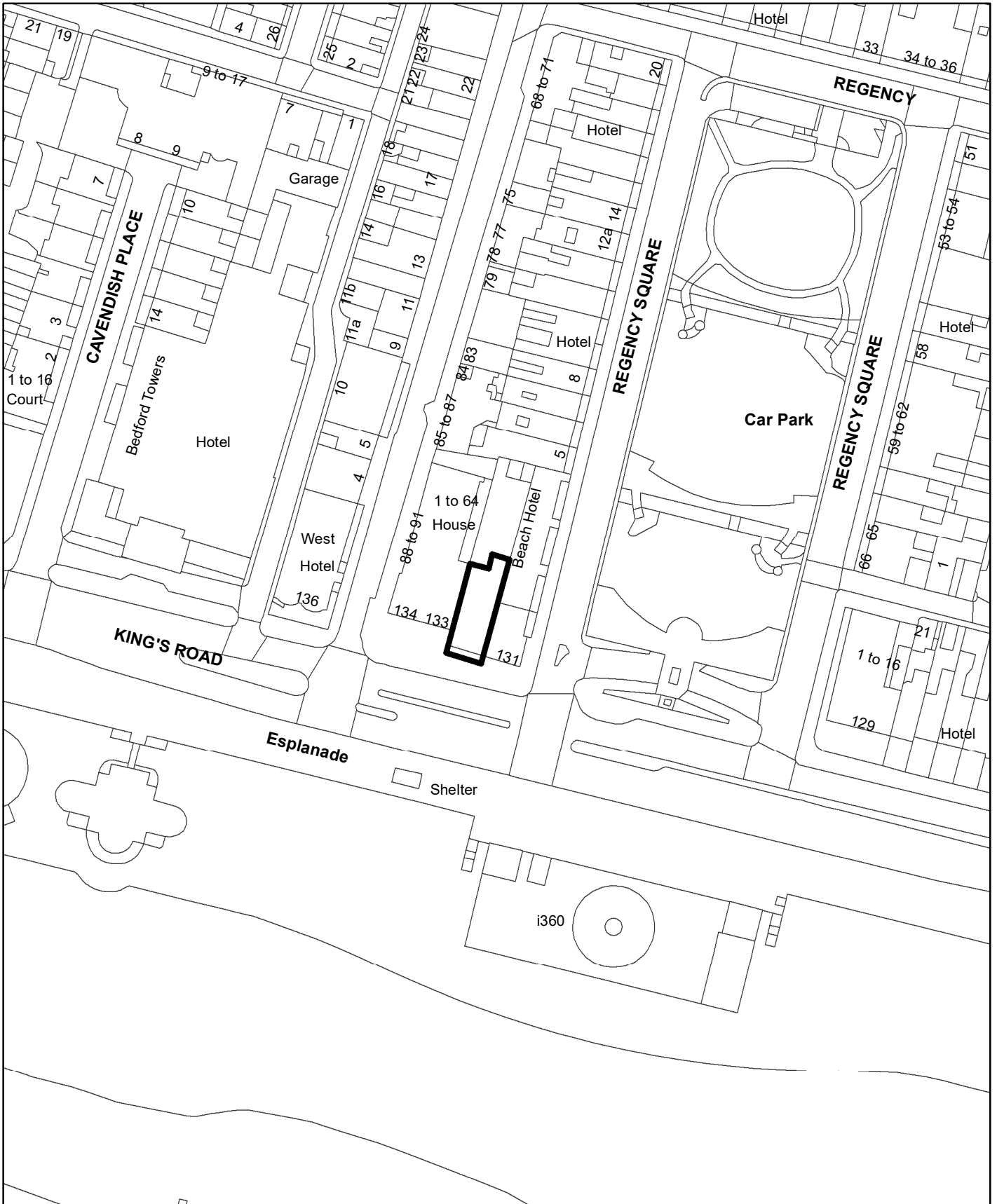
Grateful if you could confirm receipt and acceptance and advise of timeline going forward.

ITEM E

**132 Kings Road
BH2023/03417
Full Planning**

DATE OF COMMITTEE: 5th June 2024

BH2023 03417 - 132 Kings Road



Scale: 1:1,250

<u>ZZNo:</u>	BH2023/03417	<u>Ward:</u>	Regency Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	132 Kings Road Brighton BN1 2HH		
<u>Proposal:</u>	Erection of an additional storey to create 1no two bedroom flat (C3) with front roof terrace and stone balustrade. Installation of a new lift and stairwell. Revised fenestration to front and rear elevation.		
<u>Officer:</u>	Sonia Gillam, tel: 292265	<u>Valid Date:</u>	19.01.2024
<u>Con Area:</u>	Regency Square	<u>Expiry Date:</u>	15.03.2024
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	10.04.2024
<u>Agent:</u>	Michael Wilson Restorations Kent House 81 High Street Cranleigh Surrey GU6 8AU		
<u>Applicant:</u>	Rapido Services Weytots Wey Lane Addlestone Surrey KT15 3JR		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

Reason: For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
Location Plan			29 December 2023
Block Plan			29 December 2023
Proposed Drawing	112/150/04	C	11 March 2024
Proposed Drawing	112/150/05	C	11 March 2024
Proposed Drawing	112/150/06	C	11 March 2024
Report/ Statement	Method Statement Listed Building Impact		27 March 2024

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

3. The dwelling hereby approved shall be implemented in strict accordance with the internal layouts detailed on the approved floorplans (112/150/04 REV C

received on 11 March 2024). The internal layouts shall be retained as first implemented thereafter.

Reason: To ensure an acceptable standard of accommodation for future occupiers is provided and maintained thereafter and to comply with policy DM1 of the Brighton and Hove City Plan Part Two.

4. No cables, wires, aerials, pipework (except rainwater downpipes as shown on the approved plans), meter boxes or flues shall be fixed to any elevation facing a highway.

Reason: To safeguard the appearance of the building and the visual amenities of the locality and to comply with policies DM18, DM21, DM26, DM29, CP12 and CP15 of the Brighton & Hove City Plan.

5. The development hereby approved should achieve a minimum Energy Performance Certificate (EPC) rating 'B' for new build residential development.

Reason: To improve the energy cost efficiency of existing and new development and help reduce energy costs to comply with policy DM44 of the Brighton & Hove City Plan.

6. No development including any demolition, shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include:

- (i) The phases of the Proposed Development including the forecasted completion date(s)
- (ii) A scheme of how the contractors will liaise with local residents to ensure that residents are kept aware of site progress and how any complaints will be dealt with reviewed and recorded (including details of any considerate constructor or similar scheme)
- (iii) A scheme of how the contractors will minimise disturbance to neighbours regarding issues such as noise and dust management vibration site traffic and deliveries to and from the site
- (iv) Details of hours of construction including all associated vehicular movements
- (v) Details of the construction compound
- (vi) A plan showing construction traffic routes

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

Reason: As this matter is fundamental to the protection of amenity, highway safety and managing waste throughout development works and to comply with policies DM20, DM33, DM40, and CP8 of the Brighton & Hove City Plan, and WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013 and Supplementary Planning Document 03 Construction and Demolition Waste.

7. Notwithstanding any details shown on the approved plans, no development above ground floor slab level of any part of the development hereby permitted shall take place until details of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):

- a) Samples/details of all brick, render and tiling (including details of the colour of render/paintwork to be used)

- b) samples of all cladding to be used, including details of their treatment to protect against weathering
- c) samples/details of all hard surfacing materials
- d) samples/details of the proposed window, door and balcony treatments
- e) samples/details of all other materials to be used externally

Development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and to comply with policies DM18, DM21, DM26, DM29, CP12 and CP15 of Brighton & Hove City Plan.

8. No refurbishment of the existing windows shall take place until full details of all new sliding sash windows and their reveals and cills including 1:20 scale elevational drawings and sections and 1:1 scale joinery sections have been submitted to and approved in writing by the Local Planning Authority. The replacement windows shall be painted timber double hung vertical sliding sashes with hidden trickle vents. The works shall be carried out and completed fully in accordance with the approved details and shall be retained as such thereafter.

Reason: To ensure a satisfactory appearance to the development and to comply with policies DM26, DM29 and CP15 of the Brighton & Hove City Plan.

9. Any works to the flank walls of the adjoining listed building, at no. 131 Kings Road, shall comply with the Method Statement in respect of the proposed attachment to the listed building, received on the 27 March 2024, unless the Local Planning Authority gives written consent to any variation. All works of making good of the flank walls of the listed building shall match the existing materials of the walls in that property, in its mortar colour, texture, composition, lime content and method of pointing.

Reason: To ensure the satisfactory preservation of the adjacent listed building and to comply with policies DM27 and CP15 of Brighton & Hove City Plan.

10. The works hereby permitted shall not be commenced until elevation and section drawings of the balustrade hereby approved, at a 1:20 scale, and 1:5 scale drawings of the balustrade, have been submitted to and approved in writing by the Local Planning Authority. The balustrade shall match the original balustrade in terms of materials, design, parapet level, shape and corncing, as far as is evident from historic photographs. The works shall be implemented in strict accordance with the agreed details and maintained as such thereafter.

Reason: To ensure a satisfactory appearance to the development and to comply with DM26, DM29 and CP15 of the Brighton & Hove City Plan.

11. Prior to the commencement of works, detailed specifications of the construction, materials and finish of the balustrade shall be submitted to and approved in writing by the Local Planning Authority. The balustrade shall match the original balustrade in terms of materials, design, parapet level, shape and corncing, as far as is evident from historic photographs. The works shall be implemented in strict accordance with the agreed details and maintained as such thereafter.

Reason: To ensure a satisfactory appearance to the development and to comply with DM26, DM29 and CP15 of the Brighton & Hove City Plan.

12. Notwithstanding the details on the drawings hereby approved, the roof terrace hereby approved shall not be first brought into use until details of a privacy screen to the western side of the terrace, has been submitted to and approved in writing by the Local Planning Authority. The screen shall be installed prior to first occupation and retained thereafter.
Reason: To protect the amenity of neighbouring occupiers and to ensure a satisfactory appearance to the development, in compliance with policies DM18, DM20, DM21, DM26, DM29, CP12 and CP15 of the Brighton and Hove City Plan.
13. The residential unit hereby approved shall not be occupied until it has achieved as a minimum, a water efficiency standard of not more than 110 litres per person per day maximum indoor water consumption.
Reason: To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton & Hove City Plan.
14. The development hereby permitted shall not be occupied until a scheme for the storage of refuse and recycling has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out and provided in full in accordance with the approved details prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.
Reason: To ensure the provision of satisfactory facilities for the storage of refuse and to comply with Policies DM18 and DM21 of the Brighton & Hove City Plan Part 2, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The applicant is advised that Part L - Conservation of Fuel and Power of the Building Regulations 2022 now requires each residential unit built to have achieved a 31% reduction in carbon emissions against Part L 2013.
3. The water efficiency standard required by condition is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.

4. The applicant is advised that a formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Southern Water, Southern House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (tel 0330 303 0119), or www.southernwater.co.uk

2. SITE LOCATION

- 2.1. The application relates to a late 18th century, four-storey building on the main seafront road in Brighton, incorporating a restaurant at ground floor level with residential accommodation above. The ground floor of the building and two storey additions to the rear historically housed a cinema that was in operation between 1896 and the 1950s.
- 2.2. The building itself is unlisted, however it is sited in the Regency Square Conservation Area and is flanked by a Grade II* listed building to the east (131 Kings Road) and a locally listed building to the west (Astra House, 133-134 Kings Road).
- 2.3. The application site has been significantly and harmfully altered by the addition of a first-floor enclosed glazed verandah projection, a modern shop front and the replacement of windows in uPVC, as well as the loss of the original pitched roof. The building's architectural interest has been significantly compromised however it retains historic interest as a reminder of the early history of this area.

3. RELEVANT HISTORY

- 3.1. **BH2023/03418** LBC Erection of an additional storey to create 1no. two-bed flat (C3) with front roof terrace with stone balustrade. Installation of a new lift and stairwell. Internal alterations to layout of existing flats. Revised fenestration to front and rear elevation. Under consideration.
- 3.2. **PRE2023/00067** Pre-application Advice - Proposed Penthouse Roof Addition and Lift Shaft. Advice given.
- 3.3. **BH2021/00852** Erection of a four-storey extension onto existing building to form 2no additional self-contained flats, and associated extensions to existing floors. Revised fenestration and associated works. Refused 21.09.2021 for the following reason:
"1. The application fails to adequately assess or describe the significance of the site. The proposed development of four additional floors to the existing building, due to the overall scale, height and design of the proposal, would result in significant harm to the existing building's character, appearance and historic interest as well as detracting from the high status and deliberate prominence and grandeur of the adjacent grade II listed number 131. The proposal would consequently significantly detract from the setting of the listed building, the existing terrace including locally listed building, and the character and*

appearance of the surrounding conservation area. In addition, the application fails to provide sufficient evidence that the building would be structurally able to take the considerable weight of the additional floors, which could therefore result in further harm and damage to the existing building, the adjoining listed building and the character and appearance of the conservation area. There are limited benefits of the proposals to outweigh the harm identified. The development is therefore contrary to policies CP12 and CP15 of the Brighton and Hove City Plan Part 1 and HE3 and HE6 of the Brighton and Hove Local Plan and the NPPF.”

- 3.4. **BH2019/01553** Replacement of existing metal windows to first floor front bay with new aluminium windows. Approved 119.09.2019.

4. APPLICATION DESCRIPTION

- 4.1. The application seeks permission for the erection of an additional storey to create a two-bedroom flat (planning use class C3) with front roof terrace and stone balustrade. Associated alterations include the installation of a new lift and external stairwell, and revised fenestration to both the front and rear elevations.
- 4.2. After discussions with the planning agent, amended plans were submitted during the life of the application which added a stone balustrade to the front elevation.
- 4.3. As noted above, the application follows a refused application for a four-storey extension and a subsequent pre-application request for a penthouse addition where the Council's heritage officer advised that a one-storey lightweight extension could be supported in principle.
- 4.4. There is a concurrent listed building consent application (BH2023/03418) being considered.

5. REPRESENTATIONS

- 5.1. **Eleven (11)** representations have been received objecting to the proposed development for the following reasons:
- Visual impact/ poor design,
 - Excessive height,
 - Overdevelopment,
 - Impact on heritage assets,
 - Loss of light / overshadowing,
 - Loss of privacy,
 - Loss of outlook,
 - Roof terrace not characteristic of the building,
 - Impact of additional traffic,
 - Increased noise from the new property,
 - Conflicts with the commercial use,
 - Would result in structural issues,
 - Lack of infrastructure provision,

- Submission inaccuracies,
 - Lack of consultation
- 5.2. In addition, a petition has been received with 32 signatures objecting to the application on the following grounds:
- Impact on heritage assets
 - Structural issues
- 5.3. The Georgian Group has objected, supporting the reinstatement of the balustrade but raising concerns over harm to the significance of a non-designated heritage asset and the Regency Square Conservation Area.
- 5.4. **Councillors Alison Thomson and Chloe Goldsmith** have made representations objecting to the application. A copy of the letters is appended to the report.
- 5.5. Representations which include objections relating to loss of view, impact on property values, utility supplies, views and inconvenience from build are noted, however are not material planning considerations.

6. CONSULTATIONS

Internal:

- 6.1. **Heritage:** No objection - The building is not listed, and the proposal would not cause harm to the building's historic significance, nor harm the fabric of the neighbouring grade II* listed building if appropriate conditions are applied. The proposed balustrade would help obscure the extension as well as reinstate some of the architectural character of the building.
- 6.2. **Private Sector Housing:** No objection Assessed however no comments offered.
- 6.3. **Sustainable Transport:** No objection subject to a Construction Environmental Management Plan (CEMP) condition to be attached.
- 6.4. **Urban Designer:** No objection Verbal comment. No concern regarding scale and massing subject to detail / materials by condition.

External:

- 6.5. **Conservation Advisory Group:** Objection The proposal adversely affects the original form of the building and the original form of the adjoining building (Grade II Listed) and would be out of character for the conservation area.
- 6.6. **Southern Water:** No objection A formal connection to the public sewer is required.

7. MATERIAL CONSIDERATIONS

- 7.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report.
- 7.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016);
 - Brighton & Hove City Plan Part Two (adopted October 2022);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
 - Shoreham Harbour JAAP (adopted October 2019).

8. RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One:

SS1	Presumption in Favour of Sustainable Development
SA2	Central Brighton
CP1	Housing delivery
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP11	Flood risk
CP12	Urban design
CP14	Housing density
CP15	Heritage
CP19	Housing mix

Brighton & Hove City Plan Part Two:

DM1	Housing Quality, Choice and Mix
DM18	High quality design and places
DM20	Protection of Amenity
DM21	Extensions and Alterations
DM26	Conservation Areas
DM27	Listed Buildings
DM28	Locally Listed Heritage Assets
DM29	The Setting of Heritage Assets
DM33	Safe, sustainable and active travel
DM36	Parking and servicing
DM37	Green Infrastructure and Nature Conservation
DM40	Protection of the Environment and Health - Pollution and Nuisance
DM43	Sustainable Drainage
DM44	Energy Efficiency and Renewables

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD11	Nature Conservation & Development
SPD12	Extensions and Alterations
SPD14	Parking Standards
SPD16	Sustainable Drainage
SPD17	Urban Design Framework

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the principle of the development, the design and appearance and impact on heritage assets, and the impact on neighbouring amenity. The standard of accommodation to be provided, sustainable transport and sustainability matters are also material considerations.

Principle of the Development:

- 9.2. Policy CP1 in City Plan Part One sets a minimum housing provision target of 13,200 new homes for the city up to 2030. However, on 24 March 2021 the City Plan Part One reached five years since adoption. National planning policy states that where strategic policies are more than five years old, local housing need calculated using the Government's standard method should be used in place of the local plan housing requirement. The local housing need figure for Brighton & Hove using the standard method is 2,333 homes per year. This includes a 35% uplift applied as one of the top 20 urban centres nationally.
- 9.3. The council's most recent housing land supply position is published in the SHLAA Update 2023 which shows a five-year housing supply shortfall of 7,786 (equivalent to 1.7 years of housing supply).
- 9.4. As the council is currently unable to demonstrate a five-year housing land supply, increased weight should be given to housing delivery when considering the planning balance in the determination of planning applications, in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).
- 9.5. This being the case, the creation of an additional two-bedroom residential unit would make a positive, albeit small contribution towards the city's housing target as set out in City Plan Policy CP1. It is also noted that the proposed development is consistent with the existing uses within the building so there is no objection to the principle of the residential use proposed.

Design, Appearance and Heritage Impacts:

- 9.6. The property is not listed, however lies within the Regency Square conservation area and adjoins the grade II* listed 131 Kings Road to the east, and the locally listed Astra House (133-134 Kings Road) to the west.
- 9.7. In considering whether to grant planning permission for development which affects a listed building or its setting, the Council has a statutory duty to have special regard to the desirability of preserving the building or its setting or any

features of special architectural or historic interest which it possesses. Moreover, when considering whether to grant planning permission for development in a conservation area the Council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.

- 9.8. Case law has held that the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses, and the desirability of preserving or enhancing the character or appearance of a conservation area should be given "considerable importance and weight".
- 9.9. The application states that the rear elevation has suffered from fire damage and a general lack of maintenance and poor construction. Refurbishment of the front and rear elevations is proposed, and it is stated that adding the penthouse extension makes the improvement works financially viable.
- 9.10. The proposed front elevation of the extension would be set back from the frontage, in line with Astra House to the west, allowing space for a front terrace with a stone balustrade. The extension would have a fully glazed, contemporary appearance with glass sliding doors with a grey aluminium trim. There would be no visible masonry around the glazing. This is considered to lend the extension a lightweight appearance and reduce visibility which is considered appropriate.
- 9.11. The balustrade is modelled on historic photographs of the building, and it would help further obscure the extension as well as reinstate some of the architectural character of the building. The reinstatement of sash windows to the second and third floor, in place of the unsympathetic uPVC windows, is also a significant benefit to the character and appearance of the building and the conservation area.
- 9.12. The height of the proposed lift shaft to the rear would be limited to just above the height of the rear parapet. It would not affect views of the building from within the conservation area, nor is it considered to affect the setting of the listed buildings in Regency Square.
- 9.13. *Impact on fabric of adjoining listed building:*
The proposed extension would adjoin with the listed building at no. 131 Kings Road via lead flashings that would be set into a small horizontal slot made to the wall face so as to seal all below from water ingress. This is considered to be a minor alteration that would not harm the fabric of the Listed Building. Any making good of the flank walls of the listed building should match the existing materials. This can be secured by condition.
- 9.14. The lift shaft structure would sit up against the party wall of the adjacent listed building but would not be built into it, thus avoiding any harm to the fabric of the listed building.
- 9.15. It is acknowledged that the Conservation Advisory Group has objected to the proposals due to the impact on the conservation area and original form and architectural interest of the building. However, for the reasons outlined above, the proposed works are not considered to cause harm to the host building's

historic significance, nor would they harm the fabric or setting of the adjoining grade II* listed building. Furthermore, the development is not considered to detrimentally impact on the special interest of the locally listed Astra House, to the west.

- 9.16. The Council's Heritage Office has no objection to the scheme.
- 9.17. The application is therefore acceptable in design and heritage terms, subject to conditions relating to submission of samples/ details of materials, large-scale details of the balustrade and windows and any making good works.

Standard of Accommodation:

- 9.18. Policy DM20 of CPP2 seeks to ensure a good standard of amenity for future occupiers of the proposed development and this requirement is one of the core planning principles of the NPPF.
- 9.19. The proposed dwelling at fourth floor (Flat 7) would measure 62m² which would exceed the minimum Nationally Described Space Standard (NDSS) which requires 61m² for a two bed (1x double, 1x single) 3-person unit over 1 storey. It would provide sufficient space for furniture, circulation and head room, as well as access to good levels of natural light, ventilation and outlook.
- 9.20. The units on the first, second and third floors would remain as they are at present, save for some access and internal lobby changes. Flats 3, 5 and 6 would comply with the NDSS. Flats 1, 2 and 4 on the first floor are small studios / bedsits and do not comply with the NDSS, however, given that these are existing units, it would not be reasonable to raise an objection on this basis.
- 9.21. DM1 states that all new residential development will be required to provide useable private outdoor amenity space appropriate to the scale and character of the development. A roof terrace is proposed for the new unit which is considered appropriate.
- 9.22. Refuse and recycling provision is proposed to be the same arrangement as for the existing flats, which it is understood is the use of on-street bins, however full details can be secured by condition.

Impact on Amenity:

- 9.23. Policy DM20 of City Plan Part 2 states that planning permission for any development or change of use will not be granted where it would cause unacceptable loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 9.24. To the east of the site, the listed no. 131 Kings Road has a restaurant at ground floor level and flats above, and it wraps around the corner into Regency Square and forms The Beach Hotel. The western elevation of no. 131 contains three small windows facing west adjacent to the development which serve communal areas and stairwells. The proposed development would include a lightwell and cut-out roof section to retain light and outlook to these windows. Given that the

windows are secondary openings and taking these measures into account, the impact on light is not considered significant.

- 9.25. The development itself would also have communal / non habitable windows facing into the proposed lightwell. Some mutual overlooking may occur, however given the nature of the spaces the existing and proposed windows serve, this is considered acceptable.
- 9.26. To the west, Astra House has a blank side elevation within the main building, and a rear wing housing residential units with east-facing windows. An objection has been received regarding the potential impact on daylight/ sunlight to these windows. However, daylight and outlook to these windows is mainly sourced from the east, which would not change.
- 9.27. Regarding sunlight, the taller building of no. 131 Kings Road to the east already impacts on light to Astra Court creating a very oblique angle for sunlight to infiltrate the gap to the eastern facing windows. Additionally, a shadow is cast on its eastern elevation of Astra Court from midday onwards, once the sun has move around towards the west.
- 9.28. Given the existing situation, there would be a very minimal impact on sunlight to the eastern facing windows. It would appear that a small number of windows at second floor level would be impacted for a short period of time, in the middle of the day during winter months, when the sun is lower in the sky. This is not considered to cause significant harm to living conditions nor warrant refusal of the application. Overall, there is not considered to be a harmful impact on daylight/ sunlight.
- 9.29. The proposed rear window openings within the additional storey would provide similar views to those of the existing upper floors. The site faces the seafront and promenade and as a result there are no residential properties to the south of the site.
- 9.30. With regard to the proposed roof terrace, to the west, there is an existing high side wall at 1.6 metres high and rising to 2.8 metres where it adjoins the building. Given the wall would be 1.6m towards the front of the terrace, potentially affording close-range views into Astra House, a condition is to be applied requiring the installation of screening along this boundary, subject to approval by the local planning authority to ensure it is not visible from the ground within the conservation area.
- 9.31. The terrace would not provide direct or close-range views into the front windows of no.131 Kings Road and therefore screening is not required to this side. It is considered that use of the terrace would not cause undue nuisance to the occupiers of the adjoining flats or commercial uses below, given its size and the lively city centre location. It is noted that there is an existing terrace at second floor level.
- 9.32. There has been an objection raised with regard to potential conflict between the new residential unit and the existing commercial units at ground floor, with regard

to noise from plant. This is noted, however there are already many residential flats on site and at the adjoining sites, and the new flat would be sited further from the plant than existing dwellings. There have been no recent complaints received by the Council relating to plant noise and the existing uses appear to co-exist successfully.

- 9.33. Overall, an additional unit of residential accommodation is unlikely to lead to such a significant increase in noise or activity to warrant refusal of the application, given the size of the unit and potential number of occupants.

Sustainable Transport:

- 9.34. The existing building does not have any car or cycle parking provision, and none is proposed. Given that the development is for only one additional dwelling within the city centre, this is deemed to be acceptable.

- 9.35. A Construction Environmental Management Plan (CEMP) is recommended in relation to highway safety and local amenity issues that could arise during the build, given the busy city centre location and associated existing on-street parking and loading restrictions.

- 9.36. The proposed development may slightly increase the number of trips to the location; however, the increase is unlikely to generate significant movements that would warrant refusal of the application. The Council's Highways Team has no objections to the scheme.

Sustainability:

- 9.37. CPP2 Policy DM44 requires a minimum energy Performance Certificate (EPC) rating 'B' for new build residential development. Policy also requires new build development to achieve 31% improvement on the carbon emission targets set by Part L Building Regulations. The development should also meet the optional standard for water consumption. These measures can be secured by condition.

Conclusion:

- 9.38. The creation of a two-bedroom, residential unit, with a good standard of accommodation, would make a small but positive contribution towards the city's housing target as set out in City Plan Policy CP1, without significant impact on neighbouring amenity. The proposed extension is not considered to cause harm to the building's historic interest, nor would it harm the fabric or setting of the neighbouring grade II* listed building or the special interest of the locally listed Astra House. The proposed balustrade and sash windows would reinstate, much welcomed, architectural character to the building and would be of significant benefit to the character and appearance of the property and conservation area.

10. EQUALITIES

- 10.1. Section 149(1) of the Equality Act 2010 provides:

- 1) A public authority must, in the exercise of its functions, have due regard to the need to—
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 10.2. Officers considered the information provided by the applicant, together with the responses from consultees (and any representations made by third parties) and determined that the proposal could give rise to material impacts on individuals or identifiable groups with protected characteristics, as follows:

- 10.3. Ideally new dwellings should be accessible and adaptable and in accordance with Building Regulations M4(2) for accessibility as required by Policy DM1 of the City Plan Part Two. However, the proposed flat would be sited on the fourth floor of the building with an existing narrow ground floor access route. A lift would be provided, however there would be steps enroute to it. Given the existing layout of the building, it is understood that the scheme cannot comply with the above standard without significant internal alterations. Given the existing layout arrangement and the constraints of the site, it is considered unreasonable to insist on compliance in this instance.

11. COMMUNITY INFRASTRUCTURE LEVY

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



PLANNING COMMITTEE LIST

Brighton & Hove COUNCILLOR REPRESENTATION
City Council

Cllr. Chloë Goldsmith
BH2023/03417 – 132 Kings Road

3rd April 2024:

Apologies for submitting this right on the deadline, but I'd like to put in an objection to the two planning applications relating to 132 Kings Road, BN1 2HH (BH2023/03417 & BH2023/03418)

A very similar planning application was previously rejected in 2021 and I do not believe this new one adequately addresses the issues which were considered grounds for refusal then. A huge concern is the possibility that the building may not be able to structurally support the weight of additional stories, making the building a risk to itself, residents, passers-by, and the listed building next to it. I cannot see that this concern has been fully addressed.

I also do not believe that the plans put forward are in-keeping with the Conservation Area and do not enhance or preserve its character. While the reinstatement of the Balustrading is a welcome addition, I'm not sure if it will be enough to allow it to fit in with the rest of the area.



PLANNING COMMITTEE LIST

Brighton & Hove COUNCILLOR REPRESENTATION **City Council**

Cllr. Alison Thomson
BH2023/03417 – 132 Kings Road

1st February 2024:

Stance: Customer objects to the Planning Application

Comment Reasons:

- Adverse affect on listed building
- Adversely affects Conservation Area
- Overdevelopment
- Overshadowing
- Poor design
- Restriction of view

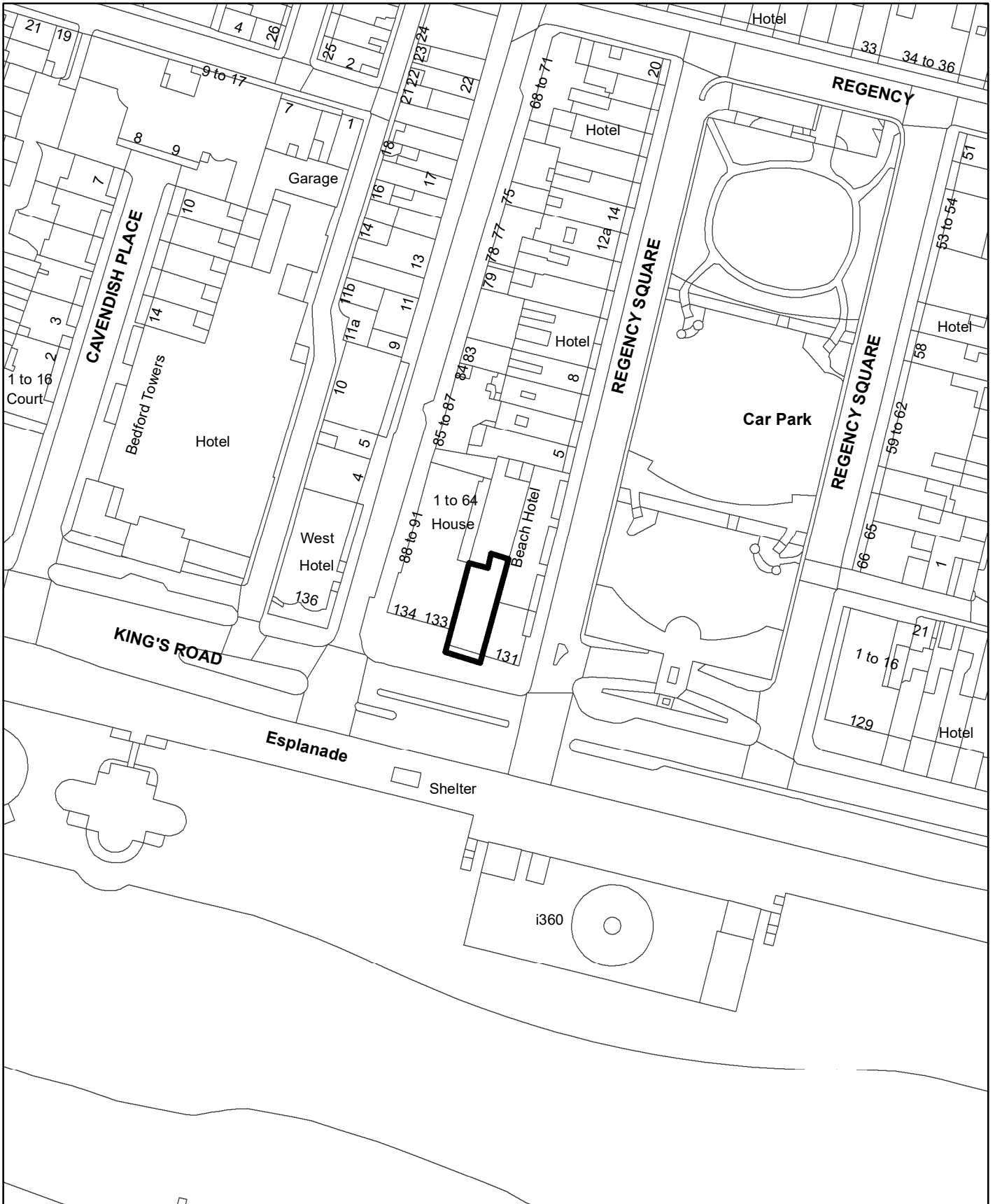
Comment: As this is the oldest building on Kings Road, it is most likely to have been built using bungaroosh and is therefore unlikely to be structurally sound enough to support any development of any kind. The report contained in the documents does not address this. Having consulted experts, I would insist that the applicant complete a full structural survey before any decision is made. Although this building is itself not listed, it is next to a listed building (131) and the design would have a severely detrimental effect on it, in terms of noise, privacy and overshadowing and most especially with the installation of a lift. The building is also in a conservation area and this design is completely out of step with the architecture of the area. Therefore I object in the strongest terms to this application.

ITEM F

**132 Kings Road
BH2023/03418
Listed Building Consent**

DATE OF COMMITTEE: 5th June 2024

BH2023 03418 - 132 Kings Road



N



Scale: 1:1,250

<u>No:</u>	BH2023/03418	<u>Ward:</u>	Regency Ward
<u>App Type:</u>	Listed Building Consent		
<u>Address:</u>	132 Kings Road Brighton BN1 2HH		
<u>Proposal:</u>	Erection of an additional storey to create 1no. two-bed flat (C3) with front roof terrace with stone balustrade. Installation of a new lift and stairwell. Internal alterations to layout of existing flats. Revised fenestration to front and rear elevation.		
<u>Officer:</u>	Sonia Gillam, tel: 292265	<u>Valid Date:</u>	19.01.2024
<u>Con Area:</u>	Regency Square	<u>Expiry Date:</u>	15.03.2024
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	10.04.2024
<u>Agent:</u>	Michael Wilson Restorations Kent House 81 High Street Cranleigh GU6 8AU		
<u>Applicant:</u>	Rapido Services Weytots Wey Lane Addlestone KT15 3JR		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

Reason: For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
Proposed Drawing	112/150/05	C	11 March 2024
Proposed Drawing	112/150/06	C	11 March 2024
Proposed Drawing	112/150/04	C	11 March 2024
Block Plan	112/150/07		29 December 2023
Location Plan			29 December 2023
Report/ Statement	Method Statement Listed Building Impact		27 March 2024

2. The works hereby permitted shall be commenced before the expiration of three years from the date of this consent.

Reason: To comply with Sections 18 (as amended) and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

3. Any works to the flank walls of the adjoining listed building, at no. 131 Kings Road, shall comply with the Method Statement in respect of the proposed attachment to the listed building, received on the 27 March 2024, unless the Local Planning Authority gives written consent to any variation. All works of making good of the flank walls of the listed building shall match the existing

materials of the walls in that property, in its mortar colour, texture, composition, lime content and method of pointing.

Reason: To ensure the satisfactory preservation of this listed building and to comply with policies DM27 and CP15 of Brighton & Hove City Plan.

Informatives:

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

2. SITE LOCATION

- 2.1. The application relates to a late 18th century, four-storey building on the main seafront road in Brighton, incorporating a restaurant at ground floor level with residential accommodation above. The ground floor of the building and two storey additions to the rear historically housed a cinema that was in operation between 1896 and the 1950s.
- 2.2. The building itself is unlisted, however it is sited in the Regency Square Conservation Area and is flanked by a Grade II* listed building to the east (131 Kings Road) and a locally listed building to the west (Astra House, 133-134 Kings Road).
- 2.3. The application site has been significantly and harmfully altered by the addition of a first-floor enclosed glazed verandah projection, a modern shop front and the replacement of windows in uPVC, as well as the loss of the original pitched roof. The building's architectural interest has been significantly compromised however it retains historic interest as a reminder of the early history of this area.

3. RELEVANT HISTORY

- 3.1. **BH2023/03417** Erection of an additional storey to create 1 no two bedroom flat (C3) with front roof terrace and stone balustrade. Installation of a new lift and stairwell. Revised fenestration to front and rear elevation. Under consideration.
- 3.2. **PRE2023/00067** Pre-application Advice - Proposed Penthouse Roof Addition and Lift Shaft. Advice given.
- 3.3. **BH2021/00852** Erection of a four-storey extension onto existing building to form 2 no additional self-contained flats, and associated extensions to existing floors. Revised fenestration and associated works. Refused 21.09.2021 for the following reason:
 1. *The application fails to adequately assess or describe the significance of the site. The proposed development of four additional floors to the existing building, due to the overall scale, height and design of the proposal, would result*

in significant harm to the existing building's character, appearance and historic interest as well as detracting from the high status and deliberate prominence and grandeur of the adjacent grade II listed number 131. The proposal would consequently significantly detract from the setting of the listed building, the existing terrace including locally listed building, and the character and appearance of the surrounding conservation area. In addition, the application fails to provide sufficient evidence that the building would be structurally able to take the considerable weight of the additional floors, which could therefore result in further harm and damage to the existing building, the adjoining listed building and the character and appearance of the conservation area. There are limited benefits of the proposals to outweigh the harm identified. The development is therefore contrary to policies CP12 and CP15 of the Brighton and Hove City Plan Part 1 and HE3 and HE6 of the Brighton and Hove Local Plan and the NPPF.*

- 3.4. **BH2019/01553** Replacement of existing metal windows to first floor front bay with new aluminium windows. Approved 119.09.2019.

4. APPLICATION DESCRIPTION

- 4.1. The proposal is for the erection of an additional storey to create a two-bedroom flat (C3) with front roof terrace and stone balustrade. Associated alterations include the installation of a new lift and stairwell in a three-storey extension to the rear, and revised fenestration to front and rear elevation. After discussions with the planning agent, amended plans were submitted during the life of the application which added the stone balustrade to the front elevation.
- 4.2. Although the building at the application site is unlisted, the adjacent building at no. 131 Kings Road is a Grade II* listed building. The application states that there would be minor impact to the flank walls of no. 131 from the proposed development; the lead flashings would be set into a small horizontal slot made to the wall face, so as to seal all below from water ingress.
- 4.3. Such works would generally be considered 'de minimis', however the applicant is seeking listed building consent, alongside planning permission (BH2023/03417), as a belt-and-braces approach.

5. REPRESENTATIONS

- 5.1. **Twelve (12)** representations have been received objecting to the proposed development for the following reasons:
- Visual impact/ poor design
 - Height
 - Overdevelopment
 - Impact of heritage assets
 - Structural issues
 - Submission inaccuracies
 - Lack of consultation

- 5.2. In addition, a petition has been received with 32 signatures objecting to the application on the following grounds:
- Impact on heritage assets
 - Structural issues
- 5.3. The Georgian Group has objected, supporting the reinstatement of the balustrade but raising concerns over harm to the significance of a non-designated heritage asset and the Regency Square Conservation Area.
- 5.4. **Councillor Chloe Goldsmith** has made representations objecting to the application. A copy of the letter is appended to the report.
- 5.5. Representations which include objections relating to loss of view, impact on property values, utility supplies, views, inconvenience from build, impact on amenity, and traffic issues are noted but are not material considerations in relation to listed building consent applications.

6. CONSULTATIONS

Internal:

- 6.1. **Heritage:** No objection - The building is not listed, and the proposal would not cause harm to the building's historic significance, nor harm the fabric of the neighbouring grade II* listed building if appropriate conditions are applied. The proposed balustrade would help obscure the extension as well as reinstate some of the architectural character of the building.

External:

- 6.2. **CAG:** Objection The proposal adversely affects the original form of the building and the original form of the adjoining building (Grade II Listed) and would be out of character for the conservation area.
- 6.3. **Historic England:** Comment Assessed however no comments offered. It is recommended advice is sought from the LPA conservation officer.

7. MATERIAL CONSIDERATIONS

- 7.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report.
- 7.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016);
 - Brighton & Hove City Plan Part Two (adopted October 2022);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);

- East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
- Shoreham Harbour JAAP (adopted October 2019).

8. **POLICIES**

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP15	Heritage

Brighton & Hove City Plan Part Two

DM26	Conservation Areas
DM27	Listed Buildings

Supplementary Planning Documents:

SPD09	Architectural Features
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9. **CONSIDERATIONS & ASSESSMENT**

- 9.1. In considering whether to grant listed building consent the Council has a statutory duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Moreover, when considering whether to grant listed building consent for development in a conservation area the Council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
- 9.2. Case law has held that the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses, and the desirability of preserving or enhancing the character or appearance of a conservation area should be given "considerable importance and weight".
- 9.3. The proposed extension would adjoin with the listed building at no. 131 Kings Road via lead flashings that would be set into a small horizontal slot made to the wall face so as to seal all below from water ingress. This is considered to be a minor alteration that would not harm the fabric of the Listed Building.
- 9.4. Any making good of the flank walls of the listed building should match the existing materials. This can be secured by condition.
- 9.5. The proposed lift shaft structure would sit up against the party wall of the adjacent listed building, however, would not be built into it, thus avoiding any harm to the fabric of the listed building. The proposed works would not harm the significance of the listed building or the setting of the conservation area.
- 9.6. Subject to the recommended conditions, the proposed works would not harm the historic character or appearance of the Grade II* listed building or wider

conservation area, in accordance with policies CP15 of the Brighton & Hove City Plan Part One, DM26 and DM27 of the Brighton & Hove City Plan Part Two.

10. EQUALITIES

10.1. Section 149(1) of the Equality Act 2010 provides:

- 1) A public authority must, in the exercise of its functions, have due regard to the need to—
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

10.2. Officers considered the information provided by the applicant, together with the responses from consultees (and any representations made by third parties) and determined that the proposal could give rise to material impacts on individuals or identifiable groups with protected characteristics, as follows:

10.3. Ideally new dwellings should be accessible and adaptable and in accordance with Building Regulations M4(2) for accessibility as required by Policy DM1 of the City Plan Part Two. However, the flat would be sited on the fourth floor of the building with an existing narrow ground floor access route and a lift from the first-floor landing. Given the existing layout of the historic building, it is understood that the scheme cannot comply with the above standard without significant internal alterations. Given this it is considered unreasonable to insist on compliance in this instance.



PLANNING COMMITTEE LIST

Brighton & Hove COUNCILLOR REPRESENTATION **City Council**

Cllr. Chloë Goldsmith
BH2023/03418 – 132 Kings Road

3rd April 2024:

Apologies for submitting this right on the deadline, but I'd like to put in an objection to the two planning applications relating to 132 Kings Road, BN1 2HH (BH2023/03417 & BH2023/03418)

A very similar planning application was previously rejected in 2021 and I do not believe this new one adequately addresses the issues which were considered grounds for refusal then. A huge concern is the possibility that the building may not be able to structurally support the weight of additional stories, making the building a risk to itself, residents, passers-by, and the listed building next to it. I cannot see that this concern has been fully addressed.

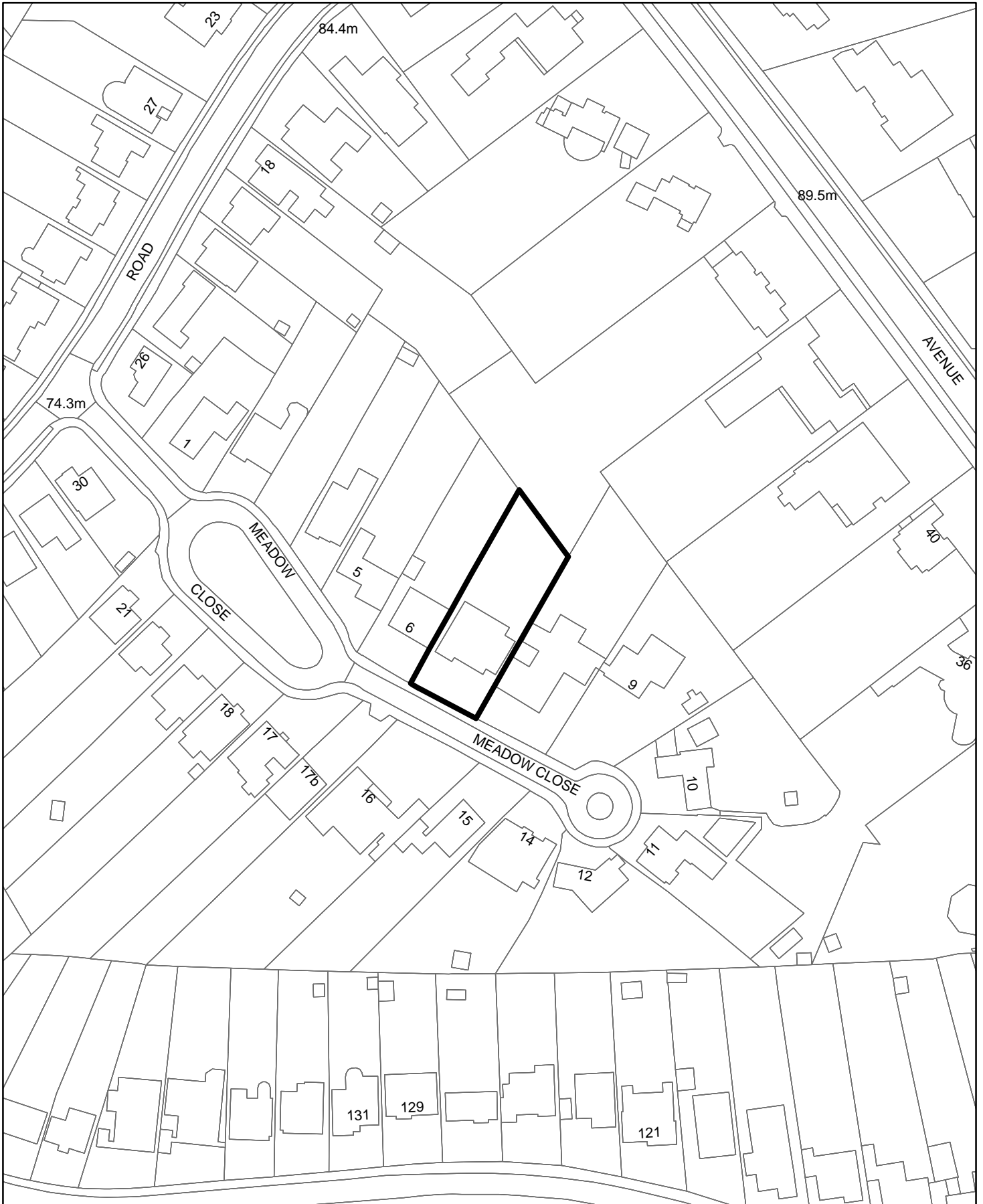
I also do not believe that the plans put forward are in-keeping with the Conservation Area and do not enhance or preserve its character. While the reinstatement of the Balustrading is a welcome addition, I'm not sure if it will be enough to allow it to fit in with the rest of the area.

ITEM G

**7 Meadow Close
BH2024/00213
Householder Planning Consent**

DATE OF COMMITTEE: 5th June 2024

BH2024 00213 - 7 Meadow Close



<u>No:</u>	BH2024/00213	<u>Ward:</u>	Westdene & Hove Park Ward
<u>App Type:</u>	Householder Planning Consent		
<u>Address:</u>	7 Meadow Close Hove BN3 6QQ		
<u>Proposal:</u>	Revised boundary treatment (Part Retrospective).		
<u>Officer:</u>	Charlotte Tovey, 202138	tel: <u>Valid Date:</u>	07.03.2024
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	02.05.2024
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	10.06.2024
<u>Agent:</u>	RSP Architects Ltd. RSP Architects Ltd 1 Westbourne Grove Hove BN3 5PJ		
<u>Applicant:</u>	Mr Saaid Abdulkhani 7 Meadow Close Hove BN3 6QQ		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

Reason: For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
Location and block plan	01	A	7 May 2024
Proposed Drawing	01	A	7 May 2024

2. No erection, construction, removal, improvement or alteration of a gate, fence, wall or other means of enclosure at the front of the site as provided for within Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.

Reason: To safeguard the amenities of the occupiers of nearby properties, to ensure appropriate visual subdivision of the site and to comply with Policies DM20 and DM21 of the Brighton and Hove City Plan Part Two and CP12 of the Brighton and Hove City Plan Part One.

Informatives:

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

2. The applicant is advised that advice regarding permeable and porous hardsurfaces can be found in the Department of Communities and Local Government document 'Guidance on the permeable surfacing of front gardens'

2. SITE LOCATION

- 2.1. This application relates to a detached dwelling house located on the northern side of Meadow Close, off Tongdean Road in Hove. No. 7, like many of the residential detached bungalows and houses in the close has been remodelled and extended. The property was converted from a bungalow with accommodation in the roofspace to a two storey dwelling in 2017 and now features a contemporary appearance with a mix of render, tile cladding and glazing. The properties in the close also benefit from spacious front and rear gardens. Many of the front boundaries within the close are low level with open frontages, grassed lawns and driveways.
- 2.2. The site is not within a conservation area.

3. RELEVANT HISTORY

- 3.1. **ENF2022/00103** Boundary wall built without planning permission - Enforcement notice served 22.11.2023. The enforcement notice served required a height reduction of the boundary wall as set out below within 3 months of the date of the notice which took effect 22.12.2023. There is a current and ongoing appeal against the enforcement notice at the time of writing.
- 3.2. The formal requirements of the enforcement notice are
 1. Reduce the height of the wall, including piers, fronting and parallel to the highway, to no more than 0.6 metres.
 2. Reduce the height of the wall, between the Property and the property at number 8 Meadow Close, perpendicular to the highway to no more than 0.6 metres for a length of 2 metres from the highway (for clarity the highway being the pavement).
 3. Reduce the height of the wall, between the Property and the property at number 6 Meadow Close, perpendicular to the highway to no more than 0.6 metres for a length of 2 metres from the highway (for clarity the highway being the pavement)
- 3.3. **APP/Q1445/D/23/3325461** Appeal of refused BH2022/02886 Dismissed 14.09.2023
- 3.4. **BH2022/02886** Formation of front and side boundary walls (Part retrospective) Refused 20.04.2023. The application sought permission for the front boundary walls (part retrospectively), increasing the overall height of the front boundary to 1m in white render with railings fitted above at approximately 2.3m and pillars 2.4m in height. The application also included an increase in height on the side

boundary walls with no. 6 and no. 8 Meadow Close. This scheme was refused for the reasons below: The application was refused for 3 reasons:

1. The proposed front and side boundary walls and pillars at the front of the site, by reason of their excessive height and incongruous materials, would appear overly dominant and out of keeping with the character and appearance of the streetscene.
This is contrary to Policies DM18 and DM21 of City Plan Part Two and CP12 of City Plan Part One, and SPD12.
2. The development of the front garden into a forecourt for car parking, would have an adverse impact on visual amenity and the character of the streetscene, contrary to Policy DM18 and DM21 of City Plan Part Two and CP12 of City Plan Part One, and SPD12.
3. The proposed boundary and pillars at the front of the site have been built to a height considered to be unsafe to pedestrians and road users by virtue of inadequate visibility for pedestrians and drivers, and are therefore contrary to Policy DM33 of City Plan Part Two and SPD12

- 3.5. **BH2017/00767** - Erection of additional storey with associated alterations and single storey rear extension. Approved 13.09.2017

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought part retrospectively for a front boundary wall of 1m in height with pillar detailing and a vehicle hardstanding, front steps and side return walls. The 1m wall would be white render with short dividing pillars which would reduce to 0.6m in height within 2m of the vehicle access. The side return walls would be stepped and to a height of 1m on the western side and similarly on the eastern side but dropping to 0.6m within two metres of the access to ensure suitably visibility for vehicle and pavement users.
- 4.2. The application is part retrospective and the revised front boundary treatment is to overcome the previously refused application BH2022/02886 and subsequently dismissed appeal.
- 4.3. During the course of this application satisfactory amendments have been made to further reduce the height of the front boundary wall from approximately 1.2m overall as originally submitted to 1m with a step down to 0.6m at the crossover, whilst the side boundary walls have been reduced by a further 0.6m from the original proposal to ensure acceptable highway visibility.. The material finish of the walls would be white painted render.
- 4.4. Neighbours have not been reconsulted on the amendments as the reduced height of the boundary walls now proposed are less harmful than the initial plans submitted with the application.

5. CONSULTATIONS

- 5.1. **Transport Verbal** comment

The updated plans submitted on the 7th May 2024 are now considered acceptable and provide a safe crossover to the site.

6. REPRESENTATIONS

- 6.1. In response to publicity, responses were received from **five (5)** individuals, objecting to the initial application and raising the following issues:
- Inappropriate height of development
 - Unsafe crossover
 - Restriction of view
 - Not in keeping with the close

7. MATERIAL CONSIDERATIONS

- 7.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report.
- 7.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016);
 - Brighton & Hove City Plan Part Two (adopted October 2022);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
 - Shoreham Harbour JAAP (adopted October 2019).

8. RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One:

SS1 Presumption in Favour of Sustainable Development

CP10 Biodiversity

CP12 Urban Design

Brighton & Hove City Plan Part Two:

DM18 High quality design and places

DM20 Protection of Amenity

DM21 Extensions and alterations

DM33 Safe, Sustainable and Active Travel

DM37 Green Infrastructure and Nature Conservation

Supplementary Planning Document:

SPD11 Nature Conservation & Development

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the design and appearance of the proposal, the impact to the street scene, the impact on the highway and the impact on the neighbouring amenity.
- 9.2. The comments of the inspector within the previously dismissed appeal against BH2022/02886 have been weighed in the decision-making process. The inspectorate upheld the Council's previous reasons for refusal and concluded that the front and side boundary walls (as previously proposed at approximately 2.3m in height) were "unduly strident and harsh being of too great a scale and jarring on the eye". The previous scheme was considered to be of an excessive length and height in such a bright non-traditional finish and overly enclosed the frontage to the extent that it impacted negatively upon the streetscene. The dominant development was considered to detract from the character of Meadow Close.
- 9.3. The third reason for refusal on the grounds that the original scheme provided an unsafe crossover was also upheld by the inspector.
- 9.4. This scheme is shown on the plans submitted within this application as "existing".
- 9.5. As noted above an Enforcement Notice has also been served against the existing on-site development. This application includes alterations to the boundary walls that differ from the requirements of the enforcement notice served in that the front boundary wall as proposed (Elevation A) would have a height of 1m dropping to 0.6m at the crossover whereas the enforcement notice required a reduction of 0.6m for the entire length of the wall and also 0.6m for the side returns where within 2m of the footway. (The current application includes 0.6m on the eastern side but also stepping up in height away from the footway).
- 9.6. The LPA are able to determine the application and the enforcement notice will remain extant and require compliance until such a time as any approval granted for an alternative scheme is implemented.
- 9.7. A site visit has been undertaken in this instance and the impacts of the proposal can be clearly assessed from the plans, site visit, photos provided and from recently taken aerial imagery of the site.

Design, Character and Appearance:

- 9.8. Updated plans received on the 7th May 2024 reduced the proposed boundary walls further from those submitted to the scheme now proposed:

- 9.9. For clarity the front boundary wall (Elevation A on the submitted plans) has been reduced further to a total height of 1m, removing the tall pillars and further reduced the wall height at the frontage to step down to 0.6m in height where within 2m of the crossover.
- 9.10. The side boundary wall that is shared with no. 6 Meadow Close on the western side (Elevation B) has been reduced in height by approximately 0.6m so that the shared boundary with this neighbour is staggered between 0.6m and 1m and consequently less impactful on the visual approach into Meadow Close.
- 9.11. The side boundary wall that is shared with no. 8 Meadow Close on the eastern side (Elevation C) at the point closest to the highway has been reduced in height to 0.6m and will remain at this height for 2m in length to comply with the Councils visibility splay requirements. It would then increase to 1.4m at its maximum and then again by a further 0.3m as the wall steps up in height to the north.
- 9.12. The amendments to the front and side boundary walls of no. 7 Meadow Close are now considered to be of an acceptable height which are more reflective of the front boundaries within the streetscene, would not be visually discordant and less harmful to the character of the close.
- 9.13. It is acknowledged that the application of white render to the front and side boundary walls will be a new material to the boundary treatments prevalent within the close which are otherwise largely brick, fences or hedges and soft landscaping. However the rendered material would relate well to the re-modelled principal property at the site and whilst this would be an overall variation within the street, the material would relate well to the existing dwelling and due to the low height proposed would not appear sufficiently out of keeping to warrant a refusal of the application. In addition many of the dwellings in Meadow Close are constructed with white render (at least in part), including the host building, therefore the application of this material is not considered to cause significant harm to the appearance of the close that would warrant refusal.
- 9.14. The loss of soft landscaping at the front of the site that has taken place by the fitment of hardstanding is regrettable and was also noted by the inspectorate as a concern in the previous appeal, however, it is noted that the applicant since the appeal has added hedges and planting to the perimeter of the boundary walls and potted plants to contribute towards protecting the green and somewhat verdant character of Meadow Close.
- 9.15. The case officer visited Meadow Close in May 2024 which demonstrated that no. 3, no. 4, no. 5, no. 10, no. 11, no. 17 front gardens have all been hard surfaced to a similar extent as no. 7. Given the context of the street scene it is not considered that the application of hard surfacing and planting to the front of the site would cause significant harm to the appearance of the street scene that would warrant refusal.
- 9.16. A condition is also recommended removing the applicants permitted development rights for gates, walls and fences at the front of the site to ensure

that any further development of boundary walls at the site are considered by the local planning authority.

- 9.17. The proposed and amended front boundary walls are considered to be acceptable alterations that would not cause harm to the appearance and character of the street scene and would accord with policies DM18, DM21 of City Plan Part Two and CP12 of City Plan Part One.

Impact on the Highways

- 9.18. As described above, the height of the front boundary wall (elevation A) and the side boundary wall (elevation C) has now been amended to 0.6m within 2 metres of the crossover of the site to allow adequate visibility for road users, pedestrians for no. 7 Meadow Close and also the adjoined neighbour, no. 8 Meadow Close.
- 9.19. The Local Highways Authority were reconsulted and have confirmed that the alterations are now acceptable and considered to be in accordance with policy DM33 of City Plan Part Two and SPD12 and provide a safe and suitable crossover.

Impact on Residential Amenity

- 9.20. The officers report for the previously refused application BH2022/02886 concluded that the previous taller boundary would not result in a loss of light or amenity that would warrant refusal of the application due to the sites orientation and separation from the neighbour dwellings and windows. The development proposed is not considered to significantly impact the adjoining neighbours in terms of daylight, sunlight, overshadowing, outlook, noise and privacy following an investigation. The proposal would accord with Policy DM20 of City Plan Part Two.

Biodiversity

- 9.21. The proposed alterations to the front of the site include hard surfacing of the front driveway which has removed all soft landscaping to the front of the site. Prior to the alterations taking place the front garden consisted of a grass lawn with shrubs to the low level brick boundary wall and the boundary between no. 7 and no. 6 Meadow Close was a tall, wide hedge and a further hedge has been removed from in front of the dwellinghouse.
- 9.22. Whilst the loss of the soft landscaping and trees is regrettable, permission is not required for their removal and none of the trees were the subject of a Tree Preservation Order (TPO) and the applicant was able to lawfully undertake these works. Therefore, the amendments to the boundary and front garden, although detrimental to the overall biodiversity of the site, could not be refused on this basis.

Other matters

- 9.23. It is noted that this development is the subject of a current and extant enforcement notice. In consideration of all the above an amended development on the site as proposed is considered to be an acceptable form of development. Whilst the enforcement notice remains extant full compliance with the enforcement notice is still required, however, should the development be

amended in full accordance with this approval it would be a material consideration in considering whether the notice would be withdrawn.

10. EQUALITIES

10.1. Section 149(1) of the Equality Act 2010 provides:

- 1) A public authority must, in the exercise of its functions, have due regard to the need to—
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

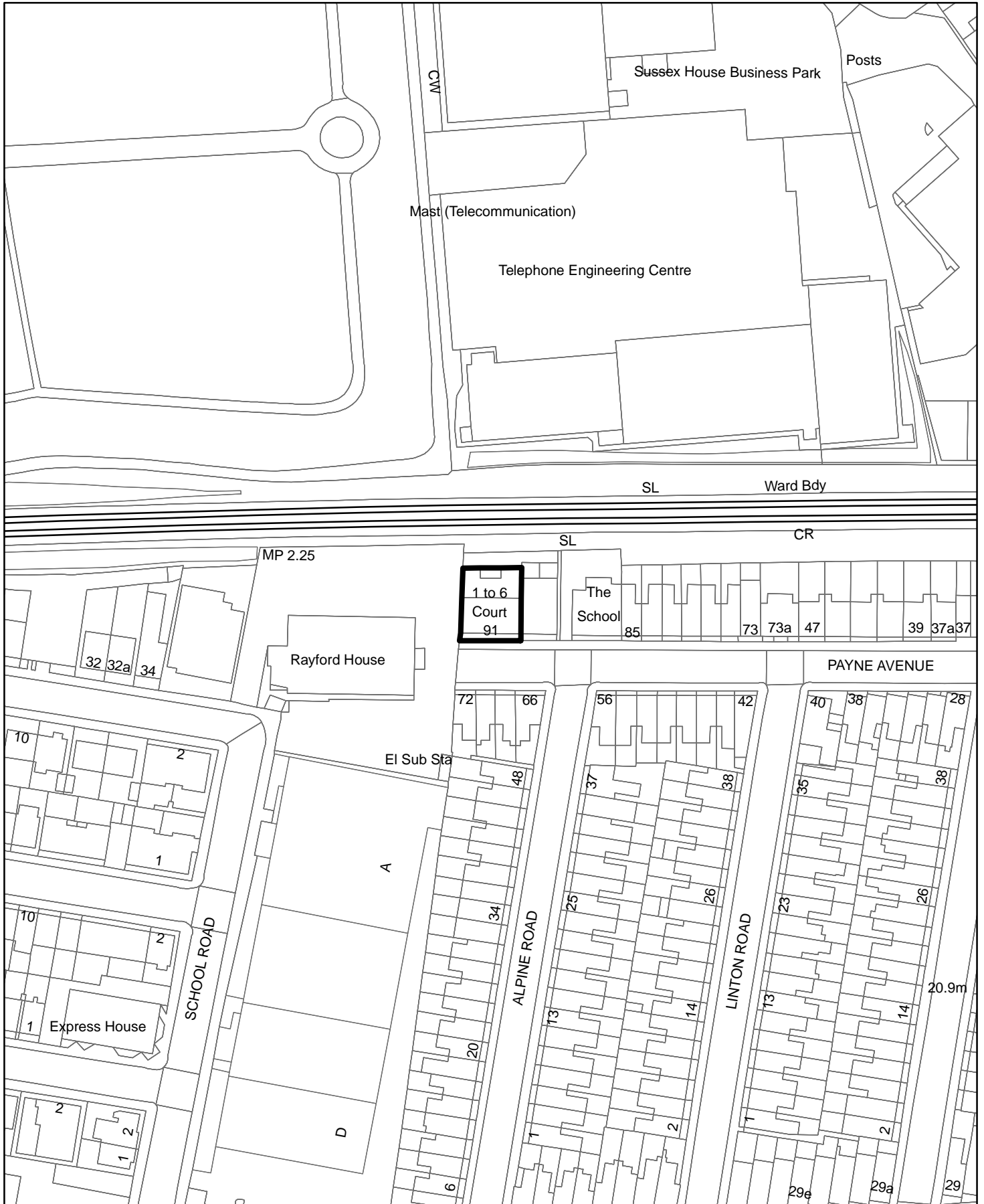
10.2. Officers considered the information provided by the applicant, together with the responses from consultees (and any representations made by third parties) and determined that the proposal would not give rise to unacceptable material impact on individuals or identifiable groups with protected characteristics.

ITEM H

**Grange Court, 91 Payne Avenue
BH2024/00154
Full Planning**

DATE OF COMMITTEE: 5th June 2024

BH2024 00154 - 91 Payne Avenue



<u>No:</u>	BH2024/00154	<u>Ward:</u>	Westbourne & Poets' Corner Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Grange Court 91 Payne Avenue Hove BN3 5HD		
<u>Proposal:</u>	Creation of an additional storey to form a new third floor containing 2no one-bedroom flats (C3).		
<u>Officer:</u>	Michael Tucker, tel: 292359	<u>Valid Date:</u>	26.03.2024
<u>Con Area:</u>		<u>Expiry Date:</u>	21.05.2024
<u>Listed Building Grade:</u>		<u>EOT:</u>	
<u>Agent:</u>	Henry Planning Ltd 163 Church Hill Road East Barnet Barnet EN4 8PQ		
<u>Applicant:</u>	B'Ezras Hashem Ltd C/O Henry Planning Ltd 163 Church Hill Road East Barnet, Barnet EN4 8PQ		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

Reason: For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
Location Plan	EX-L001		18 January 2024
Proposed Drawing	PR-E001		18 January 2024
Proposed Drawing	PR-E002		18 January 2024
Proposed Drawing	PR-L001		18 January 2024
Proposed Drawing	PR-P001		18 January 2024
Proposed Drawing	PR-P002		18 January 2024
Proposed Drawing	PR-P003		18 January 2024
Proposed Drawing	PR-P004		18 January 2024
Proposed Drawing	PR-P005		18 January 2024
Proposed Drawing	PR-P006		18 January 2024
Proposed Drawing	PR-S001		18 January 2024
Proposed Drawing	PR-S002		18 January 2024
Proposed Drawing	9173-P-102 01		7 March 2024
Proposed Drawing	PR-E003		18 January 2024

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

3. The external finishes of the development hereby permitted shall match in material, colour, style, bonding and texture those of the existing building.
Reason: To ensure a satisfactory appearance to the development in the interests of the visual amenities of the area and to comply with policies DM18 and DM21 of Brighton & Hove City Plan Part 2 and CP12 of the Brighton & Hove City Plan Part One.
4. None of the residential units hereby approved shall be occupied until each residential unit built has achieved as a minimum, a water efficiency standard of not more than 110 litres per person per day maximum indoor water consumption.
Reason: To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton & Hove City Plan Part One.
5. The development hereby approved should achieve a minimum Energy Performance Certificate (EPC) rating 'B'.
Reason: To improve the energy cost efficiency of existing and new development and help reduce energy costs to comply with policy DM44 of the Brighton & Hove City Plan Part Two.
6. At least one bee brick shall be incorporated within the external wall of the development hereby approved and shall be retained thereafter.
Reason: To enhance the biodiversity of the site and to comply with Policy DM37 of Brighton & Hove City Plan Part 2, Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
7. The development hereby permitted shall incorporate at least six (6) swift bricks/boxes within the external walls which shall be retained thereafter.
Reason: To enhance the biodiversity of the site and to comply with Policy DM37 of Brighton & Hove City Plan Part 2, Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
8. The dwellings hereby approved shall be implemented in strict accordance with the internal layouts detailed on the proposed floorplans (PR-P004 received on 18/01/2024). The internal layouts shall be retained as first implemented thereafter.
Reason: To ensure an acceptable standard of accommodation for future occupiers is provided and maintained thereafter and to comply with policy DM1 of the Brighton and Hove City Plan Part Two.
9. Notwithstanding the approved drawings, the development hereby permitted shall not be occupied until a scheme for the storage of refuse and recycling has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out and provided in full in accordance with the approved details prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.
Reason: To ensure the provision of satisfactory facilities for the storage of refuse and to comply with Policies DM18 and DM21 of Brighton & Hove City Plan Part

2, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The applicant is advised that Part L - Conservation of Fuel and Power of the Building Regulations 2022 now requires each residential unit built to have achieved a 31% reduction in carbon emissions against Part L 2013.
3. The water efficiency standard required by condition is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.
4. Swift bricks/boxes can be placed on any elevation, but ideally under shade-casting eaves. They should be installed in groups of at least three, at a height of approximately 5 metres above ground level, and preferably with a 5m clearance between the host building and other buildings or obstructions. Where possible avoid siting them above windows or doors. Swift bricks should be used unless these are not practical due to the nature of construction, in which case alternative designs of suitable swift boxes should be provided in their place where appropriate.

2. SITE LOCATION

- 2.1. The application relates to a three-storey block of flats at the far western extent of Payne Avenue, on the northern side of the road, backing on to the railway corridor. The building has a flat roof and is finished in white render with a brick plinth and parapet. The block is semi-detached with a three-storey adjoining neighbour to the east, and the rear of the four/five storey Rayford House (also known as The Pinnacle) to the west, accessed from School Road. The building is not listed and is not located within a conservation area.

3. RELEVANT HISTORY

- 3.1. **BH2023/02778** - Erection of two additional storeys to create 2no one bedroom flats and 1no two bedroom flat (C3). Refused for the following reason:

The proposed second additional storey would result in the height of the building exceeding that of the neighbouring Rayford House (as extended to the east) and would therefore result in the loss of the existing gradual stepping-up in height of the built form on the northern side of Payne Avenue. The proposal would appear as a top heavy and dominating addition introducing an incongruous and intrusive feature within the streetscene, failing to relate well to its neighbours and causing harm to the appearance of the area contrary to policy CP12 of the Brighton and Hove City Plan Part One and policy DM21 of the Brighton and Hove City Plan Part Two.

- 3.2. **BH2022/03387** - Erection of two additional storeys to create 2no one bedroom flats and 1no two bedroom flat (C3). Refused for the following reason:
The proposed second additional storey would result in the height of the building exceeding that of the neighbouring Rayford House (as extended to the east) and would therefore result in the loss of the existing gradual stepping-up in height of the built form on the northern side of Payne Avenue. The proposal would therefore appear as an incongruous and intrusive feature within the streetscene, failing to relate well to its neighbours and causing harm to the appearance of the area contrary to policy CP12 of the Brighton and Hove City Plan Part One and policy DM21 of the Brighton and Hove City Plan Part Two.
- 3.3. **BH2021/00528** - Creation of an additional storey to form a new third floor containing 2no one bedroom flats (C3). Approved 07/05/2021.

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for an additional storey to provide 2no. one-bedroom flats (C3).
- 4.2. The proposal is identical to a previous scheme that was granted planning permission in 2021 (BH2021/00528), however this previous permission was not implemented and is no longer extant as of 8th May 2024.

5. REPRESENTATIONS

- 5.1. **Twelve (12)** letters of objection have been received, summarised as follows:
- Additional traffic
 - Overdevelopment
 - Poor design
 - Disruption during construction works
 - The building cannot support new storeys
 - The area has seen enough new development
 - Harm to neighbouring amenity
 - The application is an attempt to extend the time for the previous permission
 - The cycle parking in the rear garden will not be allowed
 - The building continues to deteriorate
 - A pitched roof should be added to prevent further extensions

- Poor means of escape in case of fire
- The proposal is motivated by profit

5.2. Full details of representations received can be found online on the planning register.

6. CONSULTATIONS

6.1. **Environmental Health:** No comment received

6.2. **Sustainable Transport:** No comment received [to be provided in Late List or verbally at Committee].

6.3. **Housing:** No comment received

6.4. **Private Sector Housing:** No comment

6.5. **East Sussex Fire and Rescue:** No comment

At this stage East Sussex Fire Authority have no comment to be made regarding this application however, comment will be made in due course during formal consultation with the relevant Building Control in accordance with procedural guidance and Building Regulations.

7. MATERIAL CONSIDERATIONS

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

7.2. The development plan is:

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

8. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP7	Infrastructure and developer contributions

CP8	Sustainable buildings
CP9	Sustainable transport
CP12	Urban design
CP13	Public streets and spaces
CP14	Housing density
CP19	Housing mix

Brighton & Hove City Plan Part Two

DM1	Housing Quality, Choice and Mix
DM18	High quality design and places
DM20	Protection of Amenity
DM21	Extensions and alterations
DM33	Safe, Sustainable and Active Travel
DM40	Protection of the Environment and Health - Pollution and Nuisance

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD11	Nature Conservation & Development
SPD12	Design Guide for Extensions and Alterations
SPD14	Parking Standards

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the principle of the development, the design and appearance of the proposals and the impact upon neighbouring amenity. The standard of accommodation to be provided, sustainability and transport matters are also material considerations.

Principle of Development:

- 9.2. Policy CP1 in the City Plan Part One sets a minimum housing provision target of 13,200 new homes for the city up to 2030. However, on 24 March 2021 the City Plan Part One reached five years since adoption. National planning policy states that where strategic policies are more than five years old, local housing need calculated using the Government's standard method should be used in place of the local plan housing requirement. The local housing need figure for Brighton & Hove using the standard method is 2,333 homes per year. This includes a 35% uplift applied as one of the top 20 urban centres nationally.
- 9.3. The council's most recent housing land supply position is published in the SHLAA Update 2023 which shows a five-year housing supply shortfall of 7,786 (equivalent to 1.7 years of housing supply).
- 9.4. As the council is currently unable to demonstrate a five year housing land supply, increased weight should be given to housing delivery when considering the planning balance in the determination of planning applications, in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).

- 9.5. This being the case, the proposal would result in the creation of 2no. additional dwellings at a time when the Local Planning Authority is unable to demonstrate a five-year supply, and this is given increased weight in accordance with the 'tilted balance' in favour of housing delivery.
- 9.6. Further, as noted previously, the proposal is identical to a scheme found acceptable in 2021. Whilst no longer extant, this was fairly recent and made under the present development plan so weighs in favour of the application.
- 9.7. Paragraphs 122 and 123 of the NPPF encourage development proposals which make efficient and optimal use of existing sites, especially where there is a shortage of land for new housing. The proposal would accord with this aim.
- 9.8. Therefore, and subject to an assessment of other material planning considerations, the proposal is considered to be acceptable in principle.

Design and Appearance:

- 9.9. The majority of properties to the east on Payne Avenue are terraced buildings with pitched roofs.
- 9.10. However, immediately to the west is the four/five-storey recently renovated detached Rayford House, bookending the western end of Payne Avenue, while immediately to the east is a three-storey block at no. 89 Payne Avenue. Beyond this, and after a short gap, is a long terrace of two-storey properties. The result is a stepping up in the scale of built form from east to west, with the application site located in the middle.
- 9.11. It is noted that Rayford House has recently been extended, including an additional fifth floor of accommodation and a four-storey eastwards extension.
- 9.12. The considerations taken into account in the approval of BH2021/00528 remain applicable in determining this application. Whilst it is recognised that an additional storey would be a visible element in the streetscene, in this context it is considered that it would remain consistent with the stepping-up in scale at this end of the road, and would not disrupt the rhythm of roof lines on the northern side of Payne Avenue. It would appear as a natural upwards extension of the existing building, replicating the appearance of the existing storeys in terms of size, proportions, detailing and materials. Whilst a typical design approach for additional storeys is for the bulk to be minimised through a set back from the building edge, in this case, given the relatively low height of the block and the context of the railway line to the rear it is considered that the proposed approach of replicating the lower floors is preferable in design terms.
- 9.13. As such, it is considered that the proposal would appear as an appropriate addition to the building and wider area, which would not sit uncomfortably in the streetscene, in accordance with policy CP12 of the City Plan Part One and policy DM21 of the City Plan Part Two.

Impact on Amenity:

- 9.14. Policy DM20 of the City Plan Part Two states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 9.15. The existing building provides 6no. two-bedroom residential units across three storeys. It is considered that 2no. additional one-bedroom residential units would be unlikely to have a significant additional impact in terms of additional noise disturbance for existing residents, either within the building or in adjacent dwellings
- 9.16. Due to the orientation of the application site and neighbours, the increased bulk arising from the proposal would be unlikely to give rise to a significant loss of light or outlook. Neighbouring properties to the south are located on the opposite side of Payne Avenue while the adjoining eastern neighbour has no windows facing towards the application site.
- 9.17. It is recognised that the proposals may have some impact upon the flats within the eastern extended part of Rayford House/The Pinnacle, however to no greater degree than the previous scheme that was approved in May 2021 and which was determined after the Rayford House extension had already been granted permission.
- 9.18. Further, views from the new units would be directed to the front and rear, where there are already existing views from the existing flats. It is considered that the additional views from the proposed units would not be more intrusive or harmful than the views currently available. The proposed inset terraces would be small in area and would face north onto the railway and line and as such no concerns are held in this regard.
- 9.19. The rear garden spaces serving flats 1 and 2 are north facing and therefore already significantly overshadowed and overlooked by the existing block and Rayford House to the west, and the proposed additional storey would be unlikely to result in a significant impact over and above what is already present.
- 9.20. It is therefore considered that the proposal would be acceptable in terms of its impact on residential amenity.

Standard of Accommodation:

- 9.21. The proposed dwellings comprise 2no. one-bedroom flats.
- 9.22. The proposed units would be of approximately equal areas (54sqm and 55sqm) with mirrored layouts, with each habitable room having access to natural light and outlook and benefiting from space for furniture and circulation.
- 9.23. Each flat would have access to outdoor amenity space in the form of a small rear terrace similar to the existing units on the lower floors and this is considered acceptable.

9.24. At 54sqm and 55sqm both units would comply with the Nationally Described Space Standard (NDSS) which stipulate a minimum of 50sqm for a one-bedroom, two-person, single-storey dwelling.

9.25. The scheme is therefore considered acceptable in terms of the standard of accommodation provided.

Sustainable Transport:

9.26. The proposal is unlikely to result in a significant uplift in trip generation so is considered acceptable in terms of its impact on highway capacity. No changes to pedestrian or vehicular access are proposed so there would be no impact on the highway network in this regard.

9.27. SPD14 requires a total of two additional cycle parking spaces for the proposed units. The proposed drawings indicate the provision of two Sheffield stands (four spaces) within a rear outbuilding and whilst not ideal in terms of convenience or accessibility, would be covered and secure and so is considered an acceptable location in view of the lack of space to the front of the site. It is however not recommended that this cycle parking be secured by condition. Public representations regarding ownership/the ability of the applicant to use this space are noted (but these are not material planning considerations). No better location for on-site cycle parking is identified, and were the application to propose zero spaces this is unlikely to be considered unacceptable in these circumstances.

9.28. No on-site car parking is proposed, in accordance with SPD14. The concerns of the local residents regarding parking stress are noted, but the site is located within a Controlled Parking Zone (CPZ) with the issuance of car parking permits within the gift of the local highway authority.

9.29. The proposed drawings indicate the provision of refuse and recycling facilities on the pavement outside the site boundary. The proposed location would however obstruct the pedestrian access from Payne Avenue to the grounds of Rayford House/The Pinnacle and as such a condition is recommended to secure a revised location for these facilities.

Other Considerations:

9.30. Energy and water efficiency standards in accordance with the requirements of policy CP8 of the Brighton and Hove Local Plan can be secured by condition.

9.31. Conditions requiring at least one bee brick and six swift bricks/boxes have been attached to improve ecology outcomes on the site in accordance with the Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

Conclusion:

9.32. The proposal is identical to a previously approved scheme which must be given weight in determining the application. The provision of 2no. dwellings would make a contribution to the housing supply of the city, and in view of the guidance within Paragraphs 122 and 123 of the NPFF, the proposal is considered to be acceptable in principle. It is considered that the scheme would be of an

acceptable design and appearance and would sit comfortably within the streetscene, with the stepping up in scale from east to west retained. No concerns are held regarding the impact on neighbouring amenity or the transport impact of the development. Sustainability measures can be secured by condition. Approval is therefore recommended, subject to conditions.

10. COMMUNITY INFRASTRUCTURE LEVY

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

11. EQUALITIES

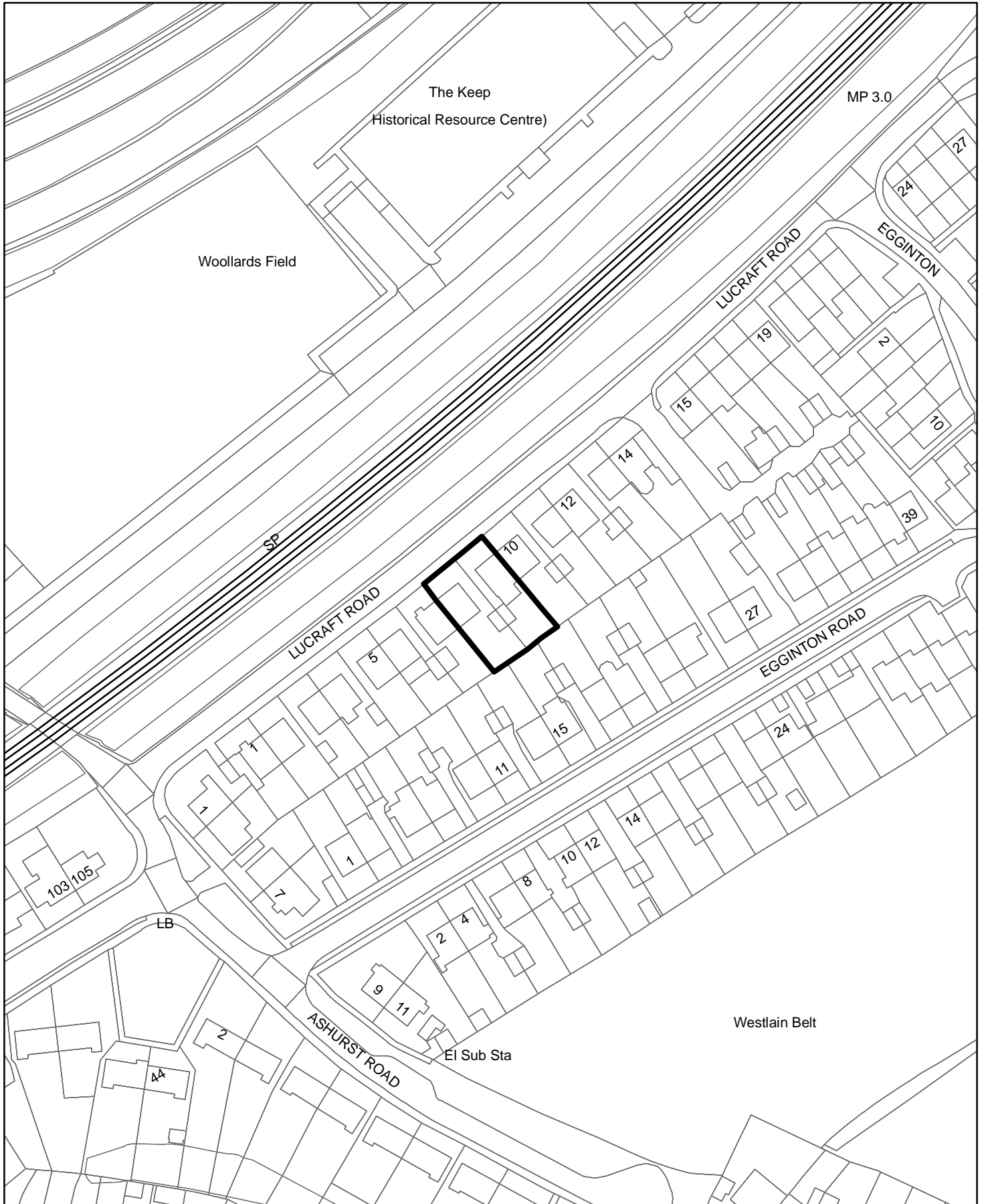
- 11.1. Section 149(1) of the Equality Act 2010 provides:
- 1) A public authority must, in the exercise of its functions, have due regard to the need to—
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 11.2. Officers considered the information provided by the applicant, together with the responses from consultees (and any representations made by third parties) and determined that the proposal would not give rise to unacceptable material impact on individuals or identifiable groups with protected characteristics. The proposed flats would not be accessible as there is no lift within the building, however it is recognised that it would not be practical to provide one in this instance.

ITEM I

**8 & 9 Lucraft Road
BH2024/00617
Full Planning**

DATE OF COMMITTEE: 5th June 2024

BH2024 00617 - 8 & 9 Lucraft Road



<u>No:</u>	BH2024/00617	<u>Ward:</u>	Coldean & Stanmer Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	8 & 9 Lucraft Road Brighton BN2 4PN		
<u>Proposal:</u>	Erection of two bedroom house (C3) joining 8 & 9 Lucraft Road, incorporating associated roof extensions, removal of existing rear garages to form garden, formation of hardstanding to front, installation of sheds and revisions to front gardens of existing dwellings and associated works.		
<u>Officer:</u>	Charlie Partridge, 292193	tel: <u>Valid Date:</u>	08.03.2024
<u>Con Area:</u>		<u>Expiry Date:</u>	03.05.2024
<u>Listed Building Grade:</u>		<u>EOT:</u>	12.06.2024
<u>Agent:</u>	LF Architecture Ltd Monkyn Pyn Thornwell Road Wilmington BN26 6RL		
<u>Applicant:</u>	Carlyle Estates Ltd 59 Queen Victoria Avenue Thornwell Road Hove BN3 6XA United Kingdom		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

Reason: For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
Location and block plan	8/9LR/2019/07		8 March 2024
Proposed Drawing	8/9LR/2019/04	A	8 March 2024
Proposed Drawing	8/9LR/2019/05	A	8 March 2024

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

3. No development above ground floor slab level of any part of the development hereby permitted shall take place until samples or details of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):

- a) samples of all brick, render and tiling (including details of the colour of render/paintwork to be used)

- b) samples of all cladding to be used, including details of their treatment to protect against weathering
- c) samples of all hard surfacing materials
- d) details of the proposed windows and doors
- e) samples of all other materials to be used externally

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

4. Prior to occupation of the development hereby permitted, a scheme for landscaping shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping shall be implemented in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. The scheme shall include the following:

- a) details of all hard and soft surfacing to include type, position, design, dimensions and materials and any sustainable drainage system used;
- b) a schedule detailing sizes and numbers/densities of all proposed trees/plants including details of tree pit design, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period;
- c) details of all boundary treatments to include type, position, design, dimensions and materials;
- d) details of the measures to be taken to protect areas of soft landscaping from encroachment by vehicles using the areas delineated on the approved plans for parking. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. The boundary treatments shall be provided in accordance with the approved details prior to occupation of the development and shall thereafter be retained at all times.

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to provide ecological and sustainability benefits, to comply with policies DM22 and DM37 of Brighton & Hove City Plan Part 2, and CP8, CP10, CP12 and CP13 of the Brighton & Hove City Plan Part One.

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

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

6. Notwithstanding the approved plans, the development hereby permitted shall not be occupied until details of secure cycle parking facilities for the occupants of, and visitors to, the development located at the front of the property have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior

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

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

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

Reason: To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with Policies DM18 and DM21 of Brighton & Hove City Plan Part 2, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.

8. The development hereby approved should achieve a minimum Energy Performance Certificate (EPC) rating 'B'.

Reason: To improve the energy cost efficiency of existing and new development and help reduce energy costs to comply with policy DM44 of the Brighton & Hove City Plan Part Two.

9. The development hereby permitted shall not be occupied until it has been built to as a minimum, a water efficiency standard of not more than 110 litres per person per day maximum indoor water consumption.

Reason: To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton & Hove City Plan Part One.

10. No extension, enlargement, alteration of the dwellinghouse or provision of buildings etc incidental to the enjoyment of the dwellinghouse within the curtilage of the of the dwellinghouse as provided for within Schedule 2, Part 1, Classes A - E of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.

Reason: The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and to the character of the area and for this reason would wish to control any future development to comply with policies DM18 and DM21 of the Brighton & Hove City Plan Part 2, and CP12 and CP13 of the Brighton & Hove City Plan Part One.

11. At least one bee brick shall be incorporated within the external wall of the development hereby approved and shall be retained thereafter.

Reason: To enhance the biodiversity of the site and to comply with Policy DM37 of Brighton & Hove City Plan Part 2, Policy CP10 of the Brighton & Hove City

Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

12. Three (3) swift bricks/boxes shall be incorporated within the external walls of the development hereby approved and shall be retained thereafter.
Reason: To enhance the biodiversity of the site and to comply with Policy DM37 of Brighton & Hove City Plan Part 2, Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
13. No development (other than demolition) shall take place until details of the foundations and measures to ensure the protection of the aquifer have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved details.
Reason: To safeguard the fresh and foul water infrastructure in the vicinity of the site, in accordance with Policy DM42 of Brighton & Hove City Plan Part 2.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The applicant should be aware that the site may be in a radon affected area. If the probability of exceeding the Action level is 3% or more in England and Wales, basic preventative measures are required in new houses, extensions, conversions and refurbishments (BRE2011). Radon protection requirements should be agreed with Building Control. More information on radon levels is available at <https://www.ukradon.org/information/ukmaps>
3. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level and preferably adjacent to pollinator friendly plants.
4. Swift bricks/boxes can be placed on any elevation, but ideally under shade-casting eaves. They should be installed in groups of at least three, at a height of approximately 5 metres above ground level, and preferably with a 5m clearance between the host building and other buildings or obstructions. Where possible avoid siting them above windows or doors. Swift bricks should be used unless these are not practical due to the nature of construction, in which case alternative designs of suitable swift boxes should be provided in their place where appropriate.
5. The applicant is advised that advice regarding permeable and porous hardsurfaces can be found in the Department of Communities and Local Government document 'Guidance on the permeable surfacing of front gardens'.

6. The applicant is advised that Part L - Conservation of Fuel and Power of the Building Regulations 2022 now requires each residential unit built to have achieved a 31% reduction in carbon emissions against Part L 2013.
7. The water efficiency standard required by condition is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.

2. SITE LOCATION

- 2.1. The application site is located between two sets of semi-detached houses (Nos 8 and 9) on the southern side of Lucraft Road. The buildings are brick built, with hipped roofs and bay windows. The first floor on number 9 Lucraft Road is tile hung, while only the first-floor part of the bay is tile hung for number 8.
- 2.2. The application site comprises the driveway shared by numbers 8 and 9 Lucraft Road and the area to the rear currently containing two flat-roofed garages.

3. RELEVANT HISTORY

- 3.1. **BH2019/01279: 8 Lucraft Road** Certificate of lawfulness for proposed hip to gable loft alterations incorporating 4no front rooflights and rear dormer. Approved 21.05.2019
- 3.2. **BH2019/01280: 9 Lucraft Road** Certificate of Lawfulness for the proposed erection of a hip to gable extension, rear dormer, and 4no. rooflights to the front roof slope. Approved 24.05.2019
- 3.3. **BH2019/02666** Erection of two bedroom house (C3) joining 8 & 9 Lucraft Road, Brighton incorporating associated roof extensions, removal of existing rear garages to form garden, formation of hardstanding to front, installation of sheds and revisions to front gardens of existing dwellings and associated works. Refused 02.03.2020 for one reason:
“The proposed dwelling would create a terrace of five houses in a street which is otherwise uniformly semi-detached dwellings. The proposed dwelling would be significantly narrower than and out of proportion with the other properties on the street. By joining to the two adjacent sets of semi-detached dwellings, the differing material finishes would be linked together and would appear to lack coherence in the design and finish of the resultant terrace. The proposed development would overall represent an uncharacteristic addition that would fail to reflect the character of the street scene. For these reasons the application is

contrary to policy CP12 of the Brighton and Hove City Plan Part One, and QD5 of the Brighton and Hove Local Plan.”

Allowed on Appeal 09.03.2021.

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for the erection of a new two-bedroom dwelling (C3 use class) between an existing semi-detached pair, creating a five-house row of terraced properties.
- 4.2. Permission is also sought for the removal of the rear garages to form a rear garden, the formation of hardstanding to the front for parking, the installation of sheds and revisions to the front gardens of the existing dwellings and associated works.

5. REPRESENTATIONS

- 5.1. Twenty (20) letters (including one from a ward councillor) have been received objecting to the proposed development for the following reasons:
 - Additional traffic/parking issues
 - Noise
 - Overdevelopment - not enough space for an additional house
 - Overshadowing
 - Restriction of view
 - Impact on the community – inconsiderate to existing residents, impact on quality of life
 - Detrimental to character and appearance of street through creating a terrace in semi-detached area, replacing garden with hardstanding, disrupting visual harmony.
 - Inadequate ground stabilisation, utility distribution, parking space allocation and drainage for another house
 - Unattractive development/poor design
 - Would remove rainwater soak-aways increasing severity of flooding
 - Inappropriate height of development
 - Would create more student accommodation rather than housing families
 - Only benefit is financial gain for the developers
 - Undesirable precedent
 - Impact on wildlife/biodiversity

6. CONSULTATIONS

- 6.1. **Southern Water: 23.04.2024**
Groundwater Protection Zones
Foundation to be designed as shallow as practicably possible. Piling is prohibited. Any hazardous substances required on site to be stored in a bunded and impermeable area to ensure no accidental spills to ground. Contractor to

use spill trays when re-fuelling plant and/or vehicles at all times. Contractor to follow best practice guidance with regards to environmental contamination. Also provided details for protection of public sewers by developer and noting a formal application may be required to connect to the public sewer.

7. MATERIAL CONSIDERATIONS

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

7.2. The development plan is:

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

8. RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One:

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP11	Flood risk
CP12	Urban design
CP13	Public streets and spaces
CP14	Housing density
CP19	Housing mix

Brighton & Hove City Plan Part Two:

DM1	Housing Quality, Choice and Mix
DM18	High quality design and places
DM20	Protection of Amenity
DM21	Extensions and alterations
DM33	Safe, sustainable and active travel
DM36	Parking and servicing
DM37	Green Infrastructure and Nature Conservation
DM43	Sustainable Drainage
DM44	Energy Efficiency and Renewables

Supplementary Planning Documents:

SPD11	Nature Conservation & Development
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9. CONSIDERATIONS & ASSESSMENT

9.1. The main considerations in the determination of this application relate to the principle of development in this location; the design and appearance of the proposed dwelling; the impact on amenity for both the potential future occupants of the property as well as the existing neighbouring buildings; the standard of accommodation, the biodiversity of the site and; transport implications of the development.

9.2. A site visit was not undertaken, but it was considered that the proposal could be assessed adequately based on site photographs provided, along with aerial photographs and streetview.

Principle of the Development:

9.3. Policy CP1 in City Plan Part One sets a minimum housing provision target of 13,200 new homes for the city up to 2030. However, on 24 March 2021 the City Plan Part One reached five years since adoption. National planning policy states that where strategic policies are more than five years old, local housing need calculated using the Government's standard method should be used in place of the local plan housing requirement. The local housing need figure for Brighton & Hove using the standard method is 2,333 homes per year. This includes a 35% uplift applied as one of the top 20 urban centres nationally.

9.4. The council's most recent housing land supply position is published in the SHLAA Update 2023 which shows a five-year housing supply shortfall of 7,786 (equivalent to 1.7 years of housing supply).

9.5. As the council is currently unable to demonstrate a five year housing land supply, increased weight should be given to housing delivery when considering the planning balance in the determination of planning applications, in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11). The scheme would make a small but positive contribution towards housing supply in the city which must be given increased weight.

9.6. Further, the proposed development would create a new residential dwelling in an area characterised by residential development, so is considered acceptable in principle.

9.7. In considering the acceptability of the scheme, and as set out above, the previous, identical scheme that was approved on appeal must be given considerable weight. As is set out in more detail below, the issues considered in approving that scheme have not changed so significantly since its approval in 2021 that refusal would now be warranted, particularly noting the planning permission only lapsed in March 2024.

Design and Appearance:

- 9.8. There are no differences between the current application and the application approved at appeal (BH2019/02666).
- 9.9. In determining the appeal, the planning inspector noted that:
“The appeal site is amidst a group of semi-detached properties and the proposal would result in closing of the space between two pairs of semi-detached properties and the formation of a terrace row. There are however other terrace rows on Lucraft Road that I was able to see at the time of my visit. Although there is a side road that separates the nearest terrace row from the group of semi-detached buildings that the appeal site forms part of, I do not agree with the Council's views that this side road provides a clear demarcation between the different types of dwellings, as there are various other driveways that can be seen in the streetscene which separate different buildings
- From the drawings and other submissions, I can see the width of the proposed dwelling allows it to incorporate a bay window and a door which are adequately spaced across the frontage of the proposed property. These features on the front elevation would also be visually separated from the doors and windows of the properties to either side, responding to the existing regular pattern of development. I do not therefore consider that the proposal would create a disjointed rhythm or appear as an uncharacteristic addition in this regard.”*
- 9.10. It was concluded in the appeal decision that *“the proposal would not have an unacceptable detrimental impact on the character and appearance of the area”*.
- 9.11. The planning inspector's decision must hold significant weight in the determination of this application. In light of the recent appeal decision, it is considered that it would not be reasonable to refuse permission for the proposed dwelling. As noted by the Inspector above, the design is considered to be appropriate and in keeping with the character of the area and adjacent properties. The scheme is therefore considered acceptable in terms of its design and an appropriate addition to the streetscene, in accordance with Policy CP12 of the City Plan Part One and DM21 of City Plan Part 2.
- Impact on Amenity:**
- 9.12. Policy DM20 of the City Plan Part Two states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 9.13. The proposed dwelling would be located between two existing buildings and would follow the established building line. Because of this it would not result in any loss of light to front or rear windows due to overshadowing.
- 9.14. However, each dwelling has a door and windows on the side elevations which would be lost to the development. The ground floor of each of the existing dwellings has a secondary access doorway on the side elevation of the property onto the driveway, and a window serving a downstairs toilet. The doors are not the principle means of access to either property so their loss is not considered

to cause harm to the existing properties' access arrangements, but would result in some loss of light to the rooms they serve.

- 9.15. In the case of 8 Lucraft Road, the loss of light from the door would not be harmful as it is not the principal source of natural light. In the case of 9 Lucraft Road, due to the rear ground floor extension that has been constructed on this property, the loss of the door would result in this area having no direct natural light. However, the area is identified as being a utility room, and is therefore not considered as a main habitable area. It would also benefit from some, albeit reduced, levels of light from the large glazed areas at the rear serving the kitchen. The loss of light which could result from the removal of the side doors is therefore not considered overly harmful to the amenity of occupants.
- 9.16. The loss of the windows from the ground floor toilet rooms in 8 and 9 Lucraft Road would not be sufficiently harmful as to warrant refusal on this basis.
- 9.17. There are also side windows on the first floor of the existing buildings but these serve the stairway and as such, not being a main living area, this would not be sufficient to warrant refusal on this basis.
- 9.18. The infilling of the space between the existing properties would result in the loss of some light to the spaces around the properties. However the orientation of the properties is such that the loss of light would be to the front gardens at the north of the site, and as such would not cause significant harm to the private outdoor amenity space of the existing properties.
- 9.19. The proposed building would include first floor rear windows from which it would be possible for additional overlooking onto the neighbouring gardens and towards the rear of properties on Egginton Road. However, in the context of a residential area, the proposed windows would not result in significant additional overlooking compared to the existing situation, and this is not considered to be sufficient to warrant refusal.
- 9.20. An additional two-bed property in this location is not likely to result in a significant increase in comings and goings, noise or other impacts on the existing properties in the area, and one additional 2 bed residential property amongst other residential properties would not result in harm to the amenity of neighbours.
- 9.21. It is considered that for the reasons set out above, the proposed development would not cause significant enough harm to the amenity of neighbours to warrant a refusal of the application on this basis, and would accord with Policy DM20 of City Plan Part Two. Furthermore, the appeal decision made no reference to any harmful amenity impact to the adjacent neighbours as a result of the proposal. It is therefore considered that the Planning Inspector found the proposal acceptable in this regard.

Standard of Accommodation:

- 9.22. The 'Nationally Described Space Standard' (NDSS) were introduced by the Department for Communities and Local Government in 2015 to establish acceptable minimum floor space for new build developments. The NDSS has

been adopted into City Plan Part 2 under Policy DM1. The NDSS provides a useful guideline on acceptable room sizes that would offer occupants useable floor space once the usual furniture has been installed. The NDSS identifies a minimum floor space that should be achieved for a single bedroom as measuring at least 7.5m², and a double bedroom should measure at least 11.5m². The minimum floor space requires a head height of above 1.5m.

- 9.23. The proposed dwelling would provide accommodation over two floors. The ground floor would have a living room at the front of the house and a combined kitchen diner at the rear. There would be two bedrooms on the first floor. There would be a shower room on the first floor and an additional toilet on the ground floor.
- 9.24. Bedroom one provides 14.6msq of floor space and is therefore adequate for a double room. Bedroom two offers 9.2msq. This would be suitable for a single occupant. Both rooms also provide built in storage additional to the measured floor space.
- 9.25. The bedroom sizes are therefore suitable for occupation by a total of three people. A two bedroom property for three people built over two storeys should have a minimum floor area of 70msq based on the guidance contained within the NDSS. The proposed property would have a floor area of 72.4msq, and therefore offers sufficient space for the proposed number of occupants.
- 9.26. While the living room is accessed directly from the front door, and the staircase up to the first floor is directly in line with this which results in a reduction of the room in terms of usable space, layout and room for circulation, it is nonetheless considered that the room would provide a suitable standard for the number of potential residents. The provision of private outdoor amenity space is smaller than that allowed for other properties on the street, but the proposed dwelling is smaller than the existing buildings on Lucraft Road and a smaller garden is commensurate with the reduced scale of dwelling.
- 9.27. It is considered therefore that the standard of accommodation provided by the proposed dwelling would be suitable for three occupants as proposed, and would accord with Policy DM1. In addition, no mention of the standard of accommodation was made in the appeal decision, so it is considered that the Planning Inspector found the proposal acceptable in this regard.

Sustainable Transport:

- 9.28. The Local Highways Authority (LHA) was consulted on the previous application. It was considered that the proposed location of the cycle storage in the rear garden would be secure and covered as set out in SPD14, but is not convenient as it is located in the rear garden and only accessible by bringing bikes through the main house. The cycle storage for the two existing properties would be located in the front garden which is more accessible and convenient, however the application is lacking in detail about the nature of the storage in terms of secure and covered. In the previous application, the LHA recommended a condition requiring alternative details and arrangements for the cycle storage for both existing and proposed dwellings. In the appeal decision, the Planning

Inspector concurred with the necessity of securing this via condition. The LHA confirmed that the previous condition requested should be imposed on this application with a slight adjustment to the wording requiring the cycle storage be located at the front of the property.

- 9.29. The impact that the proposed development could have on car parking is unclear. The loss of garages would remove parking opportunities for the existing properties while providing one space for the proposed dwelling, resulting in a net loss of two spaces. Notwithstanding this, while the overall proposed provision would be below the maximum figure as set out in SPD14, the guidance figures represent a maximum figure, and being below this is considered acceptable, subject to the proposals not resulting in other harmful impacts on street parking.
- 9.30. The proposed loss of existing parking spaces has the potential to result in overspill parking on to the street. In the previous application, the LHA requested a parking survey to assess the degree of impact this would be likely to cause. The applicant has not supplied this additional information for either the previous or current applications but it is noted that this was not a reason given for refusing the previous application, and it was not considered to be required by the Planning Inspector in making their decision.
- 9.31. While the site is within a Controlled Parking Zone, this is a light-touch zone, being limited to matchdays/events at the nearby Amex Stadium. This is indicative of the absence of high parking demand generally in the area and it is not considered necessary or proportionate to the potential impacts of the proposed scheme to require this level of additional information, particularly given the Planning Inspector did not consider such information was necessary to approve the previous application for the same development.

Other Matters

- 9.32. Policy CP8 of the Brighton & Hove City Plan Part One requires new development to demonstrate a high level of efficiency in the use of water and energy. Water and energy efficiency measures will be secured via condition.
- 9.33. The Council has adopted the practice of securing minor design alterations to schemes with the aim of encouraging the biodiversity of a site, particularly with regards to protected species such as bees and swifts. Conditions requiring bee and swift bricks have been attached to achieve a net gain in biodiversity and generally improve ecology outcomes on the site in accordance with the Policy CP10 of the Brighton & Hove City Plan Part One, Policy DM37 of the Brighton & Hove City Plan Part Two and SPD11 Nature Conservation and Development.

Conclusion:

- 9.34. The proposal is identical to the previously approved scheme that was allowed on appeal, and would allow the provision of a new dwelling that would make a contribution to the housing supply of the City. Particularly given the Inspector's approval of the previous scheme and acceptance of its impacts on the streetscene and neighbouring amenity, the proposal is considered acceptable and approval is therefore recommended subject to conditions.

10. EQUALITIES

10.1. Section 149(1) of the Equality Act 2010 provides:

- 1) A public authority must, in the exercise of its functions, have due regard to the need to—
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

10.2. Officers considered the information provided by the applicant, together with the responses from consultees (and any representations made by third parties) and determined that the proposal could give rise to material impacts on individuals or identifiable groups with protected characteristics. The proposal would not be accessible for wheelchair users. The main access to the property via the front door would be accessed via a set of steps and no wheelchair ramp has been included in the design. However, given the significant difference between the finished ground level of the proposed dwelling and the ground level outside the dwelling, this lack of accessibility would be difficult to overcome and is therefore not considered to warrant a refusal of the application on this basis.

11. COMMUNITY INFRASTRUCTURE LEVY

11.1. Under the Regulations of the Community Infrastructure Levy (CIL) 2010 (as amended), Brighton & Hove City Council adopted its CIL on 23 July 2020 and began charging on all CIL liable planning applications on and from the 5 October 2020. It is estimated that the amount of CIL liability for this application is £3,216.83. The exact amount will be confirmed in the CIL liability notice which will be issued as soon as it practicable after the issuing of planning permission.

Comments for Planning Application BH2024/00617

Application Summary

Application Number: BH2024/00617

Address: 8 & 9 Lucraft Road Brighton BN2 4PN

Proposal: Erection of two-bedroom house (C3) joining 8 & 9 Lucraft Road, incorporating associated roof extensions, removal of existing rear garages to form garden, formation of hardstanding to front, installation of sheds and revisions to front gardens of existing dwellings and associated works.

Case Officer: Charlie Partridge

Customer Details

Name: Councillor Mitchie Alexander

Comment Details

Commenter Type: Councillor

Stance: Customer objects to the Planning Application

Comment Reasons:

- Detrimental effect on property value
- Poor design

Comment: I, as a local ward councillor am objecting to this application, as i feel that by building a new house between number 8 and number 9, it will be turning the row of semi-detached houses into terrace houses. The homes on either side of number 8 and number 9 will become end of terrace houses rather than semi-detached houses and they will see their properties devalue through no choice of their own. I understand that we do need new homes built but the development of a new house sandwiched in between number 8 and number 9, will change the look of this row of homes forever.

PLANNING COMMITTEE

Agenda Item 131

Brighton & Hove City Council

NEW APPEALS RECEIVED 04/04/2024 - 08/05/2024

WARD

BRUNSWICK & ADELAIDE

APPEALAPPNUMBER

BH2023/01394

ADDRESS

52 Brunswick Street West Hove BN3 1EL

DEVELOPMENT DESCRIPTION

Formation of second floor to extend existing two first floor flats.

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

17/04/2024

APPLICATION DECISION LEVEL

Delegated

WARD

CENTRAL HOVE

APPEALAPPNUMBER

BH2022/00487

ADDRESS

48 St Aubyns Hove BN3 2TE

DEVELOPMENT DESCRIPTION

Demolition of garages at rear of site and erection of terrace of 2no two storey dwellings (C3) with associated landscaping

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

07/05/2024

APPLICATION DECISION LEVEL

Planning (Applications) Committee

WARD

CENTRAL HOVE

APPEALAPPNUMBER

ADDRESS

Unit 4 Planet House 1 The Drive Hove BN3 3JE

DEVELOPMENT DESCRIPTION

Appeal against

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

23/04/2024

APPLICATION DECISION LEVEL

Not Assigned

WARD

GOLDSMID

APPEALAPPNUMBER

BH2022/02809

ADDRESS

St Agnes Church Newtown Road Hove BN3 7BA

DEVELOPMENT DESCRIPTION

Installation of translucent glazed privacy screens to south elevation at second floor.

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

04/04/2024

APPLICATION DECISION LEVEL

Planning (Applications) Committee

WARD

GOLDSMID

APPEALAPPNUMBER

BH2022/02810

ADDRESS

St Agnes Church Newtown Road Hove BN3 7BA

DEVELOPMENT DESCRIPTION Retrospective application for the installation of high level ventilation grilles to gable ends, handrail to parapet wall of roof and external up/down lighting to south elevation at second floor.

APPEAL STATUS APPEAL IN PROGRESS

APPEAL RECEIVED DATE 04/04/2024

APPLICATION DECISION LEVEL Planning (Applications) Committee

WARD **GOLDSMID**

APPEALAPPNUMBER BH2024/00033

ADDRESS 5 Champions Row Wilbury Avenue Hove BN3 6AZ

DEVELOPMENT DESCRIPTION Erection of single storey rear extension and associated works.

APPEAL STATUS APPEAL IN PROGRESS

APPEAL RECEIVED DATE 19/04/2024

APPLICATION DECISION LEVEL Delegated

WARD **KEMPTOWN**

APPEALAPPNUMBER BH2023/01543

ADDRESS 78 St James's Street Brighton BN2 1PA

DEVELOPMENT DESCRIPTION Retrospective application for the installation of replacement shopfront.

APPEAL STATUS APPEAL IN PROGRESS

APPEAL RECEIVED DATE 16/04/2024

APPLICATION DECISION LEVEL Delegated

WARD **MOULSECOOMB & BEVENDEAN**

APPEALAPPNUMBER BH2022/03704

ADDRESS 10 Norwich Drive Brighton BN2 4LA

DEVELOPMENT DESCRIPTION Conversion and extension of existing single dwelling to create 2no. three-bedroom houses (C3) incorporating part single, part two storey side extension, single storey rear extension and rear dormers.

APPEAL STATUS APPEAL IN PROGRESS

APPEAL RECEIVED DATE 04/04/2024

APPLICATION DECISION LEVEL Delegated

WARD **MOULSECOOMB & BEVENDEAN**

APPEALAPPNUMBER BH2023/02643

ADDRESS 2 Baden Road Brighton BN2 4DP

DEVELOPMENT DESCRIPTION Erection of two storey detached building containing 2no self-contained flats (C3).

APPEAL STATUS APPEAL IN PROGRESS

APPEAL RECEIVED DATE 08/05/2024

APPLICATION DECISION LEVEL Delegated

WARD

APPEALAPPNUMBER

ADDRESS

MOULSECOOMB & BEVENDEAN

BH2023/02941

25 Wheatfield Way Brighton BN2 4RQ

DEVELOPMENT DESCRIPTION

Change of use from 6no bedroom small house in multiple occupation (C4) to 7no bedroom large house in multiple occupation (Sui Generis) with relocation of entrance to the side.

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

01/05/2024

APPLICATION DECISION LEVEL

Delegated

WARD

APPEALAPPNUMBER

ADDRESS

PATCHAM & HOLLINGBURY

BH2023/03219

3 Galliers Close Brighton BN1 8TR

DEVELOPMENT DESCRIPTION

Alterations to the roof to include addition of 8no Velux windows to side elevations and extension to create first floor with double doors and juliet balcony at the rear.

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

11/04/2024

APPLICATION DECISION LEVEL

Delegated

WARD

APPEALAPPNUMBER

ADDRESS

PRESTON PARK

BH2023/02814

Port Hall 170 Dyke Road Brighton BN1 5AA

DEVELOPMENT DESCRIPTION

External alterations including restoration of a gothic folly wall, rebuild of rear conservatory, including a replacement roof structure with 2no. rooflights and restoration of the side chapel/living space (north elevation) roof structure to period roof slates and installation of 2no. rooflights.

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

24/04/2024

APPLICATION DECISION LEVEL

Delegated

WARD

APPEALAPPNUMBER

ADDRESS

PRESTON PARK

BH2023/02815

Port Hall 170 Dyke Road Brighton BN1 5AA

DEVELOPMENT DESCRIPTION

Internal and external alterations including restoration of a gothic folly wall, rebuild of rear conservatory including replacement of roof structure with 2no. rooflights, reopening of an internal door between living room and former chapel and restoration of roof structure to period roof slates and installation of 2no. rooflights, redesign of first floor bathroom and reintroduction of two period wall nibs between kitchen and parlour.

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

24/04/2024

APPLICATION DECISION LEVEL

Delegated

WARD

QUEEN'S PARK

APPEALAPPNUMBER

BH2023/01038

ADDRESS

8, 10 And 12 Walpole Road Brighton BN2 0EA

DEVELOPMENT DESCRIPTION

Roof alterations incorporating 3no rear dormer windows and 6no front rooflights, erection of 2no single storey rear extensions and amalgamation of units at 8, 10 and 12 Walpole Road for use as a school boarding house (C2) with revised fenestration and associated landscaping.

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

10/04/2024

APPLICATION DECISION LEVEL

Delegated

WARD

QUEEN'S PARK

APPEALAPPNUMBER

BH2024/00177

ADDRESS

3 Windmill Street Brighton BN2 0GN

DEVELOPMENT DESCRIPTION

Erection of single storey infill extension to rear. Roof alterations incorporating rear dormer, front roof light and associated works. (Part Retrospective)

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

16/04/2024

APPLICATION DECISION LEVEL

Delegated

WARD

REGENCY

APPEALAPPNUMBER

BH2023/03066

ADDRESS

The Garden Villa 11C Montpelier Villas Brighton BN1 3DG

DEVELOPMENT DESCRIPTION

Erection of single storey side extension at first floor level.

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

07/05/2024

APPLICATION DECISION LEVEL Planning (Applications) Committee

WARD

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

REGENCY

BH2023/03067

The Garden Villa 11C Montpelier Villas Brighton
BN1 3DG

Erection of single storey side extension at first
floor level.

APPEAL IN PROGRESS

07/05/2024

Planning (Applications) Committee

WARD

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

ROTTINGDEAN & WEST SALTDEAN

BH2023/02159

Land Rear Of 8 Eileen Avenue Saltdean Brighton
BN2 8AD

Erection of 2no bedroom detached dwelling (C3)
with access via Lenham Avenue.

APPEAL IN PROGRESS

07/05/2024

Delegated

WARD

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

WESTDENE & HOVE PARK

BH2023/00179

69 The Droveaway Hove BN3 6PR

Demolition of existing house and erection of four
storey building comprising 8no. flats (C3) with
associated car parking, cycle storage and
landscaping.

APPEAL IN PROGRESS

24/04/2024

Delegated

WARD

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

WESTDENE & HOVE PARK

BH2023/01409

5 Valley Drive Brighton BN1 5FA

Erection of single-storey rear outbuilding with
associated alterations and landscaping to facilitate
change of use from dwellinghouse (C3) to a mixed
use of dwellinghouse with short term visitor
accommodation (sui generis).

APPEAL IN PROGRESS

16/04/2024

Delegated

PLANNING COMMITTEE

Agenda Item 133

Brighton & Hove City
Council

APPEAL DECISIONS FOR THE PERIOD BETWEEN 24/04/2024 AND 21/05/2024

WARD

BRUNSWICK & ADELAIDE

APPEAL APPLICATION NUMBER

APL2023/00099

ADDRESS

61 Church Road Hove BN3 2BD

DEVELOPMENT DESCRIPTION

Conversion at lower ground floor from office storage (Class E) to residential to form 1no. one bedroom flat (C3). (Part Retrospective)

APPEAL TYPE

Against Refusal

APPEAL DECISION

APPEAL DISMISSED

PLANNING APPLICATION NUMBER

BH2023/00415

APPLICATION DECISION LEVEL

Delegated

WARD

CENTRAL HOVE

APPEAL APPLICATION NUMBER

APL2024/00008

ADDRESS

126 Church Road Hove BN3 2EA

DEVELOPMENT DESCRIPTION

Change of use of first and second floors from self-contained residential maisonette (Use Class C3) to restaurant on first floor and residential accommodation ancillary to the restaurant on the second floor (Use Class E) and erection of a first-floor rear extension. (Part retrospective).

APPEAL TYPE

Against Refusal

APPEAL DECISION

APPEAL DISMISSED

PLANNING APPLICATION NUMBER

BH2023/01101

APPLICATION DECISION LEVEL

Delegated

WARD

PRESTON PARK

APPEAL APPLICATION NUMBER

APL2024/00011

ADDRESS

Garages Rear Of 10 Bavant Road Brighton BN1 6RD

DEVELOPMENT DESCRIPTION

Redevelopment of existing garage block to provide 2no chalet style dwellings (C3). (amended plans received)

APPEAL TYPE

Against Refusal

APPEAL DECISION

APPEAL DISMISSED

PLANNING APPLICATION NUMBER

BH2023/01799

APPLICATION DECISION LEVEL

Planning (Applications) Committee

WARD

WESTDENE & HOVE PARK

APPEAL APPLICATION NUMBER

APL2023/00089

ADDRESS

54 Green Ridge Brighton BN1 5LJ

<u>DEVELOPMENT DESCRIPTION</u>	Prior approval for the erection of an additional storey to form a first-floor extension.
<u>APPEAL TYPE</u>	Against Refusal
<u>APPEAL DECISION</u>	APPEAL DISMISSED
<u>PLANNING APPLICATION NUMBER</u>	BH2023/01185
<u>APPLICATION DECISION LEVEL</u>	Delegated

<u>WARD</u>	WESTDENE & HOVE PARK
<u>APPEAL APPLICATION NUMBER</u>	APL2024/00019
<u>ADDRESS</u>	74 Valley Drive Brighton BN1 5FD
<u>DEVELOPMENT DESCRIPTION</u>	Erection of an additional storey to facilitate the conversion of an existing bungalow to a two-storey single dwelling house with flat roof and solar panels incorporating access bridge to the raised garden, replacement of garage doors and creation of first floor balcony with associated works.
<u>APPEAL TYPE</u>	Against Refusal
<u>APPEAL DECISION</u>	APPEAL DISMISSED
<u>PLANNING APPLICATION NUMBER</u>	BH2023/01439
<u>APPLICATION DECISION LEVEL</u>	Delegated
